

# WRITING ON RIGHTS



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## Foreward

We are living in a period of unprecedented uncertainty. The rise of global fascism and neoliberalism has meant increased inequity and competition for resources among the communities. This competition is generated by the system and is acutely engineered to promote hate and prejudice in society.

The socio-political climate in India today is alarming. We are threatened by a very dangerous ideology—one that uses governance, law, institutions and policies to challenge the dignity of people. The state has developed strong terror laws to incarcerate those who come from vulnerable communities—while the rest are systematically ‘neutered’ to speak the language of social impact instead of social justice.

Young people are mass-produced into development agents in the contemporary landscape. But in the language of development, we are slowly losing momentum in politics. Questions around poverty, education, healthcare, housing etc have to be addressed, not by dissecting them as individual issues, but by interlinking them to its causes, and institutional sustenance. There is a growing need for us to re-engage our intentions, however well-meaning they might be at the present stage. This calls for a space to nurture nuances in political awareness and address growing depoliticisation among young people. Consider the datapoints below aiming to humanize it. How do they make you feel?

According to the Oxfam Inequality Report 2024, the richest 1% in India now own more than 40% of the country's total wealth. Similarly, In 2023, India recorded 668 documented hate speech events that targeted Muslims, according to a report released by India Hate Lab, a Washington DC-based group that documents hate speech against India's religious minorities. The report, titled ‘Hate Speech Events in India’, noted that while 255 events took place in the first half of 2023, “the number rose to 413 in the second half of the year, a 62% increase”. About 75% of the events (498) took place in BJP-ruled States, Union Territories (administered by the BJP-led Central government), and Delhi (police and public order comes under the Union government's purview). "The Housing and Land Rights Network in Delhi estimates that the government demolished at least 43,000 homes and evicted about 21 people every hour from March 2020 to July 2021." Most of these houses belong to Muslims.

Now, how do these datapoints make you feel? Does it make you feel worried, fearful, and even angry? Then these emotions resonate with us.

The ruling party in India has culturally, institutionally, and socially sought to turn India into a Hindu Rashtra thereby practising symbolic violence against non-Hindus who equally share the history of this country. The aggressive propaganda perpetuated by the government has become so vivid that it has now entered dinner table conversations and young people are

increasingly getting radicalised to the other side.. As a result, civic space is not exactly shrinking but being coopted by an ideology that harms the democratic fabric of this nation.

Now against this context, there are also young people, movements who have been critical of this oppressive regime, but the state always remains insecure of dissent, and hence has gone on to arrest young leaders on arbitrary charges, often without trial. And here I would like to remember Umar Khalid, a young Indian activist who has been in jail since 2020 without bail and trial on arbitrary sedition charges and terror laws. It is terrifying, the way the state bullies critical voices, but the spillover effect of this is on the culture again. Young people have been made fearful to dissent, to stand closer to the truth, and if they do, they are silenced.

At the face of this, we need mobilisation and organisation of ideas, thought and action by young people. We need to build right knowledge systems for young people to deal with questions of oppression and human rights seriously - one that transcends personal experiences of oppression to condone oppression of all kinds universally. At the same time, there is also a need to nurture spaces to rehabilitate our rage, build a community around care, and organise ways to resist. Writing on Rights is a space borne out of this exact emotion. And this book is an attempt of our dissent against the government that tries to scare us off our consciousness, care and community.

- Sanjana Chettri

**By Vedant Nagrani, Malavika Murali, Aayat Farooqi and Manshi Kohli.**

Student-led resistance has formed a cornerstone of grassroots movements in India, be it in the national movement for independence, or resisting the Emergency. However, the last decade has witnessed a seismic shift in the nation's stance on liberty and dissent. With a change in regime, national policies, as well as the socio-political landscape, the contours of dissent have taken on new dimensions. This research essay undertakes a comprehensive examination of this phenomenon, premised upon the theoretical framework of fascism. While simultaneously redefining that framework, the research aims to delve into the more tangible manifestations of such fascist tendencies and its interplay, with special focus on student movements across the nation.

By focusing on student movements in the past decade, with 2014 as a pivotal juncture following a successful protest against FYUP, the study endeavours to discern the patterns and trends of resistance, and its subsequent repression by fascist outfits. Importantly, it adopts a broad, pan-India perspective, ensuring that the exploration does not succumb to regional specificity.

By scrutinising the crackdown on student activists, artists, and spaces of dissent, coupled with an escalation in the surveillance of political activities, the study seeks to provide a comprehensive understanding of how structural re-engineering of academic spaces has been aggravated by new forms of fascist undertones. Furthermore, the exploration extends beyond the immediate implications, delving into the broader consequences of quelling dissent and resistance from students, especially its impact on critical thinking, politics, society, and everyday culture. A particular emphasis is placed on revealing how the Indian state (post 2014 in particular) strategically leverages these influences to its advantage. In a contemporary context, the study also contemplates the transformative effects of the pandemic on student movements, offering insights into the evolving landscape of political dissent in India.

## **Introduction**

No theoretician has made a more valuable contribution to Althusser's theory of ideological interpellation than the Indian public university has, especially in the past 10 years. It has, in fact, proved Althusser wrong in his analysis that maintains a significant level of difference between Repressive State Apparatuses (RSAs) and Ideological State Apparatuses (ISAs) despite the same hegemonic source of the ruling class, by establishing itself, an Ideological State Apparatus, on several occasions, as an apparatus more repressive than repressive state apparatuses themselves. As Professor Andrew Seal illustrates in his famous article, "How the University Became Neoliberal", the public university is no longer 'public' but under the rise of neoliberalism since the 2000s, has become a mere reflection of the larger neo-liberal and ultra capitalist economy. After all, can a university that increases its tuition fee by 400%, does

not even provide maternity leave to its 10 year old faculty members (until 2023), lays off its "precious" employees and suspends students on the screening of a documentary qualified enough to be called a public university? It's worse that this university is not any other overlooked university but rather apparently the best central university of the world's biggest democracy, India. It is true, the university is a reflection of its society but in the India of 2024, it is no good news. For both, the university and the state (and even the nation) are today so centralised and obsessed with power that ironically enough, they would soon be given off in the hands of the corporate: yes, the biggest central university of the country is officially on the path of privatization. However, despite all these challenges, the rage of the youth could save the public university for India has a rich history of student movements: albeit the movements are as rich as the brutal state suppression that they have to fight. As James Jasper illustrates in his timeless essay, "The Emotions of Protest: Affective and Reactive Emotions in and around Social

Movements", rage is not a negative emotion as it is always projected to be and rather it is extremely necessary for the precarious times we live in. Though almost all the journalists of the mainstream Indian media would scream at the top of their lungs to prove otherwise and show how "unruly", "indignant" and "disrespectful" the JNU students (or rather, according to them, "anti nationals") are, Jasper argues, the very emotions that play a major role behind any social movement, including student protests that have mostly been described by Indian scholars as "student unrest", a term that attaches a negative connotation to the movements being referred to before even exploring its causes. As Renata Czekalska explores in her essay on the use of language and state rhetoric in representation of student movements by the media, a state that allows and even approves of the reportage of a student movement with the words "instigators", "hooligans", "sex maniacs" and "drug addicts", does not merely not care about the student movements but can also go to any extent possible so as to suppress these movements, violating not merely the right to protest but also projecting it as dangerous to social harmony. This depiction has been the trend even in representation of protests by Indian scholars until late 90s. It is with the publication of Jasper's article on emotions and social movements that the approach to student movements changed from viewing them as "unrest" to movements themselves. A very recent example of the inevitability of shared emotions leading to a student movement is that of Ramjas College where students protested against the unjust displacement of ad-hoc professors and remembered their professors who had been displaced since the interviews for associate professors began in the college in 2022. In fact, the students consciously recognised the role of emotions in their protests as they "refused to forget".

### **Caste - the invisible yet omnipresent social reality of the Indian society and the Indian university**

As several theories around the discourse of the idea of a university point out, universities not only act as a microcosm of the larger society they are located in, with all their biases and issues, but are also affected by the changes in these societies as opposed to the school of thought that seeks to separate universities from their larger societies and perceives them to be unaffected by societal issues, spearheaded by the beloved Indian politicians of almost all the

mainstream parties such as the BJP and the INC, who expect university students to not indulge in student politics and believe college education to be the only purpose of the university student's life after building their career on the foundation of their student activism as Anand Teltumbde illustrates in his defence of student politics.<sup>1</sup> This school of thought that perceives the university to be a reflection of society is applicable to the Indian public university but not in the conventional sense that celebrates or glorifies the Indian society like many glorify the Brahmanical Hindu patriarchy today to hold on to their idea of utopia based on oppression. The idea of the Indian public university reflecting the Indian society has a highly subversive potential as it reveals how the Brahmanical and casteist traditions of the Hindu society have entered the Indian university and deconstructs the very basis of the Indian academia- an idea explored deeply by Prof. N Sukumar in his book *Caste Discrimination and Exclusion in Indian Universities* as he interviews more than 600 students from several Indian universities across India and examines how via various means the university administration and the very structural features of the Indian university do not merely enable casteism unconsciously but actively encourage it. Using the theory of Antonio Gramsci to the context of the Indian university, he illustrates how the university becomes a space of reproducing hegemony and ideas of the ruling class which is constituted by the Savarna Hindus in Indian society and how the university structure systematically favours students with social and cultural capital which he rightly claims rests with the upper caste students. Having established the Indian university as a space not only being affected by but also reproducing caste inequalities and discrimination, he examines how it occurs everyday in the university space yet is invisibilized like it is the Indian society. The university space perpetuates caste discrimination using several processes ranging from separation of vegetarian and non vegetarian food in hostel messes, de-funding SC cells, lack of administrative support for organising academic conferences, lectures and screening movies on caste, highlighting names of students from the Dalit or OBC communities that get admitted under unreserved category and exclusion of Dalit students from public spaces in the university campuses, among several other innumerable ways.

## **Religion**

The Indian university, as mentioned above, is modelled after the Brahmanical Hindu society and not only does it alienate marginalised communities across the lines of caste but also religion. Though this process of othering religious minorities such as Muslims, Buddhists and Christians has become more normalised in the past few years, the Indian academia since its inception has been highly discriminative and exclusionary. Since the 1990s with the Babri Masjid demolition and the riots following that, there has been a rise in Hindutva politics in India the effects of which can also be observed in the academic spaces in a lot of ways such as curriculum revisions, restrictions to organise movie screenings and other academic activities, disinvestment of academic institutions run by minority communities among many other restrictions.

Recently, at the Film and Television Institute of India in Pune, the Student Association hosted the screening of Ram K Naam, a documentary by Anand Patwardhan that captures the

demolition of the Babri Masjid to build a Hindu temple in December 1992 led by activists of the Vishwa Hindu Parishad. This film was supposed to be screened on the 23rd of January to mark a symbolic protest against the consecration ceremony. The screening was disrupted midway with about two dozen Hindutva activists launching an attack on the students, including women while chanting “Jai Shri Ram,” and setting fire to the FTII Students’ Association banner that bore the message “Remember Babri, death of constitution,” accompanied by derogatory slogans. The students also report the complicity of the police whereby they took no action against the assailants. The state weaponises the police as a monopoly of violence against the students, and the degree of violence varies depending on the nature of the institution.

The state has been particularly brutal in suppressing dissent in academic institutions such as the Jamia Millia Islamia, Aligarh Muslim University, Osmania University and other universities associated with minority communities, as has been visible in the state's response to the peaceful anti-CAA protests on the said campuses. The brutal police violence against students in Jamia Millia Islamia (JMI) and Aligarh Muslim University (AMU) that occurred during the anti-Citizenship Amendment Act (CAA) protests in December 2019 is etched in the memory of progressive circles across the country. The scale of the violence unleashed on students in the above two cases is distinctly high from other cases of police brutality against students, especially in Aligarh Muslim University. However, the state was successful in dissolving information regarding the attack.

A year after the attack, when The National Human Rights Commission probed into the AMU violence - they blamed the students for the violence, and found the use of force by the police to be ‘justified and necessary’. The NHRC merely critiqued the police for “unprofessional” behaviour such as caning students who were not protesting, and causing damage to university property. It further stated that these actions had no bearing “on the task of controlling law and order”. The Wire Reported it as Saini converting the “cruel, inhuman and degrading treatment” of students in both the universities into a “technical issue of crowd control”.

The NHRC recommended compensation for some of the injured students, and action against the policemen who indulged in some “unnecessary” and “avoidable” acts. However, it denied systemic accountability, thus failing to look into the role of the Ministry of Home Affairs (MHA) under whose jurisdiction the Delhi Police operates, and the senior police officials who may have issued such orders. This level of apathy against the students is telling of a state that is deeply uncaring of a young population that can critically think and analyse.

As far as JMI is concerned, two separate incidents have been reported since the police attack that is of concern. On 30th January 2020, a juvenile Hindu nationalist opened fire at a protest at the Jamia Millia Islamia, injuring a student. The activist was seen shouting slogans like—“Jai Shri Ram” (Victory to Lord Rama) and “Delhi Police Zindabad” (Long live Delhi police). While the activist was a minor at the time of arrest and had to be granted bail, he has resurfaced, now as an adult has been evidently seen using provocative language to incite hate and violence against Muslims, especially Muslim women. The Wire reported that on

July 6 2021, he appeared in an Instagram live in which he raised the slogan “*Jab mulle kaate jayenge, tab Ram Ram chillayenge*” (When Muslims are cut, they will shout Ram Ram) and said he was ready to go to jail for chanting this slogan. This is a blatantly communal statement to make, and provokes violence, and yet the state has decided to absolve his impunity. There must be room for conversations around transformative and restorative justice, but that’s a separate discussion for now. The state decides who it wants to punish. And the state extends its shelter to all those who support the majoritarian rule in the country. Young student activists such as Umar Khalid, Gulfisha Fatima and Sharjeel Imam have been wrongfully incarcerated under the stringent Unlawful Activities (Prevention) Act. UAPA has **death penalty and life imprisonment** as the highest punishments and obtaining bail is almost impossible. These young activists have been wrongfully charged simply because they offered an opportunity to influence others on the sanctity of the constitution, of secularism, and of freedom against oppression.

The arrests of activists critical of the Indian state have influenced the climate of dissent and learning across campuses. This is marred by institutional changes, especially for universities with a minority status. For example, The government figures reveal that between 2014-15 and 2021-22 fiscals, the budget for AMU and JMI dipped by 15% while Benaras Hindu University (BHU's) budget rose from Rs 669.51 crore to Rs 1,303.01 crore.

Moreover, the Indian state has also discontinued several fellowships for religious minorities such as the Maulana Azad National Fellowship. Attacks on students by various right-wing Hindu outfits such as the ABVP, RSS, Bajrang Dal and other organisations have become normalised in Indian universities such as the University of Delhi, Jawaharlal Nehru University, Film and Television Institute of India, Jamia Millia Islamia and the University of Hyderabad among many other universities.

## **Gender**

Since 2014, India has witnessed an upsurge in student movements, characterized notably by the increased participation of women and individuals from marginalized gender identities. This marks a departure from traditional gender roles within these movements, as these young students are not only present as supporters from the sidelines but are assuming leadership roles and vocalizing their opinions and views on a broad spectrum of issues beyond just gender-specific concerns, a binary that women and gender minorities are often forced into (cite). There are two key examples that highlight this: One is of the Anti-CAA protests in Delhi in 2019, where the leadership of the protests were taken up by mainly female students and alumni of Jamia Milia University such as Safoora Zargar, Ayesha Renna, Ishrat Jahan, Arfa Khanu, and Ladeeda Farzana (). The CAA protests also came to be the longest female-led civic movement in India’s history(). This female student-led movement has also sparked a conversation about the separation between higher education and community spaces, and the forced blindness to societal inequities within classrooms by the education system. And so the protest created a space for knowledge to be shared and received, the Author “” says when she engaged with the women at the protest sites, she was able to see the rich

knowledge being spoken about and systems of oppression being radically challenged in these spaces across different class, caste and religion.

The second is the interlinking of queer, feminist, class and caste angles as a predominant lens of understanding and critiquing the mainstream ideologies fed to individuals, through student groups such as Ardek Akash, revolutionary youth forum, ambedkar-periyar circles, the coming together of feminist and queer perspectives have also forced activists and left circles to start identifying intersectionalities as a mainstay of today's politics, and this is a major step which places the current state and its ideology of building a Hindu Rashtra in peril.

Unsurprisingly, this rise in vocal participation has been met with resistance from the state, manifesting in further marginalization through infantilizing of these voices or outright vilification. This phenomenon then prompts an examination of the underlying dynamics and the gendered implications of the state's response to student activism.

Patricia Hayes, a distinguished historian and visual theorist, contributes a valuable framework for understanding these dynamics through her delineation of visibility and visibility. Visibility, as defined by Hayes, implies a unidirectional power dynamic where certain entities or individuals are made visible by an agent possessing authority. In this case, the state's approach to women's empowerment and gender equality, which, while ostensibly promoting visibility, aligns with nationalistic objectives of preserving the patriarchal family through the Hindu Rashtra rather than genuine empowerment. Conversely, visibility denotes a reciprocal relationship between the observer and the observed, incorporating a mutual engagement that transcends mere visibility. This distinction is pivotal in analyzing the state's perception and treatment of women, particularly those who dissent.

The Indian government's rhetoric often encapsulates women within traditional familial roles — as "mothers, sisters, and daughters" — often heard in slogans, and speeches by ministers of the state, while purporting to advance women's empowerment through various initiatives, be it "Beti Bachao, Beti Padhao", or "Janani Suraksha Yojna" and various others. And as for gender minorities and queer representation, they are often shunned or referred to as unnatural. BJP Party president Rajnath Singh in 2013 said that the BJP 'unambiguously' supports section 377 and in mid-2016 spokesperson Bizay Sonkar Shastri called homosexuality an "unnatural" and "dangerous" "criminal act".

This rhetoric and the associated policies position women as adjuncts to a male-dominated familial structure, thereby undermining their autonomy, and referring to them as passive subjects (cite). The emphasis on visibility in today's context extends from this patriarchal family structure to the patriarchal nation-state structure, where the nation-state is the male and the family, that the woman is expected to contribute to once empowered, rather than for their own growth and rights.

The notion of "protecting women," deeply embedded in patriarchal thought, exemplifies this paternalistic approach, suggesting an inherent vulnerability that necessitates male protection. This perspective is integral to the Hindu Rashtra's vision, where maintaining a patriarchal

family structure is paramount. Within this framework, women's acquiescence is deemed essential, and any deviation from this prescribed role is viewed as disruptive.

In stark contrast to this constricted portrayal, recent student movements, notably the protests against the Citizenship Amendment Act (CAA), have showcased the assertive participation of young women, specifically students, who are educated and have the knowledge and skills to speak up and assert themselves. These movements have highlighted the resilience and determination of young female and marginalised-gender student activists and fostered cross-cultural solidarities. According to “give the quote here”.

As Hayes would say, these women have transcended just visibility; they have now become agents of visibility, leveraging their presence and voices to challenge and reshape the male-dominated discourse. Their activism illuminates the diverse struggles of women across religious and caste divisions, introducing perspectives often marginalized in mainstream discourse.

The state's response to this activism has been attempts to suppress and delegitimize these voices, through limited media coverage, restricted platforms, portrayal of these young voices as mere rebels and even extreme violence by the state through the police. Additionally, regressive campus policies further restrict women's freedom of basic mobility and assertion under the pretext of protection.

# **DELHI'S AIR POLLUTION AND ITS DISPROPORTIONATE IMPACTS ON THE URBAN POOR**

**By Sakshi Ugale, Tushar Pathade, Anuradha Chetry, Avidha Raha & Siddharth Das**

*“Are not poverty and need the greatest pollutants? How can we speak to those who live in villages and slums about keeping the oceans, the rivers and the air clean when their own lives are contaminated at the source?”- Indira Gandhi at Stockholm Convention, 1972.*

## **ABSTRACT**

This paper looks into the discourse of inequality, marginalisation and environmental injustice. The paper tries to understand the multiple marginalities that impact the life and livelihood of a certain population. The paper took air pollution in Delhi to understand how the certain population, particularly the street vendors, rickshaw pullers, auto drivers, waste pickers, and daily wage workers are impacted by it. The impact has been seen/felt by the taken population, however the vulnerabilities that come with economic and political marginalisation also affects their power of negotiation and agency and shapes their experiences differently.

The paper intends to highlight the plight of the vulnerable population: street vendors, rickshaw pullers, auto drivers, waste pickers, and daily wage workers. Through a dialogue it tries to establish how air pollution negatively impacts the socially, economically and politically marginalised communities and also causes a hindrance in their work. Qualitative methods, including interviews and observations, unveil the ecological impacts of air pollution, emphasising hazardous air quality levels in urban and rural ecosystems. Relying on diverse literature, the paper also tries to draw parallel with the existing research and tries to build on it. Emphasising on the need of environmental justice, it tries to focus on the interview data and addresses the lived human experiences and hence compels for a call to action, highlighting our relationship with the environment. Essentially promoting a healthier urban ecosystem where the right to clean air is recognized as a fundamental human right, not just in theory but in reality as well.

## **THE EVOLUTION OF ENVIRONMENTAL LEGISLATION IN INDIA-AN INTRODUCTION**

Indira Gandhi's participation in the Stockholm Conference in the year 1972 brought progressive constitutional amendments—a remarkable step towards environmental protection. Imposing the state's responsibility towards protecting the environment can be interpreted through Article 48A of the Indian Constitution. At the same time, Article 51(g) creates a sense of responsibility to protect and preserve the environment. Further, on broadly interpreting Article 21, it has been evident that the right to life includes healthy and pollution-free surroundings.

Although the constitutional framework imposes responsibilities on the state and duties on citizens, many issues exist in implementing environmental policies. The Union, State and Concurrent lists specify subjects. Still, due to division of responsibilities among the various levels of government, many a time, creates issues in effectively imposing and enforcing the policies. The main Indian legislations concerning Environmental issues are the Water Act (1974), the Air Pollution Act (1981) and the Environment (Protection) Act (1986) Through the Air Pollution Act, the Centre as well as the State is empowered to form Pollution Control Boards, air pollution control zones, and regulate motor vehicle emissions etc.

The key environmental principles such as the precautionary principle, the polluter-pays principle, and the absolute liability principle was interpreted by the Supreme Court through various judicial pronouncements. In the case of *Mehta vs. Union of India* (WP (Civil) 13029/1985), the court made it mandatory for all of Delhi's public transport to opt for compressed natural gas (CNG) as a greener fuel. Through its order dated July 28 1998, the SC ordered all public transport of Delhi should switch to run on CNG by 2001. The most controversial aspect of the order was the impact it made on the livelihoods of people employed in the public transport sector, whereas the private vehicles remained unaffected. Another factor that contributed to the controversy was that there were two committees which gave strikingly different opinions on the use of diesel or CNG. (Sharan, 2005)

The auto rickshaw drivers were the ones which were affected by it the most. The conversion mandate required a monetary investment, and most of them were not able to avail it from banks, which ended up in them taking loans from private financiers. Furthermore, their situation became worse when in 1997, the SC ordered to freeze the number of rickshaws and

directed that there will be no grant of fresh permits. (Anuj Bhuwania, 2018) The court ordered permit freeze coupled with the CNG conversion mandate had adverse effects on auto drivers. The black market for auto permits also emerged which had detrimental economic consequences on them. The revocation of the permit came in the year 2011 (Nyaya Bhoomi v Transport Department, SLP (Civil) 22870-22871), however by that time significant harm had been caused to the industry.

Soon after the imposed changes, there was a drop in vehicular pollution in Delhi, however, in the following decade, due to the increase in the number of private vehicles the emissions rose again. The concerning part about the judgement is how the SC worked to completely sideline the interests of the people employed in the public transport sector, with a complete absolutist approach where the poor are conveniently seen as primary contributors to urban pollution. (Bhuwania, 2018)

Anuj Bhuwania through his study of Public Interest Litigations (PIL) after liberalisation and mainly in the 2000s in *Courting the People* discusses how PIL has become an instrument for the court to decide the whole demography of Delhi and to regulate the population dynamics and housing system of Delhi. According to Bhuwania's study of PILs and court proceedings, it is understood that court in the 2000s started working as a mechanism of middle-class driven judgements where the court while showcasing a middle-class mentality ordered the eviction of street vendors, beggars, cycle-rickshaw drivers and particularly slum-dwellers as illegal and encroachments. Rene Veron through his study of the political ecology of air pollution in Delhi discusses the power and political decision-making in the improvement of the environment of cities. While studying Air pollution policies in Delhi from the mid-1990s Veron like Bhuwania explained the middle-class bias in air quality campaigns. Veron understood the eviction of slum dwellers in Delhi as bourgeois middle classes wanted to have a clean and green Delhi. Therefore, Veron discusses through his study of air pollution in Delhi, how class and social bias influence environmental activism and policy-making in Delhi, however also have differential impacts on air pollution based on class and social positions (Veron, 2101). According to Veron the recent air quality policies on Delhi in the name of pollution creation have displaced small-scale industries like stone cutter families therefore displacing the urban poor from their livelihood and residence. Therefore, both Anuj Bhuwania through his study of PILs and Rene Veron through his study of environment

litigations and environmental activism of NGOs suggested the middle-class biases in policy and law-making which is pitting against the urban poor.

The capital city, New Delhi, emerges as the most polluted city all over the globe, with particulate pollution levels surpassing 20 times the prescribed levels as per the WHO guidelines. (Dave et al. 2023) In the year 2021-2022, the capital's average concentration was 100  $\mu\text{g}/\text{m}^3$ , against the WHO recommendation of 5  $\mu\text{g}/\text{m}^3$ . (Guttikunda et al 2023) The pollution in the city is due to various types of burning, such as seen in power plants and transportation vehicles, which emit gases such as carbon dioxide, carbon monoxide, sulphur dioxide, and nitrogen oxide. Particulate matter (PM 2.5 and PM 10) which are derived from combustion are also a health risk and also cause health risks. (Patel, 2019)

G-20's motto under Indian presidency was "One Earth, One Family, One Future," this emphasised the interconnectedness of humans, animals, microorganisms, and their role in the broader universe. The Ministry is actively promoting the concept of Lifestyle for Environment (LiFE), which underscores the importance of environmentally sustainable and responsible choices for a greener future. However, the urban poor faced significant challenges during the beautification drive preceding the G20 summit. Under the pretext of beautification, the government demolished numerous homes, creating a distressing situation for those affected. This action contradicted the government's narrative of promoting a green future and treating everyone equally.

At G-20 and CoP 28, there were discussions about climate resilience which will help marginalised sections of societies. But all of this big talk will sound hollow and meaningless to those people whose homes were demolished, these people built their homes where they could because affordable and climate-resilient housing was not an option for them. Without proper housing and basic services, the talk about climate resilience and targets is just words without real action.

The justice in the environment is related to social justice and economic and cultural inequality. Amita Baviskar in her *Uncivil City: Ecology, Equity and the Commons in Delhi*, argues that the discourse of Justice in ecology can only be understood with – What is an environmental issue, who is authorised to decide and speak and which modes of action count as legitimate—are partial, particularistic and perverse (Baviskar, 2020, 17). A study done in the United States in 1982 titled *Toxic Wastes and Race in the United States* coined the term

environmental racism to describe “how any policy, practice, or directive differentially affects or disadvantages (whether intended or unintended) individuals, groups, or communities based on race or colour” (Mohai et. al., 407). Therefore, environmental justice can be understood as a discourse that studies how social and cultural location, economic inequality and political power differently impact the issue of environmental problems. The impacts of an environmental disaster or anthropogenic activity don't affect every sphere of the population equally, rather the share of adverse environmental problems is burdened on the people from lower social and economic strata. Therefore, as equality and justice go together, injustice and environmental inequality go hand in hand. Amita Baviskar's *Uncivil City: Ecology, Equity and the Commons in Delhi* also explores the nuances of being marginalised in society and how these same sections are deprived of equity in terms of environmental justice and are most vulnerable to environmental injustice and the right to clean air and clean environment. Baviskar's work on pollution and marginality is particularly in urban locations i.e. Delhi.

Like Amita Baviskar, The People's Archive of Rural India (PARI Network) has for a long time researched the climate crisis and the vulnerability of marginalised sections, particularly in rural settings giving more emphasis on the study of gendered dimensions of environmental injustice and marginality. According to a report published by Asar Social Impact Advisor, India, there is a gendered impact of climate change and every section of the population is disproportionately affected and the voices of marginalised sections of society and women are largely absent from policy measures focusing on mitigating climate change and adapting to its impacts (PARI network).

Harsh Mander writing on *Rights to the City* looks at the constitution of the urban poor. He used a multi-vulnerability-based identification approach to understand the forming of urban poor. Mander identified different facets of vulnerabilities and exclusion faced by the urban poor. The people from village areas travel to the urban spaces for a better life and livelihood however, urban cities lack basic living needs like housing, water and sanitation. As Mander's study showcased many workers of urban spaces live in makeshifts, temporary tents built out of plastic, brick, tin, and other waste materials that may be unsafe and hazardous or simply live on the road, under flyovers, railway platforms, and outside shops without shelter and in unsafe conditions (Mander, 2022). Again, if we continue to read Mander's work connecting with Rene Veron's (2006) and Stephen Graham's (2015), we will be able to understand the constitution of the urban poor with the political ecology of urban air and how the urban poor

become the primary victims of air pollution. Rene Veron studied the air pollution, activism and litigations on air pollution in Delhi and came to the conclusion that the policies and laws on air pollution in Delhi are giving preference to middle-class demands and displacing the urban poor from their place of residence and livelihood. Stephen Graham has studied heat waves, air pollution and their impacts in major world cities and suggested that the urban poor are mainly affected by air pollution. According to anthropologist Tim Choy (2010, 29) is struck that 'the rich have access to good air while the poor are relegated to the dregs, to the smog and dust under flyovers or on the streets'. Graham emphasising Canthropologist Choy's remarks explained that generally wealthy and elite groups can insulate themselves from its effects more effectively than are poor or marginalised ones (Graham, 202). The insulation of the wealthy from air pollution happens in a very structural manner. The wealthy happen to live in homes with air conditioning and purification systems unlike the urban poor. They also transport through air-conditioned cars and the cars release their polluted and hot air, noise and carcinogens to the streets, flyovers etc. where the urban poor live. In Delhi, there is a homeless population who lives on the streets and are therefore more vulnerable to these impacts. Therefore, according to Graham, there is an interconnection between height, status power and environmental injustice.

The temporariness of their work and their migrant status and living spaces recognise them as an informal population in the urban spaces and give them a second-class citizen status. According to Mander, the population lacks access to healthcare, education, financial services and social capital because of this the urban poor have to pay more to avail the basic amenities. David Harvey in his work titled 'Right to the City' argues that the right to the city is a human right. It is a common right, however right to the city is confined in the hands of the neoliberal private interests (Harvey, 2008, 38). The quality of urban life is a commodity where violence is a common aspect of city making and violence happens in the name of civic improvement and renovation. In the urban spaces where the authority is on the hands of the private interests the working class are the unruly section in the urban spaces, those who have to be removed because they can cause havoc to public order and political power. Therefore, Harvey called for democratic management of urban spaces with the right to the city as a working slogan and political ideal. For Harvey right to the city has to be a social movement.

## **METHODOLOGY**

As a methodology, we have used both primary and secondary sources. We conducted interviews among the marginalised sections in the areas. The interviews were conducted with semi-structured questionnaires to keep some space for spontaneity. We interviewed the Rickshaw pullers, daily wage paint workers, auto drivers, street vendors and Safai Karmacharis. The locations for the interview are Chandni Chowk and the Kashmere Gate metro station area.

The Report also looked into the age group of the interviewees. These are categorised in the following column-

Under age 20: 2

Age 20-40: 6

Age 40-60: 4

Above 60: 3

The categorisation of interviewed persons according to their job description-

Rickshaw Pullers: 3

Auto Drivers: 6

Safai Karmacharis: 2

Street Vendors: 2

Daily wage paint workers: 2

## **KEY FINDINGS**

As we used both primary and secondary methods for the study, our findings are based on the observations made by us and the secondary reports. For the primary study, the interview method is used to understand the dynamics of environmental justice and marginality .It involves the interview of fifteen people in two different locations. The interviewees are street vendors, rickshaw pullers, auto drivers, daily wage paint workers and Safai karamcharis. Through the interviews it is found that out of fifteen workers fourteen are migrant workers

and one has a permanent house in Delhi. The rest either travel from their home to their workplace everyday or stay as a tenant in and around Delhi.

Although contributing a negligible amount to the causes of air pollution, informal outdoor workers are highly susceptible to air pollution. The inevitability of staying outdoors for extended periods of the day ranging from a minimum of eight hours to sometimes sixteen hours a day, the impact is compounded by factors like a higher concentration of aerosols at roadside levels due to proximity to vehicular emission, intensive physical activity, pre-existing diseases and malnutrition. What constitutes informal outdoor workers is the large pool of livelihoods ranging from transportation, and sweepers to various self-employed people but for the sake of simplification and the sheer precarity of their workplace, we decided to interview four groups of informal outdoor workers viz. Cycle Rickshaw Pullers, Street vendors, Daily Wage Painters and Auto Drivers. The analysis from the interviews reveals many nuances of marginalities and environmental injustices. The most revealing and surprising of them is the unawareness of the presence of air pollution in Delhi's atmosphere amongst the informal outdoor workers. Babu Ram (56) a cycle rickshaw puller in the Chandni Chowk area of Delhi, feels that "*thandi ki wajah se dhul hoti hai*" (dust is the result of winters). The same line of inference also holds for Usman (44) who thinks that "*jaha pe safai nahi hoti waha pe hawa gandi hawa hoti hai*" (Lack of cleanliness makes the air dirty) to him, the hyper-crowded part of the city like Chandni Chowk has clean air due to the abundance of civic care it gets from the government unlike the low-income neighbourhood of east Delhi where he resides. The similar commonality of equating air pollution with cold winters could be seen amongst many respondents we interviewed. Slater et al 2023 in their paper titled 'Air Pollution and the World of Work in Southeast Asia' has the same observations. The abovementioned paper inquires particularly into the hazards of occupational air pollution, which is fundamentally different from outdoor air pollution. Occupational air pollution involves activities that cause air pollution in the first place unlike the informal outdoor workers in our case who only bear the brunt of air pollution with a negligible or almost no contribution. But factors like lack of agency, marginality and precarity of livelihood are the same for both types of workers.

Barthwal et al 2021, through their study of informal outdoor workers like rickshaw drivers, street vendors and sweepers in Delhi have concluded that they are indeed highly exposed to air pollution due to their occupational nature. They used the cross-sectional perception-based

integrated epidemiological methodology to assess the health impacts on this segment of the population. This study also established that there was no significant difference in the prevalence of diseases in this group of people. They have divided the symptoms into six major categories namely, respiratory symptoms, musculoskeletal symptoms, ophthalmic symptoms, dermatological symptoms, cardiovascular symptoms and general symptoms.

Throughout the interview there is a lack of women workers. Although there are a few women street vendors however we couldn't interview them which may be because of our lack of interview skills or the lack of willingness of the women street vendors. The primary study made us aware of the different dimensions of marginality. Marginality comes not only as an economic marginality but includes in itself social, political, educational marginality. From the preliminary study we came to know that people who work outside are not much aware of the impacts of air pollution and how it is affecting them. Although they are having problems like eye burning, cough and breathing problems, they are not aware how these problems are because of their outdoor work. The street vendors, Rickshaw pullers, auto drivers and daily wage workers that we interviewed for our study, we came to know that they spend most of their time outside. The street vendors spend like 9-12 hours outside, the Rickshaw pullers and auto drivers spend more than 12 hours outside which is similar in most cases with daily wage workers and *Safai Karmacharis*. Looking at the time spent by them, most of the people who are more than 30 years old told us that they are having problems like shortness of breaths, cough, eye burning problems. Moreover, most of them let us know that they barely go to see the doctor during their illness because taking a break from work causes them to lose money which again affects their daily food consumption. Many Rickshaw pullers and auto drivers complained that during heavy pollution and smog people usually like to travel in air conditioned cars rather than the open autos and Rickshaw which cause them to lose passengers and affect their income in a significant way.

As explained before, we experience the lack of awareness of occupational pollution by the people on their health, especially by the younger generation as in our interview people who are less than twenty years old have negated our question on pollution saying that pollution doesn't affect them. Some other studies also indicated that workers generally lacked awareness of occupational exposures to air pollutants, the associated health impacts, existing regulations and rights of employees, the benefits of personal protective equipment (PPE), or good practices (Archer, 2023, 3).

Another study also stipulated that younger workers have the perception of being "invincible" against the impacts of air pollution exposure (Thanh & Dung, 2022). However, we can't

stipulate that the lack of awareness towards pollution is because of the people's lack of education only. This lack of awareness can be understood through looking at the daily life of the people. The interviewees mentioned that they start work early in the morning then travel to the work site and stay in the work site for minimum eight hours and then travel back to their homes. As the income of the interviewees is daily earned thus they have to work daily. Going to hospital for check ups during pollution or taking rest means losing their income which ultimately affects their food consumption. Therefore, the people working in urban spaces are not only impacted from economic inequalities but also vulnerable to education and health equity. This then leads to more vulnerabilities to health problems. Therefore, we can see how different vulnerabilities lead to different kinds of marginalities.

In understanding pollution as a rights issue the right to health can be an entry point. The Convention on the Rights of the Child notes the need "To combat disease and malnutrition, taking into consideration the dangers and risks of environmental pollution" (Samet & Gruskin, 2014). Therefore, looking at air pollution as a health risk, we can stipulate that there is a need to understand air pollution through a right based approach. Thus, we can say that air pollution is a rights issue and is related to environmental injustice.

## **CONCLUSION**

The Air Act which deals with the problem at hand also has some serious loopholes. Despite it being enacted many years ago has only been amended only once in a substantive manner which tried to cover the evidence gaps and boosted its effectiveness. The present laws as well as the response of the government mechanisms in place are not appropriate to tackle the rising levels of air pollution in our country as the same is also projected to only increase for the coming generations. Despite the serious air pollution in Delhi in the year 2019, not a single case was filed under this law. Currently the Act needs amendment enabling Pollution Boards to impose liability against violators in a time bound manner. (Ghosh, 2015) Furthermore, the legislation also fails to provide for stable funding sources for the Pollution Control Boards, as some States rely on their own resources which causes disparities even between different Boards in the same State. The Act had also not kept up with the modern times in incorporating advancements in air quality management research, having an airshed approach while also considering health risks to the public at large. (Mathew et al. 2021 )

There is also a lack in understanding air pollution as a political issue and not only an issue of health hazard. Also, the NGOs and institutions working on activism and policy making which works with middle-class mentality need to take into consideration the working class issues in their activism and policy making. The political economy of an urban setting is interlinked with political ecology of the same space. In an urban space like Delhi, air has become a commodity. The rich who can afford air conditioned houses and transportations and air purifiers can get fresh air. However, the one who cannot afford these luxuries has to further face the wrath of hot air and carcinogens coming out of air conditioners and purifiers. Also as pollution increases, the cost of air purifiers and air conditioners increases and with it increases the electricity and energy consumption. The lack of fresh air and inequality in consumption is a political issue. Thus, air pollution is a political issue. Therefore, air pollution in Delhi should be treated as a political affair.

Environmental inequality is interconnected and intimately related to all other kinds of inequalities. These inequalities not only affect the everyday life and livelihood of the people. All of these inequalities are generating human rights issues impacting the people socially, economically, environmentally. Pollution, particularly air pollution, affects everyone equally; however, it affects the population severely who works outside. Therefore, pollution is a rights issue. Air pollution is a human rights issue.

## **Decoding the Digital Dilemma: Data Rights and Privacy in India**

By Bhagyashri Boywad, Maitri Singh, Munazah Shakeel, Sapphira and Yoshita Srivastava

### **ABSTRACT**

In the era of post-industrialisation, technological advancements have coincided with a growth in authoritarian measures around the world. As phones are tapped in real-time, our laptops are confiscated, and the confounded WhatsApp messages are produced before the court, it can be strongly contested that we do not truly own what belongs to us.<sup>1</sup> The specific demarcations between the private and the public that shaped our understanding of privacy, where the house served as a private space, with the provision of leaving the world outside and rendering it to the public. As challenges to current regimes are posted through social media platforms, or the dissent is marked in private conversations, authoritarian measures dictate a close surveillance of the state's citizens and curtailing their right to dissent. Thus, the contemplation of privacy demands a rethinking of the usage of information technology and its role in curbing dissent, enacting state surveillance, along with additional vulnerabilities that have been exposed to the members of marginalised communities. This paper focuses on decoding the digital dilemma, while examining the concurrence in erosion of digital rights and privacy, in the case of India.

### **INTRODUCTION**

Conceptualising privacy under the current age requires an enactment of privacy's traditional notions, where people would have a right to be free from any form of surveillance. A person's private sphere would then be composed of a physical privacy, an informational privacy and a decisional privacy. Using Privacy International's definition of privacy,<sup>2</sup> "it is a fundamental right essential to the autonomy and the protection of human dignity, serving as the foundation upon which many other human rights are built". It has also been defined as "a state of affairs where information regarding an individual's life and conditions that are private in nature is beyond the reach and knowledge of others." The importance of these frameworks on digital privacy thus lies in our data belonging to us, and not to a government agency or private firms. Studies have shown that individualist societies in the global north, such as the United States and Europe, are more concerned with the issues of data privacy than users from collectivist countries or cultures, say for example—in South Asia.<sup>3</sup> Among these two kinds of societies,

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<sup>1</sup>Jay Mazoomdaar, "Explained: How Pegasus Spyware Infects a Device; What Data May Be Compromised," *The Indian Express*, August 13, 2021, <https://indianexpress.com/article/explained/pegasus-whatsapp-spyware-israel-india-7410890/>.

<sup>2</sup> Privacy International. "What Is Privacy?" *Privacy International*, 23 Oct. 2017, <https://privacyinternational.org/explainer/56/what-privacy>.

<sup>3</sup> Arora, Dushyant, Vineetha Venugopal, Jenny Sulfath, Arpita Kanjilal, Osama Manzar and Yuvasree Mohan. "Talking Data to the Fourth Pillar." (2023).

the concerns on privacy may vary. While users from the former are more concerned with their data privacy as individuals, users from the latter were found to be more concerned with how their usage of the internet or certain apps could affect the privacy and exposure of their peers.

Within India, there are several constitutional provisions for safeguarding any breach that may happen with a citizen's right to digital privacy. In India, several judgments from the Supreme Court have upheld the citizen's right to privacy.<sup>4</sup> However, in a recent turn of events, the new Digital Data Protection Act 2023, in the Indian Parliament has evoked several criticisms from the public on grounds of enacting state surveillance by the central government.<sup>5</sup> It has been argued that the bill is ambiguous and could be read in a manner where freedom of expression, of press, and of privacy are denied. Further, there are no safeguards against any form of state surveillance. Although the Right to Privacy is mentioned in the international conventions<sup>6</sup>, the Indian state's current steps towards state-sanctioned surveillance, through Data Protection Act, stands contrary to these conventions. Similarly, in the Committee to Protect Journalists' Report, published in 2022, it was analysed that the number of journalists in India that were in jail remained a record high for the second consecutive year since CPJ began its prison census.

Despite the Indian state's aspiration of being recognized as a 'Vishwa Guru' (world leader), it has regrettably garnered the global attention for employing McCarthyism tactics to counter and suppress dissent. This has led to a less-than-favourable reputation on the international stage, reflected in its ranking of 161st in the World Press Freedom Index. Unfortunately, these tactics are only expected to intensify as this country approaches its general elections in 2024. The following paragraphs will look at the digital privacy in India, by examining the various facets— first by looking at media freedom in digital India, an analysis into how surveillance, shutdowns, and censorship affects the press freedom in the region. Followed by a case study on Indian-administered Kashmir. The paper further contests the digital rights discourse with an analysis on the discrimination faced by members of marginalised communities, as well as the effect of digital privacy laws on these communities. Additionally, through the interaction with these concepts, the paper aims to decode digital rights as indispensable to not just the fundamental rights of the state's citizens, but also to the proper functioning of a democracy.

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<sup>4</sup> On August 24th, 2017, the Indian Supreme Court recognised that citizens have a right to privacy in a landmark judgement, Justice K. S. Puttaswamy (Retd.) & Anr. Vs Union Of India & Ors (Puttaswamy or the Right to Privacy case). In this case, the Supreme Court ruled that the right to privacy was a fundamental right under Article 14 (which deals with equality before the law), Article 19 (which deals with various Constitutionally protected freedoms) and most importantly and directly, Article 21 (the right to life) of the Indian Constitution. It also ruled that this fundamental right to privacy granted to individuals extends to digital spaces.

<sup>5</sup> Ishwar Ahuja, and Sakina Kapadia. "Digital Personal Data Protection Act, 2023 – a Brief Analysis." Bar And Bench - Indian Legal News, August 22, 2023. <https://www.barandbench.com/law-firms/view-point/digital-personal-data-protection-act-2023-a-brief-analysis>.

<sup>6</sup> Article 12 of the Universal Declaration of Human Rights, and Article 16 of the Convention of the Rights of the Child (CRC), Article 8 of the European Convention on Human Rights, and Article 17 of the legally-binding International Covenant on Civil and Political Rights (ICCPR), which India is a signatory to.

## ANALYSIS 1

### SURVEILLANCE AND MEDIA FREEDOM:

The freedom of press has always been a focal point of discussion both in the international as well as the local context. Thereby, prompting many countries to pass specific laws in order to protect press freedom. In the United States, the First Amendment guarantees press freedom, while in Canada, it is protected by the Canadian Charter of Rights and Freedoms. Similarly, France's Constitution ensures press freedom, which is backed by 1881's Civil Liberties Act, whereas the German Constitution and Federal Press Law safeguards the press freedom. Other nations including Australia, South Africa, Spain, Sweden, Portugal and Andorra prioritise the confidentiality of journalists' sources, reflecting their commitment to free press<sup>7</sup>. In the past, Indian courts have recognized the importance of press freedom, and held the right to protect sources as its integral part; and that journalists held qualified privilege to protect their source. The 1950 *Romesh Thappar v. The State of Madras* case<sup>8</sup> emphasised on the freedom of press as foundational to all democratic societies. However, there remains a marked absence of clear guidelines, a law or an act which would explicitly protect the privacy of journalists, and their sources. As a consequence, we continue to observe the importance of privacy and safety laws related to journalists, and their sources, being often overlooked, dismissed, or even exploited.

Recently, as the Supreme Court raised concerns over the seizure of electronic devices which belonged to journalists and academics critical of the ruling party, the Indian Home Ministry responded with "no one can be treated above the law". The ministry fairly highlighted the need for thorough examination of digital devices by forensic experts as necessary to address the raised allegations. However, when the reports of forensic experts of organisations, such as Amnesty International in its October 2023 Report, revealed instances of state-sponsored surveillance through softwares like Pegasus<sup>9</sup>, the response from Indian ministries had been conspicuously reserved. This selective blindness to inconvenient revelations adds a layer of complexity to the ongoing discourse on press freedom and privacy rights in India. To quote the Head of Amnesty International's Security Lab, "Journalists in India face the threat of unlawful surveillance for simply doing their jobs, where alongside other tools of repression, imprisonment under the draconian laws, smear campaigns, and harassment have increased".

In July 2021, when an independent news outlet was involved in the international 'Pegasus Project', it had revealed that over 300 Indian phone numbers, including numbers of human

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<sup>7</sup> Arora, Dushyant, Vineetha Venugopal, Jenny Sulfath, Arpita Kanjilal, Osama Manzar and Yuvasree Mohan. "Talking Data to the Fourth Pillar." (2023).

<sup>8</sup> Free To Air, "What India's Supreme Court Said in 1950, on Sedition and Freedom of Expression (*Romesh Thappar v State of Ma*)," *Times of India Blog*, March 11, 2021, <https://timesofindia.indiatimes.com/blogs/toi-edit-page/what-indias-supreme-court-said-in-1950-on-sedition-and-freedom-of-expression-romesh-thappar-v-state-of-madras/>.

<sup>9</sup> Amnesty International, "India: Damning New Forensic Investigation Reveals Repeated Use of Pegasus Spyware to Target High-Profile Journalists," January 5, 2024, <https://www.amnesty.org/en/latest/news/2023/12/india-damning-new-forensic-investigation-reveals-repeated-use-of-pegasus-spyware-to-target-high-profile-journalists/>.

rights activists, journalists, lawyers, government officials and opposition politicians, were discovered in a list with 50,000 numbers which were leaked globally. These numbers were linked to countries with a history of engaging in unlawful surveillance, and were identified as clients of NSO Group, an Israeli company known for its surveillance spyware, Pegasus. As Amnesty International conducted forensic tests on 67 phones, Pegasus activity had been detected on 37 of them, and 10 of these phones belonged to Indian nationals. This spyware allows agencies to monitor every activity on the phone, including emails, files, contact lists, location information, chat messages, and other private details. Interestingly, the NSO Group stated in its defence that it “sells only to authorised governmental agencies”, and denied the charges. Later, the committee investigating the use of Pegasus spyware on Indian citizens confirmed that malware was found in 5 out of 29 phones, but that report could not confirm if malware was Pegasus. While the report was not made public, a CJI bench pointed out that “government did not cooperate with the technical committee on the scrutiny of devices”<sup>10</sup>.

Similarly, several instances of press freedom violations and harassment of journalists were reported in India recently. In February 2023, Indian tax officials citing a ‘survey’ raided the BBC offices in Delhi and Mumbai, after the organisation released a two-part documentary which revealed an alleged connection between the Indian Prime Minister, and the 2002 riots in Gujarat. As a consequence, this survey led to the organisation’s offices being sealed, with documents and phones of several journalists reportedly seized by government officials.<sup>11</sup> In October 2023, the editor and an employee of NewsClick, were arrested in New Delhi over allegations of illegal foreign funding, leading to raids on homes of 46 journalists associated with the platform, including the ones who had worked as freelance in the past. In separate incidents, five journalists who were covering events organised by a Hindu nationalist group in Delhi were attacked, and a Muslim journalist faced a criminal investigation for allegedly inciting hatred through a ‘tweet’.<sup>12</sup> Another prominent journalist and a vocal critic of the ruling party, Rana Ayyub, was prevented from flying to London, citing an investigation into money laundering and tax evasion. She, along with other female Muslim journalists critical of the government, faced online threats, and were listed on a fake ‘auction’ app as “for sale” to humiliate, degrade, and intimidate them, revealed The Committee to Protect Journalists.

In India, the attacks on a free press are not restricted to state surveillance, but have extended to pressing unlawful charges on journalists and scholars, raising questions and concerns that are labelled as anti-establishment. Since 2014, several journalists have been charged under

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<sup>10</sup> Explained Desk, “Explained: The Findings of the Pegasus Committee, and What We Know about the Use of the Israeli Malware,” *The Indian Express*, August 26, 2022, <https://indianexpress.com/article/explained/explained-sci-tech/supreme-court-verdict-pegasus-spyware-case-explained-8110710/>.

<sup>11</sup> Meenakshi Ganguly, “Tax Authorities Raid BBC Offices in India,” *Human Rights Watch*, February 14, 2023, <https://www.hrw.org/news/2023/02/14/tax-authorities-raid-bbc-offices-india>.

<sup>12</sup> “India: Media Freedom under Threat,” *Human Rights Watch*, May 3, 2022, <https://www.hrw.org/news/2022/05/03/india-media-freedom-under-threat>.

Unlawful Activities (Prevention) Act, originally designed for terrorist organisations. Under the guise of state security, 16 activists, scholars, and journalists, were arrested in connection with The Elgar Parishad conclave 2018 riot in Pune, Maharashtra. However, it was revealed later through forensic analysis that the evidence had been planted on devices of at least two of the arrested individuals. As these scholars and activists still await justice in 2024, one of the accused, Father Stan Swamy, a prominent human rights activist has died as an undertrial prisoner. Furthermore, the Rights and Risks Analysis Group (RRAG) in its press release of 2022, reported that a total of 194 journalists, including seven women, were targeted across India by state agencies, non-state political actors, criminals, and armed opposition groups. It was not unexpected to witness that the highest number of targeted journalists had been from Indian-administered Kashmir, with a total of 48 journalists targeted, followed by Telangana (40) and Odisha (14). Among those targeted, 103 were affected by state actors, resulting in 70 arrests/detentions, 14 FIRs, and 4 summons by police and the Enforcement Directorate. 15 of these journalists faced physical attacks and threats by public officials, including travel restrictions. While non-state actors, including political activists, targeted 91 journalists.<sup>13</sup>

The above data clearly shows the vulnerability of journalists both in the online and offline space, from both the state as well as the non-state actors. Thereby, emphasising the need for specific laws protecting press freedom. Witnessing the worrying circumstances of the state of affairs, more than 230 journalists, news organisations, artists, and academics in October 2023 condemned the raid on NewsClick by Delhi Police, and issued a statement citing “the worrying attack on the democratic principles of press freedom and freedom of expression”. They further demanded an immediate release of the ones arrested. While these were some of the measures of direct clampdown, the following section sheds light on censorship along with internet shutdown as other measures through which the voice of a free press is stifled.

### **INTERNET SHUTDOWNS AND MEDIA FREEDOM:**

In June 2022, India proudly signed a statement along with the Group of Seven (G7) nations and four other countries, committing to ensure “an open, free, global, interoperable, reliable and secure internet.”<sup>14</sup> Furthermore, as a signatory to the Resilience Democracies statement, India also resolved to protect “the freedom of expression and opinion online and offline and ensure a free and independent media landscape through our work with relevant international initiatives.”<sup>15</sup> While outwardly, the Indian government is relentlessly committed to a further

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<sup>13</sup> Admin, “Press Release: 194 Journalists Targeted, Eight Killed during 2022 in India,” Rights & Risks Analysis Group, June 27, 2023, <http://www.rightsrisks.org/press-release/press-release-194-journalists-targeted-eight-killed-during-2022-in-india/>.

<sup>14</sup> 2022 Resilient Democracies Statement, June 27, 2022, <https://www.consilium.europa.eu/media/57543/2022-06-27-g7-resilient-democracies-statement-data.pdf> (accessed January, 2024).

<sup>15</sup> Ibid.

advancing of digitization across every sphere of governance<sup>16</sup>, which includes assiduously pushing digitization of social services in the remote and marginalised regions of India with a considerable digital divide<sup>17</sup>. The Prime Minister of India has continued to sell the golden idea of digitalization, stating “Digital connectivity should become as much a basic right as access to school”<sup>18</sup>. However, the frequent internet disruptions continue to conflict with the ambitions of the ‘Digital India’ program<sup>19</sup>, and India’s pursuit to dominate the global digital economy through ‘the Digital Public Infrastructure’, rolled out in the recent G20 summit<sup>20</sup>.

Undoubtedly, India is emerging as a world leader, at least in the realm of internet shutdowns, surpassing all other nations.<sup>21</sup> In 2022, India maintained its leading position for the fifth year consecutively by implementing 84 out of the world’s 187 internet shutdowns.<sup>22</sup> The highest frequency of the internet shutdowns was witnessed in Indian-administered Kashmir with 61% (418) of the 690 shutdowns carried out since 2012.<sup>23</sup> The Indian government, justifying these shutdowns based on a law and order situation, employed them as a default policing action and an automated response to suppress dissent, with no apparent limit or accountability<sup>24</sup>. India’s External Affairs Minister, in September 2022, shrugged off the need for explanation, stating “There is a big song and dance about the internet being cut. Now, if you’ve reached the stage where you say an internet cut is more dangerous than the loss of human lives, then what can I

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<sup>16</sup> “India Is Ideal Testing Lab, Solutions That Work In India Can Work Anywhere In World: PM Modi At G20 Digital Economy Meet.” 2023. <https://www.outlookindia.com/>. August 19. <https://www.outlookindia.com/national/india-is-ideal-testing-lab-solutions-that-work-in-india-can-work-anywhere-in-world-pm-modi-at-g20-digital-economy-meet-news-311930>.

<sup>17</sup> Bajoria, J. Bajoria, Jayshree. 2023. “No Internet Means No Work, No Pay, No Food.” Human Rights Watch. June 14. [https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#\\_ftn131](https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#_ftn131).

<sup>18</sup> “Digital Connectivity Is a Basic Right - Modi.” 2015. India Today. India Today. <https://www.indiatoday.in/technology/news/story/digital-connectivity-is-a-basic-right-modi-234061-2015-01-04>.

<sup>19</sup> <https://digitalindia.gov.in/introduction/>

<sup>20</sup> “Prime Minister Announces Completion of Global Digital Public Infrastructure Repository and Creation of a Social Impact Fund to Advance Digital Public Infrastructure in Global South.” 2024. Press Information Bureau. Accessed January 28. <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1979113#:~:text=Prime%20Minister%20Shri%20Narendra%20Modi,during%20the%20Virtual%20G20%20Leaders>.

<sup>21</sup> “#KeepItOn Report: India Shuts down Internet More than Any Other Nation on Earth.” 2023. Access Now. <https://www.accessnow.org/press-release/keepiton-report-india-shuts-down-internet-more-than-any-other-nation-on-earth/>

<sup>22</sup> Zach Rosson, F. A. Zach Rosson, Felicia Anthonio. 2023. “Internet Shutdowns in 2022: The #KeepItOn Report.” Access Now. May 24. <https://www.accessnow.org/internet-shutdowns-2022/>

<sup>23</sup> India Internet shutdown tracker by Software Freedom Law Center, <https://internetshutdowns.in/>

<sup>24</sup> <https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic>

say?”<sup>25</sup> The shutdowns further persisted in 2023, from Punjab to track a separatist leader<sup>26</sup>, to Manipur which has been without internet since early May following violent ethnic clashes.<sup>27</sup>

The internet’s importance is recognised in exercising freedom of expression and opinion. Its accessibility is rightfully acknowledged as an indispensable facilitator of a number of human rights guaranteed in the International Covenant on Civil and Political Rights, as well as other instruments of human rights to which India is a party. In August 2019, following abrogation of Article 370 and 35A, internet shutdown in Indian-administered Kashmir affected all local newspapers in the region, among them the Srinagar edition of Kashmir Times. The Executive Director of the newspaper, challenged the internet shutdown in Supreme Court, asserting “by enforcing a communication shutdown, respondents have not restricted, but eroded, freedom of speech of the Press and Media.”<sup>28</sup> When the internet services are withheld arbitrarily, many critical voices get muted, including the voice of journalists who rely on the internet for news, reports, images and videos dissemination. The prolonged internet shutdown in the region, left the journalists unable to connect with their sources or editors, and couldn’t file their reports<sup>29</sup>, significantly hampering the press freedom. Essentially, the internet has been indispensable for journalists to perform their duties, and for the media to function seamlessly in the digital age.

Further, since the internet shutdowns heighten safety apprehensions for journalists, especially those female journalists who work in the field. Deprived of connectivity, these journalists are not able to access crucial information about their surroundings, as insufficient communication limits their ability to seek assistance or call for backup in the case of emergencies.<sup>30</sup> During internet blockades, critical information becomes inaccessible, which fosters an environment conducive for spreading rumours.<sup>31</sup> These rumours not only possess the potential to disrupt law and order, which has led to a shutdown in the first place, but can also prove to be fatal.<sup>32</sup> Paradoxically, the government’s rationale is that these shutdowns maintain law and order by

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<sup>25</sup> “Jaishankar Criticises American Media For ‘Biased’ Coverage of India,” Press Trust of India, September 26, 2022, <https://thewire.in/media/jaishankar-criticises-american-media-for-biased-coverage-of-india>

<sup>26</sup> Mogul, Rhea. 2023. “India Cuts Internet to 27 Million as Punjab Police Hunt Sikh Separatist.” CNN. Cable News Network. March 21. <https://edition.cnn.com/2023/03/20/india/india-separatist-manhunt-internet-shutdown-intl-hnk/index.html#:~:text=The%20Punjab%20government%20initially%20announced.followers%20of%20the%20Sikh%20religion.>

<sup>27</sup> <https://www.wired.co.uk/article/internet-shutdown-manipur-burning-in-the-dark>

<sup>28</sup> Anuradha Bhasin v. Union of India.

<sup>29</sup> Bajoria, J. Bajoria, Jayshree. 2023. “No Internet Means No Work, No Pay, No Food.” Human Rights Watch. June 14. [https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#\\_ftn68.](https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#_ftn68)

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> M.N., P. M.N., Parth. 2023. “An Internet Shutdown Means Manipur Is Burning in the Dark.” WIRED UK. August 3. <https://www.wired.co.uk/article/internet-shutdown-manipur-burning-in-the-dark>.

curbing the spread of rumours on social media and messaging sites.<sup>33</sup> The efficacy of this has been questioned by a Parliamentary Standing Committee<sup>34</sup>, criticised as “colonial policing”<sup>35</sup> by the opposition, ruled as “drastic”<sup>36</sup> by the Supreme Court of India, and denounced as being “draconian”<sup>37</sup> from international human rights experts. As these internet shutdowns facilitate further surveillance in the absence of secure, end-to-end encrypted communication platforms. Applications such as WhatsApp and Signal, which seem to protect data traceability, maintain information, location, along with the source security, become increasingly unavailable during the internet shutdowns. In India, journalists had stated a preference of texting to calling for evading surveillance, reducing a government retaliation risk against them, and their sources.<sup>38</sup>

In August 2019, to alleviate the communication blackout in Indian-administered Kashmir, the government established a media centre in a private hotel, providing fixed internet connections for journalists.<sup>39</sup> It was reported that several journalists experienced long waiting queues, and an excruciatingly slow internet on which the photos and videos were impossible to transfer.<sup>40</sup> However, the greater concern for journalists was the pervasive surveillance and the inability to protect their sources.<sup>41</sup> The lack of alternatives to government-controlled media centres not only compromised media freedom but also exposed journalists to serious risks. Discussing a similar case of internet shutdowns, a human rights activist in Manipur, who asked not to be identified says, “By and large it is being weaponized to subdue narratives that are not in the authority's political interests and to shut down dissent or critical voices such as voices who

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<sup>33</sup> “Jaishankar Criticises American Media For ‘Biased’ Coverage of India,” Press Trust of India, September 26, 2022, <https://thewire.in/media/jaishankar-criticises-american-media-for-biased-coverage-of-india>

<sup>34</sup> “Suspension of Telecom Services/Internet and its Impact,” Twenty-sixth report of the Standing Committee on Communications and Information Technology 2021-22, 17th Lok Sabha, December 2021, [https://eparlib.nic.in/bitstream/123456789/820699/1/17\\_Communications\\_and\\_Information\\_Technology\\_26.pdf](https://eparlib.nic.in/bitstream/123456789/820699/1/17_Communications_and_Information_Technology_26.pdf)

<sup>35</sup> Bajoria, J. Bajoria, Jayshree. 2023. “No Internet Means No Work, No Pay, No Food.” Human Rights Watch. June 14. [https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#\\_ftn68](https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#_ftn68).

<sup>36</sup> Anuradha Bhasin v. Union of India.

<sup>37</sup> Nileena M S, “Draconian, undemocratic and a human-rights violation: David Kaye, UN rights-expert, on Kashmir,” Caravan, August 29, 2019, <https://caravanmagazine.in/government/david-kaye-kashmir-draconian-undemocratic-human-rights-violation>

<sup>38</sup> [https://hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#\\_ftn65](https://hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#_ftn65)

<sup>39</sup> Safwat Zargar, “J&K government misled Supreme Court about Srinagar media centre timings, say journalists,” Scroll.in, October 15, 2019, <https://scroll.in/latest/940645/j-k-government-misled-supreme-court-about-srinagar-media-centre-timings-say-journalists>

<sup>40</sup> Anuradha Bhasin v. Union of India.

<sup>41</sup> [https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#\\_ftn70](https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#_ftn70)

ask questions or seek accountability.”<sup>42</sup> Internet shutdowns have thus, served as an instrument of control<sup>43</sup>, allowing the government to selectively censor information, undermine the norms of necessity and proportionality, while avoiding accountability and retaining an unconstrained authority.<sup>44</sup> This shapes the political landscape of a country in the favour of the ruling party’s vested interests. With the absence of independent accountability mechanisms, these internet shutdowns have undermined transparency and accountability in a government’s functioning<sup>45</sup>, obfuscating the democratic process, while compromising the citizen’s fundamental rights.<sup>46</sup>

### **CENSORSHIP AND MEDIA FREEDOM:**

The clampdown on media freedom has continued in India, with the government enacting new internet rules<sup>47</sup>, which target social media companies, digital news services, and curated video streaming sites. These rules also disproportionately empower the government by imposing an overbroad restrictions<sup>48</sup> on content, encouraging a self-censorship, and mandating traceability of information that compromises end-to-end encryption on platforms including WhatsApp or Signal.<sup>49</sup> As a consequence, social media platforms operate under stringent rules, compelling them to censor content and share user information<sup>50</sup> at the discretion of the government. This provides a further tool in suppressing dissent against the government, facilitating prosecution and ensuring dominance of a Hindu-nationalist content and discourse across online platforms.

In Indian-administered Kashmir, censorship has taken a turn for the worse since abrogation of the territory’s special autonomous status in August 2019. The government has intensified its

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<sup>42</sup> Bajoria, J. Bajoria, Jayshree. 2023. “No Internet Means No Work, No Pay, No Food.” Human Rights Watch. June 14. [https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#\\_ftn131](https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic#_ftn131).

<sup>43</sup> “The Abuse of Technology Modi Won’t Be Talking About.” 2022. Human Rights Watch. July 18. <https://www.hrw.org/news/2021/11/15/abuse-technology-modi-wont-be-talking-about>.

<sup>44</sup> “Suspension of Telecom Services/Internet and its Impact,” Twenty-sixth report of the Standing Committee on Communications and Information Technology 2021-22, 17th Lok Sabha, December 2021, [https://eparlib.nic.in/bitstream/123456789/820699/1/17\\_Communications\\_and\\_Information\\_Technology\\_26.pdf](https://eparlib.nic.in/bitstream/123456789/820699/1/17_Communications_and_Information_Technology_26.pdf)

<sup>45</sup> “The Abuse of Technology Modi Won’t Be Talking About.” 2022. Human Rights Watch. July 18. <https://www.hrw.org/news/2021/11/15/abuse-technology-modi-wont-be-talking-about>.

<sup>46</sup> Woodhams, S.Woodhams, Samuel. 2023. “Contesting the Legality of Internet Shutdowns.” Just Security. September 1. <https://www.justsecurity.org/66317/contesting-the-legality-of-internet-shutdowns/>.

<sup>47</sup>[https://www.meity.gov.in/writereaddata/files/Intermediary\\_Guidelines\\_and\\_Digital\\_Media\\_Ethics\\_Code\\_Rules-2021.pdf](https://www.meity.gov.in/writereaddata/files/Intermediary_Guidelines_and_Digital_Media_Ethics_Code_Rules-2021.pdf)

<sup>48</sup> Perrigo, B. Perrigo, Billy. 2021. “India’s Sweeping New Internet Rules: Here’s What They Mean.” Time. March 12. <https://time.com/5946092/india-internet-rules-impact/>.

<sup>49</sup> “Indian Authorities Tighten Control over Online Content.” 2023. Access Now. <https://www.accessnow.org/press-release/indian-authorities-tighten-control-over-online-content/>.

<sup>50</sup> “India’s Digital Governance ‘Model’ Fails on Rights.” 2023. Human Rights Watch. September 7. <https://www.hrw.org/news/2023/09/06/indias-digital-governance-model-fails-rights>.

crackdown<sup>51</sup> with incessant police interrogation, raids, threats, physical assault, along with a further restriction on freedom of movement. Kashmiri journalists continue to face restrictions on their social media handles, and confiscation of their devices. In worst case scenarios, the major news channels have faced permanent blockades of their websites and newspapers.<sup>52</sup> In January 2020, the Indian government introduced a controversial new media policy<sup>53</sup>, granting them more authority over censoring news from the region. Constituting the first stated “media policy” of the National Democratic Alliance (NDA) government.<sup>54</sup> It was criticised as a tool for transforming the media into a conduit for government-approved news under the pretext of curbing “fake” news and thwarting “anti-national” activities.<sup>55</sup> Discussing the policy’s impact on journalism in Kashmir, the Executive Director of Kashmir Times expressed that the media personnel find themselves at crossroads– either surrendering and becoming instruments of the state’s propaganda machinery or standing defiantly at a risk of persecution. She remarked that “weather reports and market rates could be deemed ‘fake and anti-national’ in the future”.<sup>56</sup>

Further, the independent journalists and freelancers reporting for major international as well as national media organisations routinely face police summons, and criminal investigation for their work and social media posts, especially in the case of criticising authorities.<sup>57</sup> Increased scrutiny and the looming possibility of raids, detentions and incrimination from the Indian government has further forced many journalists to self-censor.<sup>58</sup> In October 2020, the Indian government sealed the Srinagar office of Kashmir Times,<sup>59</sup> as an apparent retaliation against its executive editor, who had filed a Supreme Court petition challenging the government of

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<sup>51</sup> “India: Basic Freedoms at Risk in Kashmir.” 2020. Human Rights Watch. October 28. <https://www.hrw.org/news/2019/08/06/india-basic-freedoms-risk-kashmir>.

<sup>52</sup> “India: Kashmiri Journalist Held Under Abusive Laws.” 2022. Human Rights Watch. February 8. <https://www.hrw.org/news/2022/02/08/india-kashmiri-journalist-held-under-abusive-laws>.

<sup>53</sup> <https://jkgad.nic.in/common/showOrder.aspx?actCode=O35760>

<sup>54</sup> “Kashmir Media Policy: Accentuating the Curbs on the Freedom of Press.” 2021. Economic and Political Weekly. May 2. <https://www.epw.in/engage/article/kashmir-media-policy-accentuating-curbs-freedom-press>.

<sup>55</sup> “Kashmir’s New Media Policy Menaces Its Media.” 2024. Article 14. Accessed January 26. <https://www.article-14.com/post/kashmir-s-new-media-policy-menaces-its-media>.

<sup>56</sup> “Kashmir Media Policy: Accentuating the Curbs on the Freedom of Press.” 2021. Economic and Political Weekly. May 2. <https://www.epw.in/engage/article/kashmir-media-policy-accentuating-curbs-freedom-press>.

<sup>57</sup> “Mainstream Media Caged, J&K Govt Turns The Heat On Freelancers.” 2024. Article 14. Accessed January 29. <https://article-14.com/post/mainstream-media-caged-j-k-govt-turns-the-heat-on-freelancers--6177671160af0>.

<sup>58</sup> “India: Kashmiri Journalist Held Under Abusive Laws.” 2022. Human Rights Watch. February 8. <https://www.hrw.org/news/2022/02/08/india-kashmiri-journalist-held-under-abusive-laws>.

<sup>59</sup> Javaid, A. Javaid, Azaan. 2020. “Kashmir Times Is Latest, Media in J&K Has Been ‘gasping for Breath’ since Article 370 Move.” ThePrint. October 22. <https://theprint.in/india/kashmir-times-is-latest-media-in-jk-has-been-gasping-for-breath-since-article-370-move/527616/>.

India's telecommunications shutdown in Indian-administered Kashmir. Additionally, the local authorities further closed Kashmir News Service, a local news agency, in the same month.<sup>60</sup>

As the free and independent media is instrumental in guiding citizens to make well-informed decisions, hold leaders accountable, and foster diverse discourse. The above analysis has shed some light on the prevailing scenario of digital laws in India which curtail press freedom, and have not only eroded the individual's fundamental freedom of expression, but have granted an unchecked power to the ruling party which operates without any public input- endangering the very essence of a democratic government for and by the people. Going forward, the essay analyses the critical implications of a lack of data privacy and rights for the queer community.

## **ANALYSIS 2**

### **ANONYMITY, LGBT+ COMMUNITY AND ONLINE PRIVACY:**

In a country where homosexuality was decriminalised not too long ago, the digital space had brought with it a new hope for the LGBT+ community. This is not only true for India but is a trend recognized all across the globe. The National Cyber Security Alliance, a United States-based NGO, found in a survey conducted that 80% of American LGBT+ youth participated in social networking sites compared to just 58% of the general public.<sup>61</sup> The major reason cited for these numbers was the amount of homophobia and transphobia LGBT+ folks face in their physical surroundings as opposed to an online space that made folks from the community feel comfortable expressing and exploring their identity, and finding a community and solidarity. However, the online platforms are not void of social realities and bias. The issues of privacy and surveillance concern vulnerable populations the most as they are made as an easy target of discrimination. The visibly queer profiles on social media sites face instances of bullying, harassment, doxxing, stalking etc. On dating apps, most trans-folks are met with insensitive questioning or fetishization by their prospective partners. If the digital privacy of the LGBT+ community is not protected, there could be an increase in dire outcomes to their offline lives, with the possible negative consequences in home environments, workplaces, or relationships.

The Indian government has avoided addressing the concerns of its LGBT+ population, while remaining apathetic to their realities, despite the 2018 judgement decriminalising of same-sex relations. This is evident from its failure to implement the Supreme Court of India's guideline to sensitise the public, and government officers, in order to eliminate structural discrimination and social stigma against the LGBT+ persons. Hence, it's not surprising that there are no laws specifically for the LGBT+ community that ensure their safety online or protect their privacy. In 2023, the Digital Personal Data Protection (DPDP) Act was passed concerning provisions governing the privacy of individuals online. While the creation of this Act is a step forward in

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<sup>60</sup> Ashiq, P. Ashiq, Peerzada. 2020. "Sealing of 'Kashmir Times' Office Raises Outcry in Valley." The Hindu. October 20.

<https://www.thehindu.com/news/national/other-states/authorities-seal-office-of-kashmir-times-in-srinagar/article32898183.ece>.

<sup>61</sup> Rangnekar, S. 2022. "Laws on Digital Privacy and Security Need to Factor in Queer Rights." The Wire. <https://thewire.in/government/queer-rights-digital-privacy-security-laws>

the right direction, it has been criticised by civil society actors for its ambiguity and shortfalls in addressing some common concerns. The ambiguity of the Act especially threatens LGBT+ community as it leaves several decisions to the government actors. There are disproportionate exemptions for government entities that might inadvertently facilitate the sidestepping of data protection mandates. This is dangerous considering the LGBT+ community is still a minority in the country and has very little voice in decision-making spaces. As already seen in several cases where the decisions about the community's rights are left to government actors, it rarely results in favourable outcomes for the community. Recently, a Punjab and Haryana high court judge threw out a case<sup>62</sup> about the struggle of a queer couple against their natal family, calling this an immoral issue. In such an environment, it is unbelievable that decisions about privacy of the LGBT+ community online will be dealt with without bias by the government of India.

The DPDP Act further lacks any protection against data profiling. This can be dangerous for vulnerable communities like the LGBT+ community as their data can then be used to identify community members and activists. This could lead to dangerous targeted acts by the state or a private entity actor. For example, the Indian police are reportedly moving towards predictive policing.<sup>63</sup> The assumption is that this will make policing more rational. In India, sex work is illegal and is the only choice for many trans community members to earn a living. Then trans community members could be easily found in the crime datasets making them a target in this system of predictive policing. Thus, collecting data and profiling will serve as a replica of the real-life segregation of society, as data is not unbiased. In the countries where homosexuality is outlawed, we have seen authorities using technology and the internet to persecute LGBT+ community. As an example<sup>64</sup> Grindr, the biggest LGBT+ dating app globally, was used by the Egyptian authorities to target the LGBT+ community in the country. Using fake profiles, the Egyptian police had collected evidence, imprisoned, tortured, and persecuted people for being complicit in illegal sexual behaviour. With an absence of laws which are informed by LGBT+ community's need for privacy and anonymity online, the community in India is also not safe from the possibility of persecution by a state unsympathetic to its vulnerability and existence.

### **DIGITAL RIGHTS, HOMOPHOBIA AND ONLINE PRIVACY:**

The digital platforms have become a space for many from the LGBT+ community to express their identity. However, the marginalisation experienced in their physical world is many times replicated online. As there is an absence of laws specifically for LGBT+ community against

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<sup>62</sup> “‘Immoral Thing’: Row Erupts after High Court Judge’s Homophobic Remarks.” Hindustan Times, January 13, 2024.

<https://www.hindustantimes.com/india-news/immoral-thing-row-erupts-after-hc-judge-s-homophobic-remarks-101705088215143.html>.

<sup>63</sup> BC, Chetan. “Bengaluru Police Use AI-Driven Techniques to Prevent Crime.” Deccan Herald, November 25, 2023.

<https://www.deccanherald.com/india/karnataka/bengaluru/b-luru-police-use-ai-driven-techniques-to-prevent-crime-2784552>.

<sup>64</sup> “The Digital Rights of LGBTQ+ People: When Technology Reinforces Societal Oppressions.” European Digital Rights (EDRi), September 15, 2020.

<https://edri.org/our-work/the-digital-rights-lgbtq-technology-reinforces-societal-oppressions/>

cyberbullying. In fact, there are no specific laws in India that provide protection against cases of cyberbullying. The provision of Section 67 of the Information Technology Act 2000, deals with cyberbullying to a certain extent. It prescribes punishment for publishing or transmitting obscene material in electronic form for five years in jail, and a fine of up to INR 10,00,000. The IT Act 2000 addresses cyber crimes such as hacking, misrepresentation, stalking, or/ and sharing offensive material online. But, this law leaves the definition of “offensive” ambiguous and there have rarely been any cases registered against homophobia or harassment of queer folks online. This is worrying, as instances of online bullying have increased over the years, and have especially targeted vulnerable youth and adolescents. In the past year, the LGBT+ community in India has been left grieving for teens who have died by suicide<sup>65</sup>, as a result of constant online targeting. There is a clear lack of acknowledgement of the queer reality by the IT Act as its provisions that cover cyber stalking or voyeurism online only consider “women” as targets of these crimes, leaving anyone beyond the gender binary outside this scope of law.

Beyond the law, one must seek accountability from big tech companies like Meta that have a monopoly over social media sites. However, the community guidelines on these platforms are rarely known to persecute those spreading hate. Community guidelines also limit expressions if they are not made in consultation with LGBT+ community. What many platforms consider offensive usually restrict sexual content or slurs that might now have been reclaimed by this community or are used to express their desires. For example, the LGBTQ+ community was particularly harmed<sup>66</sup> when Tumblr decided not to allow Not Safe For Work (NSFW) content anymore and Facebook banned “sexual solicitation” on its services. It is increasingly clear as we talk about digital rights, there is a lack of acknowledgement of LGBT+ lived realities and their existence on the internet. To make a safer internet in the future, diverse voices must be included in its creation, and the LGBT+ community in India should become one part of this imagination. There is another section of the population whose digital privacy is and has been constantly undermined, not only by society but also by our existing laws, which are children.

### **ANALYSIS 3**

#### **DIGITAL FUTURE AND CHILDREN’S ONLINE PRIVACY:**

The definition of 'childhood' has become intricate and a subject to debate, particularly within the rapidly evolving digital landscape. Various contexts, jurisdictions, and disciplines provide diverse perspectives on the parameters of childhood. The United Nations Convention on the Rights of the Child sets the age of eighteen as a benchmark for defining a child, establishing a global standard for safeguarding their international rights. However, this broad age limit may not align practically with the present environment’s dynamic nature. In the digital sphere, as

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<sup>65</sup> Chawla, Medha, and Rishabh Sharma. “Queer, Teen and Coming out on Social Media? What It Takes to Survive the Trolls.” India Today, December 11, 2023. <https://www.indiatoday.in/sunday-special/story/pranshu-ujain-queer-teen-suicide-lgbtq-social-media-online-trolling-bullying-2474080-2023-12-10>.

<sup>66</sup> Carman, Ashley. “No, Facebook’s Updated Sex Policy Doesn’t Prohibit Discussing Your Sexual Orientation.” The Verge, December 6, 2018. <https://www.theverge.com/2018/12/6/18129635/facebook-sex-policy-community-guidelines-update>

one-third of the global internet users are under the age of 18, it is imperative to protect these children's privacy. As underscored in the UNESCO report, children are venturing into online spaces at an increasingly younger age, with some as young as 15 years accessing the internet as frequently as adults. The COVID-19 pandemic has further accelerated this trend, as online education and lockdowns have augmented children's screen time, raising concerns about their digital well-being. Thus, the essence of safeguarding children's privacy lies in the recognizing of their potential lack of comprehension regarding the consequences of their digital actions.

The Supreme Court, recognizing the fundamental right to privacy, accentuates the perpetual digital footprints created by children, emphasising the necessity for special protection both in the virtual, and the offline world. The challenge of defining a 'child' arises as different studies present varied perspectives. In India, the DPDP Act categorises all individuals under the age of 18 as children, irrespective of nuanced differences between the internet usage of a 5 year old and a 17 year old. Internationally, the distinctions exist. For example, the EU's separation of age of consent between offline and digital domains. The United States', through COPPA, defines a child as under 13, while California's Age-Appropriate Design Code extends a same definition to individuals under 18, sparking debates around constitutional rights.<sup>67</sup> However, India's legislation adds further complexity, with criminal law distinguishing between consent for those under 12 and court's discretion for 12–18 year old's. The labour laws differentiate between children and adolescents, permitting the latter to engage in non-hazardous industries.

Amidst this diversity in definitions and legal frameworks, the unequivocal significance of the preservation of children's privacy in the digital realm remains apparent. Children constitute approximately 41% of India's total population, and the pandemic has thrust them into a digital era more extensively than previous norms. Consequently, it becomes imperative to inquire the safety of our children in cyberspace as they forge their digital footprints, where the digital presence is not merely a luxury but a societal necessity.<sup>68</sup> The digital further divide presents a formidable obstacle for children from marginalised communities, impeding on their digital integration and exposing them to various online risks. Barriers like insufficient infrastructure, financial constraints, and low literacy rates, exacerbate susceptibility of these children from online threats, including cyberbullying, hate speech, and sexual exploitation. The absence of dedicated laws safeguarding children's digital privacy further amplifies these potential risks.

### **DIGITAL RIGHTS, CASTE ATROCITY AND PRIVACY:**

In instances of the caste atrocity cases in India, it is common to observe the names of victims from marginalised and minority communities being disclosed in the newspapers and on social media platforms. In an article by a renowned news publication, the name of a nine-year-old

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<sup>67</sup> Isha Sure and Pallavi Bedi, "Shepherding Children in the Digital Age," Times of India Blog, July 4, 2023, <https://timesofindia.indiatimes.com/blogs/voices/shepherding-children-in-the-digital-age/>.

<sup>68</sup> Mogra, Pulkit. "Covid-19 and Learning: Children's Right to Privacy in Digital Age." TheQuint, June 19, 2021. <https://www.thequint.com/voices/blogs/children-online-school-covid-19-internet-safety-data-privacy#read-more>

victim was explicitly mentioned.<sup>69</sup> Divulging such details in the public forums raises ethical considerations, and highlights the sensitivity surrounding privacy of individuals, particularly minors, who are subjected to caste-based atrocities. A tragic incident unfolded when a nine year old Dalit boy passed away after reportedly being assaulted by his school teacher, Chail Singh, who belongs to an upper caste community. The alleged incident took place within the school premises, where Singh physically attacked the student for simply drinking water from an earthen pot that was said to be reserved for upper-caste teachers. Following the assault, the boy's health deteriorated, leading to hospitalisation at multiple locations before succumbing to the injuries. Singh has been apprehended and is now facing murder charges under SC/ST (Prevention of Atrocities) Act. The student's father attributes the tragic loss of his son to caste discrimination, while prompting active investigations by authorities in pursuit of swift justice.

Following the aforementioned incident, a video surfaced on social media, which asserted that the student seen dancing in the footage was the Dalit student. However, a fact-check by India Today refuted this claim, clarifying that the dancing student was not the deceased Dalit boy. 2018 saw the brutal rape and murder of a 8-year-old muslim girl in the Kashmiri hamlet of Kathua. Her body was discovered six days later, and the victim's privacy was violated in this instance by the media. Her pictures appeared on social media, in newspaper articles, and on digital media. Her picture, together with information about her family and some quotes from her parents, were featured on every news channel.<sup>70</sup> Students from marginalised and minority backgrounds often become targets, facing challenges to their freedom of speech and digital rights. Recently, the Maharashtra Police initiated a First Information Report (FIR) against a 14-year-old Muslim boy from Beed district. The charges were related to his alleged posting of a social media 'status message' that glorified the Mughal emperor Aurangzeb. Despite the schoolboy promptly deleting the message and issuing an apology video, certain organisations of Hindutva responded by calling for a local strike or bandh in the village within the district.<sup>71</sup>

Subsequent to this incident, a right-wing group pressured the family of the aforementioned boy to vacate their village, resulting in their forceful eviction from their own residence. In the backdrop of an escalating trend aimed at distorting historical narratives by altering the names of places, reports indicate that two families in Hatkanangale tehsil of Maharashtra's Kolhapur district were also compelled to abandon their homes in the past week. This coercion stemmed from local residents and Hindutva activists objecting to WhatsApp statuses which praised the Mughal emperor Aurangzeb. Notably, the preceding month witnessed a public outcry when

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<sup>69</sup> "Rajasthan: Nine-Yr-Old Dalit Boy Passes Away after Alleged Assault by Schoolteacher." The Wire, August 14, 2022. <https://thewire.in/caste/rajasthan-nine-yr-old-dalit-boy-passes-away-after-alleged-assault-by-schoolteacher>.

<sup>70</sup> "Asifa Bano: The Child Rape and Murder That Has Kashmir on Edge." BBC News, April 11, 2018. <https://www.bbc.com/news/world-asia-india-43722714>.

<sup>71</sup> "FIR Registered against 14-Year-Old Boy in Maharashtra's Beed over Social Media Post on Aurangzeb." The Indian Express, June 19, 2023. <https://indianexpress.com/article/cities/mumbai/maharashtra-beed-social-media-post-aurangzeb-8654196/>.

the name of Aurangabad city was changed to Sambhaji Nagar.<sup>72</sup> In conclusion, the evolving digital landscape has brought forth complex challenges in defining, and safeguarding rights of children, especially those from marginalised communities. The diverse international legal frameworks and definitions of a 'child' underscore the need for nuanced considerations, in the context of digital privacy. The UNESCO report's revelation about the increasing internet use among children, exacerbated by the COVID-19 pandemic, emphasises the urgency to protect children's digital well-being. The Supreme Court's recognition of children's perpetual digital footprints and the DPDP Act in India are right steps towards acknowledging the significance of children's privacy. However, global variations in age of consent, as seen in the European Union and the United States, challenge the ongoing debate around defining digital adulthood.

Real-world incidents, including killing of the Dalit boy, and the subsequent misidentification of a dancing student, exemplify the challenges faced by marginalised children in maintaining their privacy, even in the face of heinous crimes. The violation of privacy extends beyond an individual to his/her families, as demonstrated in cases where the names of victims in caste atrocities, and incidents like the Kathua rape and murder case are disclosed without restraint. The Maharashtra incidents have further underlined the infringement on digital rights, with the 14-year-old Muslim boy facing repercussions for a simple social media post. The subsequent forceful eviction of his family highlights the tangible consequences faced by individuals who express themselves online, particularly when it challenges the prevailing narratives. As the digital age is being navigated, it is increasingly crucial to address the unique vulnerabilities of marginalised children, ensuring that legal protections align with the technological landscape. There must be a balance between freedom of expression and safeguarding privacy to foster a digital environment which can be just and equitable while respecting the rights of every child.

## **CONCLUSION**

A clear trend of increasing surveillance and suppression of privacy rights can be tracked as the recent laws around digital rights i.e. the Digital Personal Data Protection Act (2023) and the Telecommunication Bill (2023) are analysed. Both the laws have been criticised for their ambiguity. The lack of clarity in the laws increases the vulnerability of communities like the free press, the LGBT+ community, and children. The state and non-state actors have taken advantage of ambiguous terms of the law to escape safeguards for privacy, which erodes the intentions behind these laws. Another major shortcoming of these laws is an amount of power that is awarded to the government. In the form of exceptions, and in the name of national security, the government can justify the breach of an individual's privacy. This puts minority

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<sup>72</sup> Sabrangindia, January 31, January 24, January 29, sabrangindia - February 5, Sabrangindia, Mohammad Sajjad - February 5, et al. "Family of Momeen, Arrested for Posting Whatsapp Status for Aurangzeb, Forced to Leave Village." SabrangIndia, March 25, 2023.

<https://sabrangindia.in/family-momeen-arrested-posting-whatsapp-status-aurangzeb-forced-leave-village/>.

communities and individuals who criticise the government in a precarious situation. Hence, a rethinking of the direction and the intention of the laws being made is of utmost importance, as is the diversification of a conversation on digital rights, which ensures its intersectionality.

As digital rights extend beyond the mere regulations of digital platforms; they are closely intertwined with fundamental rights and freedoms, such as freedom of expression including dissent, the right to education and the right to information. These laws of digital legislation are meticulously drafted to inconspicuously put the interests of the government over those of the people. One of the biggest examples of the unscrupulous execution of these laws is the proliferation of hate speech on social media emerging from the IT cell of the ruling party. As journalists, critics and activists who dare to criticise these practices have been unsurprisingly censored, their posts taken down, and prosecuted with extreme terrorism charges with a lack of accessible legal recourse. In the context of DPDP Act 2023, merely asserting that privacy is compromised falls short of capturing the magnitude of the issue. The personal data of every citizen is at the disposal not only of the central government, but also the state governments, police and God knows who. The compromised data can be potentially weaponised against us. Through selective censorship and promotion of favoured content, the government has shaped the narrative on digital platforms, which ensure the spread of its agenda while suppressing the opposing and critical voices. The manipulation not only influences public opinion but moulds the political landscape to allow an ideology to permeate unchallenged. The consequences of such control shakes the very foundation of our rights and the democratic fabric of the country.

While the state uses the ambiguous nature of its laws to enact upon its citizens a right to their surveillance, there exists a need for people to be aware of how misrepresentations infringe upon digital rights. These infringements are based upon a system of domination that should be recognised, so as to present a challenge to the repressive administrative nature of the state. Till then, we leave you with some recommendations on what can be done to stay safe online:

1. Regularly update device's operating system and software to ensure security patches. Use an antivirus software to guard against malware threats, use strong passwords and a two-factor authentication, while encrypting sensitive information on used devices.
2. Avoid using public Wi-Fi to minimise the potential risks. Virtual Private Networks (VPNs) can be used to have a secured and an encrypted internet connection, which is particularly essential if the user has been accessing sensitive information remotely.
3. The Onion Router or 'TOR' is a privacy focused network that facilitates anonymous internet browsing, and also grants access to restricted sites and protects against state surveillance, which can be extremely useful for journalists. By encrypting the internet traffic and routing it through multiple servers. TOR can also be used to access secure websites and communicate with sources confidentially. Therefore, incorporating these practices maximises digital security and safeguards personal information.

4. For professional communications via mail, ProtonMail, is the most secure platform which is known to be widely accepted. This open source platform servers are stored in two locations in Switzerland and is protected by world's strictest privacy laws. One can access the services for free by sending less than 150 emails per day. It provides end-to-end asymmetric encryption, which means that their email data is stored with zero-access encryption, and even Protonmail employees cannot access your data.
5. For messaging platforms Whatsapp, Signal, and Telegram are among the most widely known and offer varying levels of security and data privacy. Signal, developed by the non-profit Signal Foundation, is fully open-source, and collects only phone numbers and prioritises user privacy with powerful encryption tools such as an app-specific lock and face-blurring anti-surveillance tools. Telegram, on the other hand, is partially open-source, and collects more user data than Signal such as the user's name, phone number, contact list, user ID and IP address.
6. Whatsapp, collects extensive user information, raising privacy concerns. Additionally, Whatsapp collects extensive user data, including device ID, location, interactions, and financial details. Despite using the same encryption protocol as Signal, Whatsapp's code is mostly closed-source, and while conversations are encrypted, the metadata remains unencrypted which underscores the potential risks to the user's privacy.

## **The Vulnerable Afterlife of Denotified Tribes After Repealing the Criminal Tribes Act in India**

By Sehrish, Chaitanya, Purva and Maithili.

The term "criminalise" refers to the act of making something illegal, prompting a nuanced examination of whether legality alone is a sufficient criterion to categorise something as illegal or someone as a criminal. This contemplation leads to a fundamental question: are individuals designated as criminals solely because explicit legislation labels them as such?

Lacey's extensive exploration of the distinction between legal and social constructions of crime underscores the necessity for a thorough and critical examination of criminal law that encompasses its socio-legal dimensions. She argues that criminalization is not confined to the realm of laws but is intricately interwoven with existing social practices.<sup>73</sup>

Criminalisation builds upon existing social practices in addition to criminal law in constructing the notion of criminality. For instance, the Chhara community in Ahmedabad, engaged in brewing "chhangli", a form of liquor, is rendered as criminals engaged in bootlegging and other crimes based on the social perception of consumption and production of alcohol being immoral, and by extension of criminal laws seeking to regulate it, illegal too.

<sup>74</sup>

Lacey further contends that criminal law, originally designed to penalize 'moral' crimes, has undergone significant expansion over time. Her critique extends to the assignment of criminal responsibility, questioning how it occurs without adequate consideration of the broader socio-political context in which individuals operate. There is a lack of emphasis on questions such as how the rationale and function of criminal laws which "criminalise" is shaped by socio-political, cultural, and economic pressures and whether criminal responsibility can be assigned solely based on the perceived capacities and conduct of the subject without considering the environment they emerge from.

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<sup>73</sup> Lacey, Nicola (2007) *Legal constructions of crime*. In: Maguire, Mike, Morgan, Rod and Reiner, Robert, (eds.) *The Oxford Handbook of Criminology*. Oxford University Press, London, UK, pp. 179-200. ISBN 9780199205431

<sup>74</sup> *Chharas and their breweries*. Frontline. August 2009. Retrieved from <https://frontline.thehindu.com/other/article30187910.ece>

*We need to turn our attention to both history, which illuminates the development of ideas over time, and the social sciences, which shed light on the role of criminal law and criminalization.*<sup>75</sup>

Tannenbaum's analysis aligns with Lacey's perspective, suggesting that criminals largely carry the similar social features as well as a similar social background as that of the other general citizens.<sup>76</sup> However, according to him, what separates the notified criminals in the society is their interface with the systems and institutions of criminal justice, whereby the application of the label of criminal or offender results in transition of the identity of those who become subject to it, from citizen to a criminal. The said process of tagging, which primarily might be a result of either a serious crime or any minor malpractice, in both cases exaggerated by the society, develops a prospective criminality against some individuals or sections of the society.<sup>77</sup>

A historical and socio-legal examination since colonial times unveils that certain tribes in India, despite being denotified post-independence, continue to grapple with the persistence of criminalization. Legislative efforts aimed at ameliorating their status notwithstanding, this research delves into the specific case of the Denotified Tribes. Even after formal denotification, the criminal justice system perpetuates the criminalization of these tribes. The analysis probes into covert mechanisms and scrutinises pertinent case studies, revealing persistent challenges despite legislative changes. In essence, the spectre of criminalization continues to cast a long and intricate shadow over the lives of the Denotified Tribes, underscoring systemic issues that extend beyond mere legislative adjustments. Their identities are more likely to be criminalised, even as those from upper caste and upper-class communities continue unabated to profit off of the same “illegal” activity, often at the cost of people’s lives.<sup>78</sup> The community is always subject to not only suspicion of having engaged in criminal behaviour but also violent manifestations of the same, in the form of police violence under the pretext of raids and crackdowns.<sup>79</sup>

### ***The genesis of the idea of ‘criminal tribe’***

De-notified tribes (DNTs) or ‘vimukt jatis’, came into existence under the draconian law of the British Raj known as the Criminal Tribes Act (CTA) of 1871. The CTA can be

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<sup>75</sup> Nicola Lacey, *Socializing the Subject of Criminal Law? Criminal Responsibility and the Purposes of Criminalization*, 99 Marq. L. Rev. 541 (2016). Available at: <http://scholarship.law.marquette.edu/mulr/vol99/iss3/3>

<sup>76</sup> Jadhav, V. (2021), *Theorizing criminalisation of ‘Nomadic Subject’: A study of De-notified Tribes in India*, *IJMER*, Vol. 10, Issue 11(2)

<sup>77</sup> Moyer, I. (2001). *Criminological theories: Traditional and non-traditional voices and themes*. Sage.

<sup>78</sup> *Gujarat: IPS officer facing criminal charges over liquor raids couldn't see Botad hooch sale*. The Times of India. July 2022. Retrieved from <https://timesofindia.indiatimes.com/city/ahmedabad/ips-officer-facing-criminal-charges-over-liquor-raids-could-nt-see-botad-hooch-sale/articleshow/93147346.cms>

<sup>79</sup> *In Ahmedabad's Chharanagar, court summons to six policemen brings hope after night of horror*. The Scroll. September 2018. Retrieved from <https://scroll.in/article/892072/in-ahmedabads-chharanagar-court-summons-to-six-policemen-brings-hope-after-night-of-horror>.

considered a pivotal moment in the general understanding of crime, criminals, criminality, and, henceforth, the so-called 'criminal tribes' in India.

The imperial government did not only rule but had a history of epistemic violence over its subjects. Colonial archaeologists, ethnologists, and administrators produced various compilations on race and caste and their role in society during the late eighteenth century.<sup>80</sup> There was a general consensus among the Britishers that these mobile individuals were vagrants, drifters, lazy, and not given any kind of "disciplined" lifestyle, therefore needed to be disciplined. Hence, the Criminal Tribes Act outlined several procedures for disciplining and supervising criminal castes by creating criminalising structures. The imperial understanding of the intersection between the legal and social construction of crime can be seen within the Bill of 1871, which is reflected in the words of T.V. Stephens, a Law Member of the Executive Council who, while moving the Bill declared,<sup>81</sup>

“. . . ‘Professional criminals’. . . really means. . . a tribe whose ancestors were criminals from times immemorial, who are destined by the usage of caste to commit crime. Therefore, when a man tells you he is a Buddhuk or a Kunjur, or a Sonoria, he tells you. . . that he is an offender against the law, has been so ever since the beginning, and will be so to the end, that reform is impossible. . .”

These communities were then labelled as "criminal tribes" under the legislation. If identified as being members of a criminal tribe, individuals needed to report to the police and village headman for a pass, who would often abuse the Act for their own benefit.

Various handbooks were also produced in different jurisdictions after the amendment of 1911. These handbooks were a compilation of extensive research done by police, district officers, and ethnologists about the cultural and social practices of criminal tribes. One such example is *A Handbook of the Criminal Tribes of the Punjab* by V.T.P. Vivian. The handbook described the so-called criminal tribe Bawarias as ‘The greatest menace to the interests of the public’ was their tendency ‘to travel great distances in the guise of [Hindu] Sadhus or Jogis with the object of committing crime’.<sup>82</sup>

*The Criminal Tribes Act* attempted to present criminal conduct as a hereditary and caste-based professional creed of these tribes. CTA-1871, which transformed the nomadic communities into “criminal tribes” and criminalised around twenty-eight communities, was applied only to the Northwest Provinces, Oudh, and Punjab then. The CTA of 1911 authorised local governments to proclaim a tribe as a criminal tribe regardless of its settlement or source of income. The *administrative rules* authorised the registration, surveillance, and control of criminal tribes. Colonial administration gained sweeping powers to declare certain tribes as ‘born criminals’. Section 3 of the Act required the local (provincial) government to petition the Government of India to declare a tribe illegal under

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<sup>80</sup> Brown, M. (2003). Ethnology and Colonial Administration in Nineteenth-Century British India: The Question of Native Crime and Criminality. *The British Journal for the History of Science*, 36(2), 201–219. <http://www.jstor.org/stable/4028233>

<sup>81</sup> Rana, S. “Nomadism, Ambulation and the ‘Empire’: Contextualising the Criminal Tribes Act XXVII of 1871”. *Transcience: A Journal of Global Studies* 2.2 (2011), 2191-1150.

<sup>82</sup> Brown, M. (2003). Ethnology and Colonial Administration in Nineteenth-Century British India: The Question of Native Crime and Criminality. *The British Journal for the History of Science*, 36(2), 201–219. <http://www.jstor.org/stable/4028233>

the Act. In doing this, the local government was obligated to produce a report on the tribe in question.<sup>83</sup>

*“The report shall state the reasons why such tribe, gang, or class is considered to be addicted to the systematic commission of non-bailable offences, and, as far as possible, the nature and circumstances of the offences in which the members of the tribe are supposed to have been concerned ...”*<sup>84</sup>

District magistrates were tasked with keeping track of the criminal castes in their respective districts. During registration, each member of a criminal tribe's body was identified in a fingerprint. This body was then transcribed into space, with each member's domicile recorded. The law required criminal tribespeople to notify the authorities of any changes in abode. The act also provided for police surveillance, a permit system that required each registered person to receive a pass in order to leave his or her village or surrounding area, and the relocation of entire villages to reformatory settlements.<sup>85</sup>

The Criminal Tribes Settlement Act of 1908, enacted in alignment with the Criminal Tribes Act of 1871, enjoined the provincial government to plan settlements for criminal tribes. The ambit of the Criminal Tribes Settlement Act of 1908 was expanded when it was amended in 1911. The later amendment expanded the statute to cover the Bombay and Madras presidencies and to offer better police and judicial supervision over criminal castes.<sup>86</sup> It also removed the requirement of planning settlements, and local governments were no longer required to seek the Governor-General's permission before notifying a community ; thereafter, 'wandering' groups were also notified. The amended Act applied to the entirety of British India<sup>87</sup>.

### ***The postcolonial afterlife of the 'denotified' criminal tribes***

In 1949, the Criminal Tribes underwent denotification, coupled with recommendations for their rehabilitation. The period spanning from 1950 to 1952 marked the conclusive abolition of the Criminal Tribes Act. Nonetheless, despite its formal dissolution, the Act's stipulations persist, having been revalidated through the enactment of the new Habitual Offenders Prevention Act in several states and the central-level Prevention of Offenders Act, 1958.

The Committee on the Elimination of Racial Discrimination in its 2007 report states that there are 60 million people categorized as DNTs. The Idate Commission Report (2017) based on the survey done in twenty-nine states and seven union territories provides a rough estimate of the population of De-notified tribes and also the nomadic tribes to be fifteen crores.<sup>88</sup> Some of

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<sup>83</sup> *Ibid*, p. 213

<sup>84</sup> GOI Legislative Department, op. cit. (40)

<sup>85</sup> Tolen, Rachel J. "Colonizing and Transforming the Criminal Tribesman: The Salvation Army in British India." *American Ethnologist*, vol. 18, no. 1, 1991, pp. 106–25. *JSTOR*, <http://www.jstor.org/stable/645567>. Accessed 23 Feb. 2024.

<sup>86</sup> *Ibid*, p. 107

<sup>87</sup> Rana, S. "Nomadism, Ambulation and the 'Empire': Contextualising the Criminal Tribes Act XXVII of 1871" *Transcience: A Journal of Global Studies* 2.2 (2011), 2191-1150.

<sup>88</sup> Idate, R. B. (2017). National Commission for Denotified, Nomadic and Semi-Nomadic Tribes, Ministry of Social Justice and Empowerment, Government of India, New Delhi

them are Scheduled Castes, and others Scheduled Tribes and Other Backward Castes. There are 313 Nomadic Tribes and 98 Denotified Tribes. In 1952 the Indian Government withdrew the CTA of 1871. In the Five Year Plan, the Government had declared to spend about 3.5 crores to rehabilitate and insure resettlement. Such declarations had been made three times since the first five year plan but there have been no noticeable outcomes.<sup>89</sup>

Despite these efforts aimed at empowering these tribes, a peculiar condition emerges in the criminal justice system of India where the notion of “criminalisation” still looms large on these communities in multiple ways.

In the postcolonial era, despite the official removal of the designation "criminal tribe" from government registers and police records, both societal perceptions and administrative attitudes toward denotified tribes remained unchanged.<sup>90</sup>

Laxman Gaikwad's narrative revolves around a tribal community burdened with the stigma of being labelled a criminal tribe. Drawing from his personal experiences, Gaikwad sheds light on the Uchalya community, which was officially designated as a criminal tribe in 1871. Gaikwad himself has grappled with poverty and hardship as a member of the Uchalya community, enduring the repercussions of the societal stigma associated with it. While historical records attribute the criminal label to the British, the contemporary perpetrators of this stigma are the upper-caste individuals. They harbour prejudiced attitudes toward tribal communities, viewing them with disdain. Laxman's experience, even when he dresses well, is marred by suspicions from the upper caste, who entertain the notion that he might have acquired his clothes through theft.<sup>91</sup>

Many contemporary laws, notably the Habitual offenders act, continue to criminalise denotified communities in the same manner as the CTA. This section of the essay exhibits the same in detail. These acts include a range of national as well as specific state legislations on excise in certain states which do not explicitly use the term “criminal tribes”, yet the effect and nature of criminalisation of these tribes through such laws remains the same. These laws are supplemented by administrative procedures like police manuals and “good behaviour” bonds that reinforce and continue the supposed criminality of denotified tribes.

Criminal tribes have been used as a scapegoat to fill up registers & close cases. By acting against them, the state could keep up at least a pretence of law enforcement, even if much other crime happened and was left unpunished. This was particularly the case with the criminal tribes and castes, who supposed criminality was represented as an inheritance and a profession, inextricably connected to their lineage and genealogy.<sup>92</sup>

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<sup>89</sup> Mahanand, A. (2016) . Law, Legacy and the Stigmatized: The plight of the De-notified Tribes., *RS IRJLE*. vol. 4 issue 1.

<sup>90</sup> Bokil, M. (2002). *De-notified and nomadic tribes: A perspective*. Economic and Political Weekly, 148-154.

<sup>91</sup> Gaikwad, Laxman.Uchalya. *The Branded*. Trans. Kolharkar Delhi: Sahitya Akademi, 1998

<sup>92</sup> D' Souza (1999). *De-Notified Tribes: Still 'Criminal'?*. Economic & Political Weekly, [Vol. 34, No. 51 \(Dec. 18-24, 1999\)](#), pp. 3576-3578

The Criminal Justice & Police Accountability Project (CPA Project) in its report on “Drunk on Power” charts how denotified tribal communities are profiled and criminalised under the MP Excise Act, 1915.<sup>93</sup> A seemingly neutral law that is meant to regulate the import, export and sale of alcohol in the state is weaponized against the Vimukta Kuchbandhiya community, often the women of the community based on colonial and casteist perceptions of criminality.

The FIRs examined under the study were lacking in detail regarding the specificity of the offences, subjecting accused to the discretion of the police. This discretion is also called into question, as the report underlines excessive reliance on informant tips, often from the same community, causing tensions within the community. The report further notes that excise related cases are often related to small volumes, in contradiction of popular understanding of them being large scale operations. (The CPA Project, 2021) Despite the law itself not having any mention of criminal or denotified tribes, it is evident that based on socio-political forces of profiling, prejudice and stigmatisation, the law disproportionately impacts denotified tribes.

Lakshman Gaikwad, a notable author belonging to the Denotified community notes that the police authorities may not even need specific laws to harass or detain DNT/NTs, they may just arrest them on the mere suspicion of theft or robbery or simply just wanting information.<sup>94</sup>

After arresting them the police would demand money. The family would borrow from the moneylender to give to the police. Then, they would have to resort to thieving to pay off the debts (Anand Mahanand, 2016). DNTs/NTs are targeted in the garb of maintaining “public order,” regularly extorted and made to sign bonds for “good behaviour” (Nikita Sonvane, 2020). This combined with the fact that Police training manuals still teach trainees to be vigilant of nomadic and semi-nomadic communities, embedding the idea that these tribes pose danger<sup>95</sup> results in every year persons from the DN tribes are either mob lynched, killed by the police or forced into criminal activities by the police. It must be the worst form of exploitation when the establishment forces a section of the people to be engaged in criminal activities.<sup>96</sup>

Beyond laws and documents related to policing and prosecution, denotified communities are also marginalised in other legal processes of the state, further fostering their criminalisation. As Lacey argues,

This (aims and rationale of criminalisation) encompasses not only a society’s view of what criminal law is for but also its view of the proper relationship between the

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<sup>93</sup> *Drunk on Power: Excise Policing In Madhya Pradesh*. The Criminal Justice & Police Accountability Project. 2021. Retrieved from <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://cpaproject.in/wp-content/uploads/2022/07/Excise-Report-2021-CPA-Project.pdf>

<sup>94</sup> *ibid*

<sup>95</sup> Varsha Gowda & DHNS (2023). *Denotified tribes: Strangers in their own land*. Deccan Herald. Retrieved from <https://www.deccanherald.com/india/denotified-tribes-strangers-in-their-own-land-1207865.html>

<sup>96</sup> Abraham S. (1999), *Steal or I'll call you a thief*. *Economic & Political Weekly*. [Vol. 34, No. 27 \(Jul. 3-9, 1999\)](#), pp. 1751-1753 (3 pages)

individual and the state and of whether the state has done as much as it reasonably can to counteract environmental factors which, by fostering implicit biases or entrenching social disadvantages, produce a radically unequal distribution of opportunities to conform to criminal law. (Lacey, 2016)

Individuals belonging to these tribes do not possess legal documentation such as land, caste or any education or employment certificates or any educational and social background to back their identity in this country. Legal documentation, one of the most fundamental edifices of the modern nation state, is thus systematically denied to denotified tribes through inaccessibility and lack of concentrated outreach. This position makes them particularly vulnerable to state harassment and often leaves them at the mercy of police authorities.

A survey of Rajasthani Camps by Pnina Motzhafi-Haller portrays a bleak picture of the nomadic tribes in Rajasthan. She reports that less than 2% of all respondents had ever attained primary school – and her findings indicate a conscious effort on the part of local residents and authorities to exclude these communities from social and political participation.<sup>97</sup>

A commission in 2007 under chairmanship of Balkrishna Sidram Renke conducted a national level study to ascertain the socioeconomic status of NT/DNTs. The commission noted

“Denotified, nomadic and semi-nomadic communities are the most neglected, suppressed and oppressed communities in India. Wherever they are, they are pushed to the fringes of environs. They live in hard-to-reach places, both in rural and urban areas. Most of them do not own land, livestock, homestead, house or consumer durables. They live in tents, jhuggies, kutchas or semi pucca houses. They do not cultivate, therefore, depend on wage labor mostly.”<sup>98</sup>

As NT/DNT communities don't hold any land or residential proof, they cannot be issued travelling passes and as a consequence were subjected to most violence at the hands of police during the Covid-19 pandemic. Nomadic lifestyle of NT/DNTs communities comes with its own set of challenges as noted by Renke Commission in its report,

“Not having a fixed place of stay, lack of residence proof, absence of birth certificates, stigma attached to their caste names, lower social status, and without any political clout, these communities face many hardships in obtaining caste certificates.”

With regard to residence proof and other documents it further noted that:

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<sup>97</sup> Project *Beyond the margins- Stigma and Discrimination Against India's Nomadic and Denotified Tribes*, Human Rights Law Network, p33

<sup>98</sup> Ministry of Social Justice & Empowerment, *Renke commission report (2008)* annexure 5, p 12.

“It is interesting to note that more than 80% of the DNT community men and women and two thirds of nomadic communities possess voter id cards. Though they did not possess either BPL or any other type of ration card.”<sup>99</sup>

Motzafi-Haller study inferred a sinister motive behind this discrepancy – that voter ID cards are issued by the local authorities to ensure a vote back, while other social security documents and benefits are denied to those in need.<sup>100</sup>

These factors Contributed heavily to the arrest, detention and torture of NT/DNTs and individuals from these communities belonging to SC, ST and OBC groups.

Moreover, ‘Caste ethnocentrism’ is deeply seeped into the law and administrative system of India.<sup>101</sup> The notion of hereditary criminality resulting in habitual criminals or those who were addicted to crime facilitated a surveillance regime that existed as a combination of keeping a physical watch and intensive record keeping.<sup>102</sup> In her paper Shivangi Narayan argues that **Police registers** work behind the scenes to provide an objective, legal layer to the arbitrary and caste-based processes of declaring certain as so-called habitual criminals.<sup>103</sup> In her research Shivangi found out that police were keen to precisely use socioeconomic data to analyse crime data because they believed that poverty begets crime.

Contemporary preventive policing registers utilise almost identical language of ‘habituality’ and ‘addiction’ to crime that *a) claims uncontrollable and b) prescribes surveillance as a way to reform said habitual criminals*. These individuals are colloquially called ‘history sheeters’ after ‘history sheets’ which is where record of such offenders is kept (indicating a history of crime). Police personnel argue that they are like ‘astrologers’ who, just by analysing the paper registers in the station (including preventive registers) and FIRs (First information reports) can easily figure out the budding criminals and future crimes in their areas.<sup>104</sup> Notably, the criteria for labelling an individual as a ‘history sheeter’ often hinge on the number of arrests, this may look objective on paper unless one looks at the high number of arrests made for petty crimes; upon an examination a trend emerges wherein a substantial portion of those subjected to arrests for seemingly trivial crimes belongs to the lowest castes in India.<sup>105</sup>

The police often keep a tight surveillance on youth belonging to DNT communities, especially those who live beyond their means. This police practice is an actual provision in Punjab Police Rules 1934 under ‘modes of surveillance’. This regulation mandates the

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<sup>99</sup> *Ibid*

<sup>100</sup> Motzafi-Haller, p 37.

<sup>101</sup> Boriz Bizumic (2015) ‘Ethnocentrism’, Australian National University

<sup>102</sup> Shivangi Narayan, *Guilty Until Proven Guilty - Policing Caste Through Preventive Policing Registers in India*: <https://doi.org/10.5617/jea.8797>, p 121.

<sup>103</sup> *Ibid*, p 122.

<sup>104</sup> Shivangi Narayan, *Guilty Until Proven Guilty - Policing Caste Through Preventive Policing Registers in India*: <https://doi.org/10.5617/jea.8797>

<sup>105</sup> Bokil et al in Push for repopulation of prisons during a pandemic is reckless; <https://indianexpress.com/article/opinion/columns/coronavirus-jail-inmates-parole-6912890/>

recording of the property of individuals marked as history sheeters, facilitating the assessment of whether they are leading lives beyond their apparent means.<sup>106</sup>

Parallely the Delhi police maintains something called as 'Ruffian Registers'. Ruffian Registers are a sort of 'pre-record' of a person for whom a history sheet is to be eventually opened since opening up a history sheet is a complex bureaucratic process; Ruffian Registers only require permission of 'Station House Officer'.<sup>107</sup>

Unsurprisingly, these surveillance and record-keeping practices contribute to the disproportionate representation of individuals from oppressed castes in prisons and police reports. A study done of 540 FIRs, 14% of the accused individuals were SCs, 15% were STs, 16% were OBCs and 11% were Vimukta communities (DNT/Nomadic and Semi-nomadic tribes). The total proportion of accused individuals from oppressed caste communities and other marginalised groups is at least 56%.<sup>108</sup>

Socio-economic vulnerability contributes to the hierarchical interaction with law enforcement as indicated by the Status of Policing in India 2018 report. It shows that the Hindu upper caste was least likely to have been contacted by the police. Scheduled Tribes and Muslims were most likely to have been contacted by the police. This means in terms of class-caste hierarchy, the likelihood of the police contacting a person is nearly twice as high amongst the poor compared to the upper class.<sup>109</sup>

“Pardhis (a denotified tribe in MP and Rajasthan) are routinely picked up by the police on account of suspicion and without preliminary investigation that is otherwise required to arrive at a reasonable satisfaction to make an arrest.”<sup>110</sup>

Documents such as Ruffian Registers or History sheets serve as arenas for the manipulation of individuals from lower castes, marking them as 'habitual criminals'. The consequences of being labelled a habitual offender are severe, as those incarcerated under this classification face insurmountable barriers in securing government jobs or employment and hence, are systematically and structurally pushed into an atrocious cycle of poverty and oppression.<sup>111</sup>

### ***A Comprehensive Analysis of Denotified Tribes: A Case Study Approach***

#### **THE FOLLOWING CASES RANGE FROM 1998 TO 2020**

##### **The case of Pinya Hari Kale**

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<sup>106</sup> *Drunk on Power – A Study of Excise Policing in Madhya Pradesh, The Criminal Justice and Police Accountability Project*

<sup>107</sup> *Ibid*, p. 123

<sup>108</sup> *Ibid*, p. 124

<sup>109</sup> Status of Policing in India Report 2018, p 36

<sup>110</sup> Towards Advocacy, Networking and Development (TANDA) report 2008-2010, Status of Pardhis, p 62

<sup>111</sup> Ameya Bokil & Nikita Sonavane. (2020) *Why charan singh bolts his house from inside and out before he sleeps*. Article-14.com. Retrieved from <https://www.article-14.com/post/why-charan-singh-bolts-his-house-from-inside-and-out-before-he-sleeps>.

In **1998** in the satara district of Maharashtra a man named Pinya Hari Kale belonging to Pardhi Community resided. He was a 35 year old landless labour with a meagre wage of 1000 per month. He supported his wife and five children with this wage. One evening of June 8 he was picked up by three constables in Baramati. This was considered to be a normal thing and so Kale's wife was not particularly concerned when he did not return for the night. When he did not return the next day she went to the police station to enquire about him. Upon asking she was shown the dead body of her husband. A local magistrate and a doctor prepared a post mortem report that absolved the police altogether. The report claimed that he *fell down* while trying to escape and died as a consequence. A second post mortem report was conducted by his wife's insistence which found that Kale had died as a result of multiple contusions. It concluded that he died "due to multiple blunt injuries with evidence to head injury".

An investigation was setup under charge of BN Mane to find out reason for Kale's death. The report concluded that he was beaten up with sticks and belts by three constables and a sub-inspector. (Dilip D'Souza 1999; Susan Abraham, 1999)

### **The story of Jalan**

Jalan belonged to the Pardhi community, which in **1998** in Maharashtra was a labelled as criminal tribe. Her husband would be arrested and beaten up at regular intervals. Her two children were confiscated by the police on charge that *that they were stolen* as she did not had their birth certificates. At a later date she was stripped off the sari by the police for not processing its cash memo. (Susan Abraham, 1999)

### **The story of Budhan Sabar**

In **1998** Budhan Sabar belonged to the Kheria Sabar community in west Bengal. One day on his way to the market he was picked up by the police on the suspicion of theft. He was continuously beaten for five days and nights though a search of his house showed no evidence of theft. On the sixth day he was sent to jail where the beatings continued. On the seventh day he was declared dead. (Susan Abraham, 1999)

### **The case of Kuldeep (name changed)**

In **2020** Kuldeep was booked for an excise offence. Kuldeep belongs to the Kanjar community in Madhya Pradesh. He was detained from outside a shop in Berasiya town. At the police station he was asked which community he belonged to. Upon answering the assistant sub-inspector allegedly said "he is kanjar, book him for any case". He was illegally detained in a police station for three days and was never produced before a magistrate (Article 22, COI). He was asked Rs. 1 lakh for his release and when he was unable to pay the police made him participate in an enacted alcohol seizure. Kuldeep was granted bail from MP high court after a month. The aftermath is that he has to pay rs. 35000 on a loan of rs. 25000 taken from a money lender to pay his lawyer. (CPA, 2021).

### **Case of Hira Bajania, Gujrat**

On 15 August **2019**, Hira Bajania (65 years), a man belonging to the Nat Bajania denotified nomadic tribe of Gujarat, was tortured to death at C Division police station in Gandhigram area in Junagadh District, Gujarat. The police personnel picked up 12 men from Nat Bajaniya tribe including the deceased on the night of 14 August 2019 on the suspicion of being involved in theft of cellphones and tortured them in custody. During their detention, all the suspects were allegedly subjected to torture and forced to perform oral sex among themselves and asked them to admit to theft of 12 cellphones. One of the victims identified as Shankar Bajania speaking to the media stated, *“On August 14, police came and clicked three people's photographs, including mine. Then, they came at about 2 in the night on Independence Day and took us all to the police station. There they took us one by one and began beating us, Hirabapa most of all. By morning, when they came to take him again for another round of thrashing, he was dead.”* After the death of Hira Bajania due to torture, the police hurriedly cremated his body allegedly to destroy evidence of the torture. The rest of the victims were released from illegal detention after taking their signatures on blank papers on 17 August.

### **Study of Satara**

A study was conducted in **2018-19** in Phaluka Taluka of Satara, Maharashtra. The study was done on eight individuals belonging to ex-criminal tribes and were detained for more than 6 months. (Suraj Shankar Jadhav, 2022)

Participant P1 elaborated on how he faced false cases and court procedures.

*["After getting out on bail from there, they put three roll calls a week for me. But I could not make it possible to visit all places thrice a week. And then torture was exhausting; anyway, I missed all dates in the initial three months. They obliged me to visit Solapur, Mhada, and Pandharpur thrice a week, so I preferred to spend the next nine years as a wanted."].*

In 1998, Pinya Hari Kale, belonging to the Pardhi Community in Maharashtra, faced fatal police brutality, showcasing how systemic biases can lead to tragic outcomes. His status as a landless labourer with meagre wages exemplifies the socio-economic vulnerability prevalent in these communities, often resulting in a lack of access to education. Fast forward to a more recent study conducted in 2018-19 in Phaluka Taluka of Satara, Maharashtra, where participants like P1 recount experiences of encountering false cases and navigating complex court procedures. This narrative echoes the enduring difficulties these communities face in accessing justice and the legal system, reinforcing the notion that systemic biases persist over time.

Similarly, the case of Budhan Sabar from the Kheria Sabar community in West Bengal resonates with the more recent incident involving Kuldeep in 2020. Both cases depict instances where individuals were picked up by the police on suspicion of theft and subjected to severe beatings, with Budhan Sabar succumbing to the brutality after being declared dead on the seventh day of his detention. Kuldeep's case, on the other hand, highlights the continuation of arbitrary detentions and harassment. An additional account from the Satara study further elucidates the gravity of these challenges, revealing a prevalent phenomenon of

false cases. One participant described facing an extraordinary ten court dates per month due to numerous unfounded cases filed against him. Three court attendance a week or ten court attendance a month is an uncommon phenomenon for those accused who had no connection with a crime. The repercussions of such false cases extend beyond the immediate legal proceedings, leading to substantial time and financial resources being drained from the families of the accused. The need for multiple lawyers, travel to different jurisdictions, and covering associated expenses aggravates the financial strain on families already grappling with socio-economic vulnerability. As highlighted by participant P1, the extended investment of time and resources in court procedures becomes a significant hindrance to the educational aspirations of the next generation. P1's narrative encapsulates the profound impact on the family's trajectory, where none of his children could pursue education or skill-based courses due to the overwhelming financial commitments necessitated by the legal battles. The resulting setback has not only affected their present circumstances but also foreclosed opportunities for the younger generation. P1 reflects on how this situation has regressed their family to a position of deprivation, reminiscent of their starting point with little to no resources. Consequently, his son's engagement in cattle rearing becomes a mere sustenance measure, indicative of the constrained prospects for educational attainment within the family.<sup>112</sup>

## Analysis

These instances among many others collectively underscore a persistent theme, revealing that despite the evolution of legal frameworks, the condition of Denotified Tribes (DNTs) and Nomadic Tribes (NTs) communities exhibit a notable continuity.

From the above case studies several common themes and patterns emerge that shed light on the state of denotified tribal communities and the injustices within the criminal justice system in India in the recent past:

1. **Police Brutality and Extrajudicial Killings:** The case of Pinya Hari Kale in Maharashtra (1998) and Budhan Sabar in West Bengal (1998) both highlight instances of police brutality leading to death. In Kale's case, he was picked up by constables, subjected to severe beatings, and ultimately declared dead. Budhan Sabar faced a similar fate, enduring continuous beatings for several days, eventually resulting in his death while in police custody. These cases reveal a pattern of unchecked violence within the criminal justice system.

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<sup>112</sup> Jadhav, S. (2022) *Caste and Colonial Legacy: De-Notified Tribes' Long-Standing Struggle with Criminal Justice System*. IJRPR. Vol 3, no 11, pp 3079-3088

2. **Arbitrary Detentions and False Charges:** The case of Kuldeep in Madhya Pradesh (2020) exemplifies arbitrary detentions based on community affiliation. He was allegedly detained due to his association with the Kanjar community, highlighting the discriminatory practices within law enforcement. Additionally, the study in Satara, Maharashtra (2018-19), revealed instances of false cases, where participants faced unfounded charges and complex court procedures, hindering their access to justice.
3. **Discrimination and Stigmatization:** The narratives of Jalan in Maharashtra (1998) and Hira Bajania in Gujarat (2019) underscore the discrimination and stigmatization faced by denotified tribal communities. Jalan's community, Pardhi, was labeled as a criminal tribe in 1998, leading to recurrent arrests, beatings, and confiscation of her children. Hira Bajania, belonging to the Nat Bajania tribe, faced torture and humiliation based on suspicions of cellphone theft, illustrating the perpetuation of stereotypes and biases.
4. **Impunity and Lack of Accountability:** The case of Hira Bajania in Gujarat reveals a disturbing lack of accountability within the criminal justice system. Despite allegations of torture, forced actions, and the death of Hira Bajania, the police hastily cremated his body, possibly to destroy evidence. This highlights the impunity with which such actions occur, raising concerns about the lack of accountability and oversight.
5. **Socio-Economic Impact and Hindrance to Education:** The Satara study (2018-19), particularly the account of participant P1, emphasizes the socio-economic impact of legal injustices on denotified tribal communities. False cases and prolonged court procedures drain financial resources, hindering educational aspirations and perpetuating cycles of vulnerability. The repercussions extend beyond immediate legal proceedings, affecting the well-being and opportunities of the next generation.

These themes collectively reveal a troubling pattern of systemic injustices, encompassing police brutality, discrimination, arbitrary detentions, and the enduring socio-economic consequences faced by denotified tribal communities within the Indian criminal justice system.

### ***Way forward:***

The mainstream social justice and human rights discourse is often tinted in the status quo of systemic inequalities. Perspectives like that fail to address the questions at the crux of criminalisation, the imbalance of power and the failure to recognise and acknowledge agency.

The notions that form the basis of legislations like CTA and the undercurrents of implementation of other laws that implicate and criminalise tribal communities and their practices, are the same notions at the heart of reformative inclinations - that the tribes are inherently predisposed to commit crimes or actually guilty of the crimes (regardless of conviction, or the lack thereof) and thus, must be reformed. This does not take into account systemic biases that communities like denotified tribes face, where their criminality is often

presumed based on their identity and parts of their identity are more likely to be criminalised. Addressing the systemic injustices faced by denotified tribal communities in the Indian criminal justice system requires a multifaceted approach that spans legal, social, and policy dimensions. Legal reforms are essential, involving a thorough review and potential amendments to laws that still perpetuate discrimination against denotified tribes, ensuring alignment with principles of equality and justice. The issue of arbitrary detentions must be tackled through the enforcement of strict regulations that prevent profiling and stereotyping based on community affiliations. Police accountability is crucial, necessitating mandatory training programs for law enforcement personnel to enhance cultural sensitivity and awareness of the unique challenges faced by denotified tribes. Establishing transparent and independent mechanisms to investigate allegations of police brutality is vital, ensuring accountability and disciplinary action when misconduct is identified. Empowering denotified tribal communities involves awareness programs to dispel stereotypes, community outreach initiatives, and the establishment of legal aid clinics tailored to their specific needs. Legal literacy programs within these communities can enhance their understanding of legal rights and procedures. Policy interventions, such as a comprehensive review of existing policies and affirmative action measures, are necessary to promote inclusivity and address historical disadvantages. Enhancing data collection systems and implementing monitoring mechanisms will contribute to evidence-based policymaking and ensure that denotified tribes are not subject to systemic discrimination. Collaboration with NGOs, civil society groups, and legal advocacy organizations can provide crucial support, advocacy, and awareness, contributing to systemic change. Finally, creating targeted educational and employment opportunities will address barriers to access and foster economic empowerment for denotified tribal communities, leading to a more just and equitable society.

It is essential going forward, to centre the voices from these communities and their experiences in all attempts to address the human rights violations, particularly in the form of mass incarceration and custodial violence. Indeed, reforms need to be made to existing State practices and regulations, perhaps beginning with extensive and mandatory sensitisation training, leading up to legal mechanisms protecting the human rights of denotified tribal communities against State violence. However, the very first step is to reverse the gaze on systemic structures, with members of these communities leading these reforms to the status quo. That is not to say that the burden of reformation lies solely on these communities to fight for, but in fostering solidarity amongst those privileged in the existing socio-political structures to hold these structures accountable and supporting denotified tribes in exercising their agency in claiming their human rights.

**Navigating a Surge: Comprehensive Challenges Faced by Contractual Labourers in the Public Sector in India**

**By Stuti Sharma and Surabhi Singh**

The contractual laborers are an unsung hero in the middle of a busy copper refining complex where the furnaces burn brightly and the equipment buzz. These people come out of the shadows, essential to the operation of the enterprise. After the enthralling light of molten metal fades, their story emerges—a story laced with injustices and difficulties.

Imagine these laborers putting up with the intense heat of the furnace while they continuously add copper concentrates to the raging fire. Working long hours puts their dedication to the test by upsetting the delicate balance between their personal and professional obligations. In the midst of this, rumors of caste discrimination add even another level of difficulty as they negotiate a system where their peers in the unorganized sector.

As we consider this story, a crucial query comes to mind: Does the government, which is supposed to be the defender of workers' rights, actually comprehend the difficulties faced by these contract employees? Although they are protected by government oversight, it is important to examine how far these safeguards go. Is there a troubling discrepancy between the intentions of the policies and the harsh reality these workers must endure every day, or are they getting the benefits and protection they are entitled to? Crucially, are cases of discrimination against PSU contractual workers in public sector units (PSUs) being discarded or acknowledged as the regrettable norm?

This is not just one story; it speaks to larger issues of injustice in industries and worker welfare. It pushes us to go further, calling on all relevant parties stakeholders to look closely at and solve the problems that contract workers in the very center of our industrial environment face.

This essay explores the complex issues that contractual workers in India's public sector must deal with. It examines their working circumstances, the differences in pay between them and their permanent counterparts, and the widespread discrimination against them on the basis of gender and caste. But the story goes beyond the personal hardships of these workers to raise concerns about the startling increase in contract work, especially in the public sector.

A concerning picture is painted by the data, which shows a sharp decline in employment over the previous ten years combined with an astounding sharp rise in contract workers (36%) and casual/daily wage workers (6.6%) in 2022 alone, making up 42.5% of the workforce in CPSUs and government corporations.. This raises questions about whether the government is gradually relinquishing its responsibility as a principal employer, leaving contractual labourers workers at the mercy of a system that demands critical examination and reform.

## Who is a contract labourer<sup>1</sup>?

When a company hires workers on a short-term contract without social security and fringe benefit, it refers to them as contract labour or workers. The employment of contract workers in an organisation differs greatly from permanent employees.

In India, "job contracting" is the process by which a business enters into a contract with an existing company to deliver goods and services. This might result in contractual employment. The contractor utilises his resources—money, labour, and materials—to finish the contract, carrying out the duties at hand at his own risk. To satisfy his responsibilities as an employer, he also oversees and manages the workers, and is in charge of paying their wages. In accordance with the contract, the user firm pays the contractor according to the services rendered and the job completed.

The lack of a direct employer-employee relations with principal employer (PE) and the worker, as well as subcontracting of the worker by the primary employer is characteristics of contractual work relationship. In these cases, contractor or subcontractor determines the terms of work, its payment and working condition. It also conducts the hiring processes where mostly piece rate, and short-term contract dominates as opposed to permanent employment where social security and fringe benefits have been key attraction. has been

When a company hires people on a contract basis, it refers to them as contract labour or workers. The employment of contract workers in an organisation differs greatly from permanent employment regular employees' regular employment. In India, "job contracting" is the process by which a business enters into a contract with an existing company in order to deliver goods and services. This might result in contractual employment. The contractor utilises his own resources—money, labour, and materials—to finish the contract, carrying out the duties at hand at his own risk. In order to satisfy his responsibilities as an employer, he also oversees and manages the aforementioned employees and is in charge of paying their salaries. In accordance with the contract, the user firm pays the contractor according to the services rendered and the job completed.

The lack of a direct employment connection between the Principal Employer (PE) and the worker, as well as the non-direct recruiting of the worker by the primary employer, clearly distinguish direct employment from contractual labour. Rather, the contractor sets the terms of employment and is in charge of the hiring procedure. A contractual worker's involvement is usually for a fixed period and assignment, as opposed to permanent employment.

## Uncovering the Legal Tapestry complexities: Analysing the Structure Contract Labour in India

Significant economic changes have shaped the history of contract laborlabour in India, which has gained impetus in the wake of the early 1990s economic reforms, which were characterized by attempts at globalization and liberalization. Contract-based employment has

been increasingly popular across a number of sectors as the nation transitioned to a competitive market economy. This trend is mostly due to the desire for efficiency and flexibility in order to meet changing demands. Sectors like manufacturing, information technology, and services emerged as major contributors to the growth of contract laborlabour.

The history of contract laborlabour in India has been impacted by significant economic shifts. The early 1990s economic reforms, marked by attempts at globalization and deregulation, gave the sector a boost. In several industries, contract work has grown in popularity as the country moved toward a competitive market economy. The need for efficiency and adaptability in order to satisfy shifting needs is mostly to blame for this tendency. Industries such as manufacturing, services, and information technology have emerged as key drivers of the rise in contract laborlabour.

But new information from a study by the Comptroller and Auditor General (CAG) presents a worrying image. It is estimated that 77% of the almost one lakh hundred thousand contract workers employed by Indian Railways receive pay that is less than the minimum wage. The audit, which covered the three-year period from 2014–15 to 2016–17, examined 463 contracts from various railway departments and revealed the systematic violations of statutes pertaining to contract labor by the railroad administration and its contractors.

Due to these exploitative practices, the adoption of contract work in India has come under examination in the context of changing labor market reforms and a competitive economy. The conclusions of the CAG highlight important problems such the failure to pay minimum wages, the denial of basic amenities, and the lack of records required to keep track of statutory compliance. A reevaluation of the role of contract work within the public sector has resulted from the Indian Railways, once a symbol of adaptability to economic changes, now serving as an example of the difficulties and shortcomings in the application of labor laws and systems for protecting contract workers.

In India, contract labourers work in a range of sectors in specialised andskilled and semi-skilled roles. The precarious financial standing of its employeesworkers, the ad hoc nature of their employmentwork, the lack of stable employment assurance, etc., were found to be the main characteristics of contract labour, after several Commissions, Committees, the Labour Bureau, the Ministry of Labour, etc. investigated<sup>2</sup> the status and situation of contract labour before and after independence.

Thus, the legislature approved the Contract Labour [Regulation and Abolition] Act, 1970, which became effective on February 10, 1971. Its goal was to prevent management from abusing contract workers and to set rules for their effective operation. The Act contains measures intended to protect contract workers from exploitation in specific situations and for topics related thereto. Section 10, which gives the Aappropriate Government the authority to forbid the use of contract workers in specified facilities, procedures, or activities after consulting with the Central and State aAdvisory bBoards on contract labour, is particularly significant. Moving ahead, we should talk about the reasons for this shift. The why of it.

What's the reason for increased informal work in the Public sector? Is it the financial burden? Is it a political ideology? Who are the intended beneficiaries of this change?

Section 10(2) lays forth guidelines for deciding when contract employment is abolished. This has resulted in several legal disputes after the Act's introduction, especially when it comes to contract workers who want to be absorbed as permanent employees. Courts have frequently ordered the public sector to take on a contract workforce, which has consequences for many workers in an extremely competitive global market and uncertain economic climate.

But a turning point was reached in August 2001 when the Indian Supreme Court ruled in a case involving the outlawing of contract labour that neither Section 10 nor any other Act provision requires contract labour to be automatically absorbed upon the issue of a notification by the relevant Government. This decision made it clear that Principal Employers are not allowed to take on contract employment. Employer organisations contend that the economic contract labour system has to be preserved to enable technological restructuring and perhaps decrease regular employment, even in the face of calls for its termination.

If there are provisions in the new labour codes that propagate informalisation or lead to precarity of working conditions for the existing workers, let's talk about them.

India is currently at a critical point in its labour law reform and modernization process, especially about the rules governing contract labour. The Indian Constitution places labour on the concurrent list, giving the federal and state governments the power to enact laws about employment and labour. However, the growth of laws with overlapping provisions addressing comparable labour-related matters has resulted in legal complications.

The Second National Commission of Labour brought attention to the problem of India's many labour laws in 2002 and suggested that these laws be consolidated into four labour codes at the federal level. To streamline and harmonise labour laws, the Indian government enacted four labour codes. The 2019 Code on Wages, the 2020 Code on Industrial Relations, the 2020 Code on Occupational Safety, Health, and Working Conditions, and the 2020 Code on Social Security are some of these codes. These codes have not yet been put into effect even though Parliament approved them.

The integration of 13 key labour laws, such as the Contract Labour (Regulation and Abolition) Act of 1970 (CLRA Act), which regulates the hiring of contract labour, is a noteworthy feature of the Occupational Safety, Health, and Working Conditions Code, 2020 (OSHW Code). When the OSHW Code<sup>4</sup> becomes operative, it will modify the current contract labour laws in several ways. There are major modifications to the legislation governing contract labour brought about by the Occupational Safety, Health, and Working Conditions (OSHW) Code. First off, it raises the application barrier from the previous 20 to 50 workers, encompassing companies who hire or contract for at least 50 labourers. Second, regardless of whether they utilise contract labour or not, companies with 10 or more workers can register under the law with just one form, streamlining the registration procedure. Registrations that already exist under other legislation are still valid. The OSHW Code also

raises the wage maximum for supervisory staff and expands the definition of "contract labour" to cover interstate migrant workers. Finally, the legislation simplifies licensing by mandating that employers who work under contract for several different companies apply for a single licence via the *Shram Suvidha* siteportal.

Furthermore, the OSHW Code makes it clear by forbidding contract labour from being used in an establishment's core operations and outlining a comprehensive list of non-core tasks. India's labour and employment scene landscape will substantially change with the introduction of labour regulations on July 1, 2022. Although there are still questions about how they will be implemented and how they will affect businesses, the modifications made to contract labour are viewed as a move in the right direction since they will make it easier to comply with regulations and guarantee that labour engagement practices are more clearly defined.

### The problem with an increase in contractual labourers and why has there been an Increase

The increase in contractual labourers, as indicated by data from the Public Enterprises Survey for 2019-2020, poses significant problems. The number of contractual workers in Central Public Sector Enterprises (CPSEs) surged from 2,67,929 in March 2016 to 4,98,807 in March 2020. This rise in non-permanent workers, which accounted for 37% of CPSE manpower in 2019-20 compared to 19% in 2015-16, was accompanied by a decrease in permanent employees by 25%<sup>12</sup>. This shift undermines workers' rights and job security, leaving them susceptible to exploitation.

Employers' preference for hiring contract workers stems from their ability to avoid providing social welfare benefits and proper wages. Consequently, contract workers, often from vulnerable sections, are exploited due to their reduced likelihood of unionization. This exploitative practice deprives workers of job security, paid leaves, and social welfare benefits like provident fund and employee state insurance, perpetuating a cycle of precarious employment.

For instance, according to the ISF report, short-term contract holders typically receive a consolidated wage/salary without additional contributions towards essential benefits like provident fund and gratuity. Additionally, many contract workers are not recognized as government employees despite their dependency on government livelihoods, exacerbating their lack of social security cover. This trend is further exacerbated by the government's decision to appoint private recruitment agencies to hire contractual workers. This move, ostensibly aimed at reducing administrative costs, has been criticized for its potential to undermine reservations for marginalized communities. Allegations of political bias and misuse of funds for election campaigns have been raised, further highlighting the complexities surrounding contractual labor.

A pertinent example is the Mumbai Maharashtra government's decision to appoint private recruitment agencies for hiring contractual workers, which has raised concerns. The state's labor department issued a government resolution ordering a panel of nine agencies to recruit

contractual labor for various state departments, local civic bodies, and public sector entities. However, opposition leaders have alleged that this move could end reservations for marginalized communities and accused the recruitment agencies of being linked to the ruling political party.

Temporary contract workers now constitute a significant share of the labor market in developing countries, a demographic shift mirrored by a substantial rise in developed nations as well. This growth, at a micro level, is intricately linked to the pursuit of enhancing labor market flexibility, positioning it as an employment adjustment technique for the flexible management of labor, as noted by the Organisation for Economic Co-operation and Development (OECD) in 2014. Without this flexibility, labor markets in many developing economies would likely face elevated levels of unemployment, underscoring the complex interplay between labor regulations, market dynamics, and the evolving nature of employment relationships. The increase in temporary contract workers, characterized by a lack of job security and essential employment protections, reflects a broader trend toward flexible labor practices that necessitates a nuanced examination of its implications for both developed and developing economies.

Various demand-side and supply-side factors contribute to the prevalence of contract labor in India. On the demand side, companies are motivated by cost reduction, viewing contract labor as a means to cut expenses related to permanent employees, including benefits, social security, and severance pay. The flexibility offered by contract labor is another driving factor, enabling companies to swiftly adjust their workforce based on market conditions and navigate changing economic landscapes. Additionally, contract labor is often seen as a way to circumvent stringent labor laws, such as India's Industrial Disputes Act, which poses challenges for companies with over 100 permanent employees in terms of layoffs.

On the supply side, India's large informal sector plays a pivotal role, as individuals in need of employment are willing to work as contract laborers for lower wages and fewer benefits. Limited job opportunities in the formal sector contribute to this dynamic, creating a situation where contract labor becomes a viable option for many. The lack of skill development and mismatches between skills and job requirements, especially for unskilled or semi-skilled tasks, further drive individuals towards contract work.

The potential consequences of the widespread use of contract labor are multifaceted. Job insecurity, lower wages, and restricted access to social protection and benefits are common challenges faced by contract laborers, contrasting with the more stable conditions of permanent employees. The increased reliance on contract labor can also have an impact on unions, potentially weakening their bargaining power and resulting in reduced wages and working conditions for all workers. Moreover, the dependence on contract labor contributes to the informalization of the economy, making it harder to regulate and enforce labor standards.

The issue is intricate, offering economic benefits such as cost reduction and flexibility for businesses, but it comes at a social cost, including job insecurity and potential negative implications for workers' rights. Striking a balance between economic growth and the protection of worker rights remains a challenge for the Indian government and other stakeholders, necessitating careful consideration and comprehensive policies to create a more equitable labor market.

The rise in contractual laborers is driven by the desire to minimize costs and increase flexibility, but it comes with significant caveats. Increased contractualization dilutes workers' rights, reduces bargaining power, and perpetuates social and economic inequalities. Addressing these issues requires comprehensive policies aimed at protecting workers' rights, promoting job stability, and ensuring fair employment practices in both the public and private sectors.

#### Contractualisation and lack of wage parity with their permanent counterparts -

Considerable attention has been paid to the increasing use of contract workers in India's organised industrial sector. The severity of India's job protection laws, especially Chapter VB of the Industrial Disputes Act (IDA)<sup>7</sup>, is mostly to blame for this tendency. Businesses in the organised sector are motivated to recruit contract workers to get around these rules because it is difficult to get secure government approval for layoffs under the IDA. The Contract Employment (Regulation and Abolition) legislation of 1970 was designed to control and perhaps remove contract employment, depending on the nature of their responsibilities. The legislation applies to enterprises that employ a minimum of 20 contract workers. Notably, this act's modifications have extended its application to businesses in certain states that hire 50 contract workers.

Contract workers usually get lower compensation and fewer benefits than regular workers, despite legislation demanding salary parity between regular and contract workers<sup>5</sup>. Even in the face of import competition, which accelerates the formalisation of industrial employment, this gap continues. Despite the legal requirements for wage parity, the choice to hire contract workers is largely motivated by cost-saving measures, such as lower wages and reduced expenditure on worker benefits. According to customary opinion, the company's choice to hire contract workers is largely motivated by the benefit of giving businesses access to a pool of readily sacked employees.

However, companies have additional motivations to hire these personnel. Among these, the lower salary given to contract employees and the money saved on their worker benefits are noteworthy. According to ASI statistics<sup>6</sup>, in the last throughout the past ten years, direct employees' actual salaries have been around 1.5 times higher than those of contract workers. The impact of import rivalry on the informalization of industrial labour is another significant result of recent research on the use of contract workers in manufacturing. Wages for informal labourers have decreased as a result of increased import competition, which has also helped

businesses become more competitive and save expenses. It's noteworthy to note that regular and contract workers make different salaries. These dynamics highlight the intricate interactions that shape the employment picture in India's manufacturing sector between economic constraints, regulatory frameworks, and labour market dynamics.

The consequences of this increased informalisation - on the workers and the role of a government in a welfare state.

The labour force participation rate of women is a crucial measure of both their contribution to economic growth and their personal development, as the two are intertwined. Large-scale disparities still exist in our labour market, particularly when it comes to gender identity. These discrepancies show up as uneven compensation for similar jobs as well as unequal access to chances for individuals with equivalent work skills. Most women in India work in the unorganised informal sector for pitiful lower wages, with no rights to overtime compensation, maternity leaves, or a safe and respectable workplace. Alternatively, they work unpaid jobs as the family's primary carers (ILO 2013). Nevertheless, on the positive side, India has made progress in closing the gender gap, which stands at 68% in areas like health, political representation, and education, even in recent years.

Women Contract Workers' Casualisation of contract work has increased for women in India from 35.5 cent to 41% cent and from 24.4 per cent to 29 per cent in the rural and urban areas respectively during the period 1887-88 and 1997-98<sup>8</sup>. This e above data is certainly good news however, It would not be out of place to mention that even now in the construction and agriculture sectors, women are paid less than male workers. *cleaning, loading/unloading, carrying loads over their heads and also serving tea and water in offices.* These women put in quality work time and were far more productive than their male counterparts. Some managers could not explain if given the facility of training, would they deploy women contract workers to perform tasks like welding, packing, marking and other less hazardous jobs, which men can do with some training and experience.

Although the wage differential between the two has narrowed with wages of contract workers growing faster than those of directly employed workers. The wage differential has narrowed in both labour and capital-intensive industries. The wage gap was larger, to begin with in labour-intensive industries and declined more rapidly as compared to capital-intensive industries. Moreover, Moreover, wages paid to directly employed workers in labour-intensive industries were higher than those paid to directly employed workers in capital-intensive industries, with the difference disappearing in 2011-12. The wages paid to contract workers in the two types of industries though have been roughly similar over the period.

Even Adam Smith, the Father of Economics, recognized the contribution women made towards economic development by being the controller of the home. Smith has also compared a woman's household contribution to be much higher than the ones endured by a paid lady.

Similarly, under the caste system, a person's ability to pursue an economic goal is determined by their parents' social standing rather than by their own feeling, decision, or desire. To be

socially and individually efficient, a person must reach a certain level of skill in order to select and create their own vocation. The caste system, which predetermines a person's work or vocation, is almost nonexistent and goes against the idea of free will. The social stigma associated with impurity and pollution lowers the social standing of those who work in some of these jobs because they are viewed as contaminating or impure, which makes them socially demeaning.

Likewise, a person's capacity to pursue an economic objective is dictated by their parents' social status within the caste system rather than by their own sentiment, choice, or desire. A person has to have a specific degree of expertise in order to choose and design their own job and be both socially and personally efficient. Observations from the Labor Bureau's Employment-Unemployment Survey 2015–2016 (NSSO, 2019) <sup>9</sup>reflect on caste-based discrimination at the workplace, as a higher number of contractual workers is found to be from the lower caste. Further, There there is proof evidence that labour employment procedures in India's official urban labour market are discriminatory. In a field experiment, Thorat and Attewell <sup>10</sup>discover, for example, that Muslim and low-caste candidates have difficulty getting past employment screens that companies set up. Similarly, Jodhka and Newman<sup>11</sup> discuss thatdiscuss that caste-based preconceptions indeed colour the recruiting process, putting people from very low and very high castes at a disadvantage.

The concept of free choice is contradicted by the nearly nonexistent caste system, which dictates an individual's line of labour or profession. Some of these professions are considered to be socially humiliating due to the stigma attached to pollution and impurity, which affects the social standing of individuals who work in them.

In addition to the overall bad negative impact on income distribution. Caste becomes a direct cause of a large portion of "voluntary unemployment" among high-caste individuals and "involuntary unemployment" among low-caste individuals as it restricts the mobility of labour between caste jobs and, thus, does not allow for new employment adjustments. Generally speaking, a high-caste Hindu would rather accept a job outside of his caste than stay unemployed for a while.

However, the low-caste untouchables are forced to continue being unemployed by law since they are not allowed to work in the occupation of another caste such as a "priest". Neo-classical Economic theory insights show that market discrimination is a classic example of market failure since it significantly reduces opportunities for economic progress and creates a considerable lot of economic inefficiency. Additionally, it implies unfair chances for marginalised groups, all of which combine to produce extreme poverty and hardship, especially for untouchables from lower castes.

The effects of discrimination on income distribution are evident in as much as market exclusion entails the denial of work opportunities and the payment of equitable salaries. Because their earnings or incomes are lower than those of other groups with comparable productivity, discriminated-against groups in the labour market lose money. The ability of groups subjected to prejudice to generate income is further diminished by exclusion and

discrimination from access to alternative markets for assets that generate revenue, such as capital, agricultural land, and other assets. Furthermore, prejudiced groups are prevented from improving their human development and have less work opportunities due to pre-market discrimination in access to education and skill development.

In addition to the labour market, other markets—such as those for land, capital, goods, and social services like housing and education—as well as non-market channels also discriminate against certain groups on the basis of caste. Such prejudice has repercussions and is a failure of the market.

## Conclusion

This essay sheds light on the significant challenges faced by contractual laborers in India's public sector. Exploring their challenges, including working conditions, pay disparities, and discrimination, reveals a concerning surge in contract workers, raising doubts about the government's commitment as the principal employer.

*Examining legislative history, like the Contract Labour (Regulation and Abolition) Act of 1970, attempts to safeguard workers, but doubts persist.* The essay delves into the legal landscape, highlighting the impact of economic shifts since the 1990s reforms. An audit by the Comptroller and Auditor General (CAG) exposes exploitative practices, urging a reconsideration of contract work's role in the public sector. Labor codes aim to streamline, but their implementation faces challenges. The rise in contractual laborers paints a picture of compromised rights and job security. Employers' cost-saving motives contribute to vulnerability, especially for marginalized sections. The Mumbai Maharashtra government's reliance on private recruitment agencies raises concerns about compromises on reservations across Indian states. .

Exploring broader implications, the essay stresses the need for nuanced examination in both developed and developing economies. Caste and gender discrimination compound challenges, impacting income distribution and perpetuating economic inefficiencies. In conclusion, there's a resounding call for urgent change in the treatment of contractual workers. Existing legal frameworks, while providing some protection, prove turn out to be insufficient. Policymakers are urged to proactively implement new labor laws, ensuring effective regulation and improved conditions. Simultaneously, combating caste and gender discrimination in the public sector is paramount for equitable opportunities. The essay advocates for empowering programs for contract workers, especially from underrepresented communities. The goal is to leverage India's labor force for enduring economic growth, fostering a more just and equal society where the well-being and dignity of contractual workers take precedence.

The contractual labourers are an unsung hero in the middle of a busy copper refining complex where the furnaces burn brightly. These people come out of the shadows, essential to the

operation of the enterprise. After the enthralling light of molten metal fades, their story emerges—a story laced with injustices and difficulties.

Imagine these labourers putting up with the intense heat of the furnace while they continuously add copper concentrates to the raging fire. Working long hours puts their dedication to the test by upsetting the delicate balance between their personal and professional obligations.

As we consider this story, a crucial query comes to mind: Does the government, which is supposed to be the defender of workers' rights, comprehend the difficulties faced by these contract employees? Although they are protected by government oversight, it is important to examine how far these safeguards go. Is there a troubling discrepancy between the intentions of the policies and the harsh reality these workers must endure every day, or are they getting the benefits and protection they are entitled to? Crucially, are cases of discrimination against contractual workers in public sector units (PSUs) being discarded or acknowledged as the regrettable norm?

This is not just one story; it speaks to larger issues of injustice and worker welfare. It pushes us to go further, calling on all relevant stakeholders to look closely and solve the problems that contract workers face.

This essay explores the complex issues that contractual workers in India's public sector must deal with. It examines their working circumstances, the differences in pay between them and their permanent counterparts, and the widespread discrimination against them on the basis of gender and caste. But the story goes beyond the personal hardships of these workers to raise concerns about the astounding increase in contract work, especially in the public sector.

A concerning picture is painted by the data, which shows a sharp decline in employment over the previous ten years combined with a sharp rise in contract workers (36%) and casual/daily wage workers (6.6%) in 2022 alone, making up 42.5% of the workforce in PSUs and government corporations. This raises questions about whether the government is gradually relinquishing its responsibility as a principal employer, leaving contractual workers at the mercy of a system that demands critical examination and reform.

### **Who is a contract labourer<sup>1</sup> ?**

When a company hires workers on a short-term contract without social security and fringe benefit, it refers to them as contract labour or workers. The employment of contract workers in an organisation differs greatly from permanent employees.

In India, "job contracting" is the process by which a business enters into a contract with an existing company to deliver goods and services. This might result in contractual employment. The contractor utilises his resources—money, labour, and materials—to finish the contract, carrying out the duties at hand at his own risk. To satisfy his responsibilities as an employer, he also oversees and manages the workers, and is in charge of paying their wages. In accordance with the contract, the user firm pays the contractor according to the services rendered and the job completed.

The lack of a direct employer-employee relations with principal employer (PE) and the worker, as well as subcontracting of the worker by the primary employer are characteristics of contractual work relationship. In these cases, the contractor or subcontractor determines the terms of work, its payment and working conditions. It also conducts the hiring processes where mostly piece rate, and short-term contract dominates as opposed to permanent employment where social security and fringe benefits have been key attractions.

### **Uncovering the Legal complexities: Analysing the Structure Contract Labour in India**

Significant economic changes have shaped the history of contract labour in India, which has gained impetus in the wake of the early 1990s economic reforms, which were characterised by attempts at globalisation and liberalisation. Contract-based employment has been increasingly popular across a number of sectors as the nation transitioned to a competitive market economy. This trend is mostly due to the desire for efficiency and flexibility in order to meet changing demands. Sectors like manufacturing, information technology, and services emerged as major contributors to the growth of contract labour.

The history of contract labour in India has been impacted by significant economic shifts. The early 1990s economic reforms, marked by attempts at globalisation and deregulation, gave the sector a boost. In several industries, contract work has grown in popularity as the country moved toward a competitive market economy. The need for efficiency and adaptability to satisfy shifting needs is mostly to blame for this tendency. Industries such as manufacturing, services, and information technology have emerged as key drivers of the rise in contract labour.

But new information from a study by the Comptroller and Auditor General (CAG) presents a worrying image. It is estimated that 77% of the almost 100,000 contract workers employed by Indian Railways receive pay that is less than the minimum wage. The audit, which covered the three-year period from 2014–15 to 2016–17, examined 463 contracts from various railway departments and revealed the systematic violations of statutes pertaining to contract labour by the railroad administration and its contractors.

Due to these exploitative practices, the adoption of contract work in India has come under examination in the context of changing labour market reforms and a competitive economy. The conclusions of the CAG highlight important problems such as the failure to pay minimum wages, the denial of basic amenities, and the lack of records required to keep track of statutory compliance. A reevaluation of the role of contract work within the public sector has resulted from the Indian Railways, once a symbol of adaptability to economic changes, now serving as an example of the difficulties and shortcomings in the application of labour laws and systems for protecting contract workers.

In India, contract labourers work in a range of sectors in skilled and semi-skilled roles. The precarious financial standing of its workers, the ad hoc nature of their work, the lack of stable employment assurance, etc., were found to be the main characteristics of contract labour, after several Commissions, Committees, the Labour Bureau and the Ministry of Labour investigated <sup>2</sup> the status and situation of contract labour before and after independence.

Thus, the Indian Parliament approved the Contract Labour [Regulation and Abolition] Act, 1970, which became effective on February Indian 10, 1971. Its goal was to prevent management from abusing contract workers and to set rules for their effective operation. The Act contains measures intended to protect contract workers from exploitation in specific situations and for topics related thereto. Section 10, which gives the appropriate Government the authority to forbid the use of contract workers in specified facilities, procedures, or activities after consulting with the Central and State advisory boards on contract labour, is particularly significant. Moving ahead, we should talk about the reasons for this shift. The why of it. What's the reason for increased informal work in the Public sector? Is it the financial burden? Is it a political ideology? Who are the intended beneficiaries of this change?

Section 10(2) lays forth guidelines for deciding when contract employment is abolished. This has resulted in several legal disputes after the Act's introduction, especially when it comes to contract workers who want to be absorbed as permanent employees. Courts have frequently ordered the public sector to take on a contract workforce, which has consequences for many workers in an extremely competitive global market and uncertain economic climate.

But a turning point was reached in August 2001 when the Indian Supreme Court ruled in the case of Steel Authority of India Ltd. v. National Union Water Front Workers involving the outlawing of contract labour that neither Section 10 nor any other Act provision requires contract labour to be automatically absorbed upon the issue of a notification by the relevant Government. This decision made it clear that principal employers are not allowed to take on contract employment. Employer organisations contend that the economic contract labour system has to be preserved to enable technological restructuring and perhaps decrease regular employment, even in the face of calls for its termination.

### **Analysing the Impact: Provisions in New labour Codes and Their Effects on labour Informalization and Working Conditions Precarity**

India is currently at a critical point in its labour law reform and modernization process, especially about the rules governing contract labour. The Indian Constitution places labour on the concurrent list, giving the federal and state governments the power to enact laws about employment and labour. However, the growth of laws with overlapping provisions addressing comparable labour-related matters has resulted in legal complications.

The Second National Commission of Labour brought attention to the problem of India's many labour laws in 2002 and suggested that these laws be consolidated into four labour codes at the federal level. To streamline and harmonise labour laws, the Indian government enacted four labour codes. The 2019 Code on Wages, the 2020 Code on Industrial Relations, the 2020 Code on Occupational Safety, Health, and Working Conditions, and the 2020 Code on Social Security are some of these codes. These codes have not yet been put into effect even though Parliament approved them.

The integration of 13 key labour laws, such as the Contract Labour (Regulation and Abolition) Act of 1970 (CLRA Act), which regulates the hiring of contract labour, is a

noteworthy feature of the Occupational Safety, Health, and Working Conditions Code, 2020 (OSHW Code). When the OSHW Code<sup>4</sup> becomes operative, it will modify the current contract labour laws in several ways. There are major modifications to the legislation governing contract labour brought about by the Occupational Safety, Health, and Working Conditions (OSHW) Code. First off, it raises the application barrier from the previous 20 to 50 workers, encompassing companies who hire or contract for at least 50 labourers. Second, regardless of whether they utilise contract labour or not, companies with 10 or more workers can register under the law with just one form, streamlining the registration procedure. Registrations that already exist under other legislation are still valid. The OSHW Code also raises the wage maximum for supervisory staff and expands the definition of "contract labour" to cover interstate migrant workers. Finally, the legislation simplifies licensing by mandating that employers who work under contract for several different companies apply for a single licence via the *Shram Suvidha* portal.

Furthermore, the OSHW Code makes it clear by forbidding contract labour from being used in an establishment's core operations and outlining a comprehensive list of non-core tasks. India's labour and employment landscape will substantially change with the introduction of labour regulations on July 1, 2022. Although there are still questions about how they will be implemented and how they will affect businesses, the modifications made to contract labour are viewed as a move in the right direction since they will make it easier to comply with regulations and guarantee that labour engagement practices are more clearly defined.

### **Challenges Arising from the Surge in Contractual labour: Exploring the Causes Behind the Upward Trend**

The increase in contractual labourers, as indicated by data from the Public Enterprises Survey for 2019-2020, poses significant problems. The number of contractual workers in Central Public Sector Enterprises (CPSEs) surged from 2,67,929 in March 2016 to 4,98,807 in March 2020. This rise in non-permanent workers, which accounted for 37% of CPSE manpower in 2019-20 compared to 19% in 2015-16, was accompanied by a decrease in permanent employees by 25%<sup>12</sup>. This shift undermines workers' rights and job security, leaving them susceptible to exploitation.

Employers' preference for hiring contract workers stems from their ability to avoid providing social welfare benefits and proper wages. Consequently, contract workers, often from vulnerable sections, are exploited due to their reduced likelihood of unionisation. This exploitative practice deprives workers of job security, paid leaves, and social welfare benefits like provident fund and employee state insurance, perpetuating a cycle of precarious employment.

For instance, according to the ISF report, short-term contract holders typically receive a consolidated wage/salary without additional contributions towards essential benefits like provident fund and gratuity. Additionally, many contract workers are not recognized as government employees despite their dependency on government livelihoods, exacerbating their lack of social security cover. This trend is further exacerbated by the government's decision to appoint private recruitment agencies to hire contractual workers. This move,

ostensibly aimed at reducing administrative costs, has been criticised for its potential to undermine reservations for marginalised communities. Allegations of political bias and misuse of funds for election campaigns have been raised, further highlighting the complexities surrounding contractual labour.

A pertinent example is the Maharashtra government's decision to appoint private recruitment agencies for hiring contractual workers, which has raised concerns. The state's labour department issued a government resolution ordering a panel of nine agencies to recruit contractual labour for various state departments, local civic bodies, and public sector entities. However, opposition leaders have alleged that this move could end reservations for marginalised communities and accused the recruitment agencies of being linked to the ruling political party.

Temporary contract workers now constitute a significant share of the labour market in developing countries, a demographic shift mirrored by a substantial rise in developed nations as well. This growth, at a micro level, is intricately linked to the pursuit of enhancing labour market flexibility, positioning it as an employment adjustment technique for the flexible management of labour, as noted by the Organisation for Economic Co-operation and Development (OECD) in 2014. Without this flexibility, labour markets in many developing economies would likely face elevated levels of unemployment, underscoring the complex interplay between labour regulations, market dynamics, and the evolving nature of employment relationships. The increase in temporary contract workers, characterised by a lack of job security and essential employment protections, reflects a broader trend toward flexible labour practices that necessitates a nuanced examination of its implications for both developed and developing economies.

Various demand-side and supply-side factors contribute to the prevalence of contract labour in India. On the demand side, companies are motivated by cost reduction, viewing contract labour as a means to cut expenses related to permanent employees, including benefits, social security, and severance pay. The flexibility offered by contract labour is another driving factor, enabling companies to swiftly adjust their workforce based on market conditions and navigate changing economic landscapes. Additionally, contract labour is often seen as a way to circumvent stringent labour laws, such as India's Industrial Disputes Act, which poses challenges for companies with over 100 permanent employees in terms of layoffs.

On the supply side, India's large informal sector plays a pivotal role, as individuals in need of employment are willing to work as contract labourers for lower wages and fewer benefits. Limited job opportunities in the formal sector contribute to this dynamic, creating a situation where contract labour becomes a viable option for many. The lack of skill development and mismatches between skills and job requirements, especially for unskilled or semi-skilled tasks, further drive individuals towards contract work.

The potential consequences of the widespread use of contract labour are multifaceted. Job insecurity, lower wages, and restricted access to social protection and benefits are common challenges faced by contract labourers, contrasting with the more stable conditions of permanent employees. The increased reliance on contract labour can also have an impact on

unions, potentially weakening their bargaining power and resulting in reduced wages and working conditions for all workers. Moreover, the dependence on contract labour contributes to the informalisation of the economy, making it harder to regulate and enforce labour standards.

The issue is intricate, offering economic benefits such as cost reduction and flexibility for businesses, but it comes at a social cost, including job insecurity and potential negative implications for workers' rights. Striking a balance between economic growth and the protection of worker rights remains a challenge for the Indian government and other stakeholders, necessitating careful consideration and comprehensive policies to create a more equitable labour market.

The rise in contractual labourers is driven by the desire to minimise costs and increase flexibility, but it comes with significant caveats. Increased contractualization dilutes workers' rights, reduces bargaining power, and perpetuates social and economic inequalities. Addressing these issues requires comprehensive policies aimed at protecting workers' rights, promoting job stability, and ensuring fair employment practices in both the public and private sectors.

### **Contractualisation and lack of wage parity with their permanent counterparts -**

Considerable attention has been paid to the increasing use of contract workers in India's organised industrial sector. The severity of India's job protection laws, especially Chapter VB of the Industrial Disputes Act (IDA)<sup>7</sup>, is mostly to blame for this tendency. Businesses in the organised sector are motivated to recruit contract workers to get around these rules because it is difficult to secure government approval for layoffs under the IDA. The Contract Employment (Regulation and Abolition) legislation of 1970 was designed to control and perhaps remove contract employment, depending on the nature of their responsibilities. The legislation applies to enterprises that employ a minimum of 20 contract workers. Notably, this act's modifications have extended its application to businesses in certain states that hire 50 contract workers.

Contract workers usually get lower compensation and fewer benefits than regular workers, despite legislation demanding salary parity between regular and contract workers<sup>5</sup>. Even in the face of import competition, which accelerates the formalisation of industrial employment, this gap continues. Despite the legal requirements for wage parity, the choice to hire contract workers is largely motivated by cost-saving measures, such as lower wages and reduced expenditure on worker benefits. According to customary opinion, the company's choice to hire contract workers is largely motivated by the benefit of giving businesses access to a pool of readily sacked employees.

However, companies have additional motivations to hire these personnel. Among these, the lower salary given to contract employees and the money saved on their worker benefits are noteworthy. According to ASI statistics<sup>6</sup>, in the last ten years, direct employees' actual salaries have been around 1.5 times higher than those of contract workers. The impact of import rivalry on the informalisation of industrial labour is another significant result of recent

research on the use of contract workers in manufacturing. Wages for informal labourers have decreased as a result of increased import competition, which has also helped businesses become more competitive and save expenses. It's noteworthy to note that regular and contract workers make different salaries. These dynamics highlight the intricate interactions that shape the employment picture in India's manufacturing sector between economic constraints, regulatory frameworks, and labour market dynamics.

### **Addressing Gender and Caste Discrimination Among Contractual Labourers**

The labour force participation rate of women is a crucial measure of both their contribution to economic growth and their personal development, as the two are intertwined. Large-scale disparities still exist in our labour market, particularly when it comes to gender identity. These discrepancies show up as uneven compensation for similar jobs as well as unequal access to chances for individuals with equivalent work skills. Most women in India work in the informal sector for lower wages, with no rights to overtime compensation, maternity leaves, or a safe and respectable workplace. Alternatively, they work unpaid jobs as the family's primary carers (ILO 2013). Nevertheless, on the positive side, India has made progress in closing the gender gap, which stands at 68% in areas like health, political representation, and education, even in recent years.

Casualisation of contract work has increased for women in India from 35.5 cent to 41% cent and from 24.4 per cent to 29 per cent in the rural and urban areas respectively during the period 1887-88 and 1997-98<sup>8</sup>. This data is certainly good news however, It would not be out of place to mention that even now in the construction and agriculture sectors, women are paid less than male workers. The wage differential has narrowed in both labour and capital-intensive industries. The wage gap was larger, to begin with in labour-intensive industries and declined more rapidly as compared to capital-intensive industries. Moreover, wages paid to directly employed workers in labour-intensive industries were higher than those paid to directly employed workers in capital-intensive industries, with the difference disappearing in 2011-12. The wages paid to contract workers in the two types of industries though have been roughly similar over the period<sup>14</sup>.

Similarly, under the caste system, a person's ability to pursue an economic goal is determined by their parents' social standing rather than by their own feeling, decision, or desire. To be socially and individually efficient, a person must reach a certain level of skill in order to select and create their own vocation. The caste system, which pre determines a person's work or vocation, is almost nonexistent and goes against the idea of free will. The social stigma associated with impurity and pollution lowers the social standing of those who work in some of these jobs because they are viewed as contaminating or impure, which makes them socially demeaning.

Likewise, a person's capacity to pursue an economic objective is dictated by their parents' social status within the caste system rather than by their own sentiment, choice, or desire. A person has to have a specific degree of expertise in order to choose and design their own job and be both socially and personally efficient. Observations from the Labour Bureau's Employment-Unemployment Survey 2015–2016 (NSSO, 2019) <sup>9</sup>reflect on caste-based

discrimination at the workplace, as a higher number of contractual workers is found to be from the lower caste. Further, there is evidence that labour employment procedures in India's official urban labour market are discriminatory. In a field experiment, Thorat and Attewell<sup>10</sup> discover, for example, that Muslim and low-caste candidates have difficulty getting past employment screens that companies set up. Similarly, Jodhka and Newman<sup>11</sup> discuss that caste-based preconceptions indeed colour the recruiting process, putting people from very low and very high castes at a disadvantage.

In addition to the overall negative impact on income distribution. Caste becomes a direct cause of a large portion of "voluntary unemployment" among high-caste individuals and "involuntary unemployment" among low-caste individuals as it restricts the mobility of labour between caste jobs and, thus, does not allow for new employment adjustments. However, the low-caste untouchables are forced to continue being unemployed by law since they are not allowed to work in the occupation of another caste such as a "priest". Neo-classical economic theory shows that market discrimination is a classic example of market failure since it significantly reduces opportunities for economic progress and creates a considerable lot of economic inefficiency. Additionally, it implies unfair chances for marginalised groups, all of which combine to produce extreme poverty and hardship, especially for untouchables from lower castes.

The effects of discrimination on income distribution are evident in as much as market exclusion entails the denial of work opportunities and the payment of equitable salaries. Because their earnings or incomes are lower than those of other groups with comparable productivity, discriminated-against groups in the labour market lose money. The ability of groups subjected to prejudice to generate income is further diminished by exclusion and discrimination from access to alternative markets for assets that generate revenue, such as capital, agricultural land, and other assets. Furthermore, prejudiced groups are prevented from improving their human development and have less work opportunities due to pre-market discrimination in access to education and skill development.

In addition to the labour market, other markets—such as those for land, capital, goods, and social services like housing and education—as well as non-market channels also discriminate against certain groups on the basis of caste. Such prejudice has repercussions and is a failure of the market.

## **Conclusion**

This essay sheds light on the significant challenges faced by contractual labourers in India's public sector. Exploring their challenges, including working conditions, pay disparities, and discrimination, reveals a concerning surge in contract workers, raising doubts about the government's commitment as the principal employer.

The essay delves into the legal landscape, highlighting the impact of economic shifts since the 1990s reforms. An audit by the Comptroller and Auditor General (CAG) exposes exploitative practices, urging a reconsideration of contract work's role in the public sector. Labour codes aim to streamline, but their implementation faces challenges. The rise in contractual labourers paints a picture of compromised rights and job security. Employers'

cost-saving motives contribute to vulnerability, especially for marginalised sections. The Maharashtra government's reliance on private recruitment agencies raises concerns about compromises on reservations across Indian states.

Exploring broader implications, the essay stresses the need for nuanced examination of Contractual labour in both developed and developing economies. Caste and gender discrimination compound challenges, impacting income distribution and perpetuating economic inefficiencies. In conclusion, there's a resounding call for urgent change in the treatment of contractual workers. Existing legal frameworks, while providing some protection, turn out to be insufficient. Policymakers are urged to proactively implement new labour laws, ensuring effective regulation and improved conditions. Simultaneously, combating caste and gender discrimination in the public sector is paramount for equitable opportunities. The essay advocates for empowering programs for contract workers, especially from underrepresented communities. The goal is to leverage India's labour force for enduring economic growth, fostering a more just and equal society where the well-being and dignity of contractual workers take precedence.

## **Education and Entitlement: Unpacking Upper-Caste Privilege in India's Academic Landscape**

**By Shubhangi Thakur**

### **1. What is caste? How has that historically benefitted the upper caste?**

In the intricate dance of Indian society, the concept of caste, or Varna in Hinduism, emerges as a powerful but often underestimated force, intricately woven into the very fabric of social, economic, and political structures. The historical roots of the caste system trace back over 3,000 years in the Indian subcontinent, revealing a complex web of social stratification deeply ingrained in the cultural fabric (Thapa et al., 2021).

This caste structure, encapsulated within the fourfold division of Varna—Brahman (priesthood), Kshatriya (kingship), Vaisya (trade/production), and Sudra (service)—has propagated a hierarchical order that has endured through millennia (Dumont, 1980). At the

bottom of this structured hierarchy, marginalized groups, such as the Dalits, grapple with caste-based discrimination, significantly impacting their basic rights to health care, education, employment, and overall social well-being (Thapa et al., 2021).

The roots of India's caste practice, though as ancient as its gods, exemplify a noxious and evolved form of human imposition of superiority and suffering based on birth. Caste systems, a form of social and economic governance, are rooted in principles and customary rules that divide people into fixed social groups with assigned rights based on birth, occupation, and heredity. Essentially, society is compartmentalized into groups with varying power, where inheritance dictates one's caste, an immutable status. Further, individuals deemed inferior find themselves excluded from the system, previously labeled as outcasts or untouchables.

Dr. B.R. Ambedkar's powerful metaphor likens caste to "a multi-layered tower with no staircase and no entrance. Everybody had to die in the storey they were born in" (Ambedkar and Roy 2014), conveying the entrapment and lack of upward mobility inherent in the caste system. The World Bank's insightful exploration in 2017 sheds light on how caste, alongside gender and geography, influences an individual's access to resources.

The significance of caste in Indian society is also evident in conversations surrounding marriage, where caste hierarchies persist through the practice of caste endogamy, emphasizing in-group marriage. Analogous to other forms of exclusion such as gender and race, caste advantages manifest implicitly through social networks, cultural capital, proficiency in English, and access to private education. These advantages historically and presently correlate with upper-caste membership, often acting as proxies for one's caste status.

Defining the functions of caste proves challenging due to local variations. Ghurye (1969) attempts to delineate six defining characteristics: (1) a society segmented into a system of groups that are predetermined at birth; (2) the system is hierarchical, although the hierarchy is often disputed; (3) the system restricts social interactions between upper and lower castes, such as eating together; (4) different castes are segregated, with lower castes living on the periphery of town with restricted access to resources such as wells; (5) occupations are generally inherited; and (6) endogamy (marriage within one's own caste) prevails, although hypergamy (marriage into a higher caste for women) is permitted.

However, formal definitions face criticism due to regional variations and the fluid nature of day-to-day interrelations between castes. As B. R. Ambedkar who chaired the committee to draft the constitution of India, stated: "Caste is not a physical object like a wall of bricks or a line of barbed wire which prevents the Hindus from co-mingling and which has, therefore, to be pulled down. Caste is a notion; it is a state of the mind" (Ambedkar, 2014). As Ambedkar highlights, to bring true integration, policies need to change the culture, and thereby the mindset of people.

## **2. How did knowledge production being a forceful prerogative of the Brahmins contribute to exclusion of the marginalised communities?**

The origins and evolution of the caste system in India present a complex subject. Early Indian society, particularly during the Vedic period, exhibited a flexible division of labor based on individual abilities and interests, grounded in the concept of karma and devoid of hereditary ties. However, this fluidity transformed over time into a rigid caste system, with the Brahmin community emphasizing birth as the primary determinant of one's caste, entrenching hereditary occupations and limiting social mobility.

At the apex of the caste hierarchy, Brahmins justified the system's perpetuation using elements of nature and burial practices, culminating in a complex, rigid structure governing all aspects of life. This shift from a karma-based system to one centered on birth holds profound implications, contributing to social disintegration, mutual animosity, mistrust, and persistent caste-based conflicts resonating in Indian society today.

Beyond overt tools of violence and the instillation of fear and discrimination, this exploitative system employs subtler strategies. Hidden weapons, such as the granting of privileges or unearned advantages, become instruments wielded by the powerful within this oppressive paradigm. These privileges form a matrix of hypothetical postulations, conferring invisible authority upon some while denying it to others.

As Peggy McIntosh eloquently posits, “privileges entails something beyond a favoured state which is conferred by birth or luck” and may include a form of “systematic conditions to overpower certain groups”. When Peggy McIntosh referred to the term 'White Male Privilege' she describes conditions that systematically 'over empower certain groups' and 'confers dominance, gives permission to control, because of one's race or sex', in a Western society. These privileges according to her are unjust and unearned. She stated that, "I was taught to see racism only in individual acts of meanness, not in invisible systems conferring dominance on my group". In a patriarchal Indian society, male members enjoy privileged status in private and public spaces based on their gender. Similarly, in a casteist society, Brahmins experience undue advantages due to their birth in an upper-caste family, analogous to the benefits the wealthy garner in a capitalistic society based on their ability to pay. These privileges often act to alienate and exclude those already on the margins, shaping a social system built upon imaginary assumptions that govern dominant cultural forms.

McIntosh's analogy of "Whiteness" protecting her from various forms of hostility and violence resonates in the context of a stratified Indian society. Being a Hindu, upper caste, elite class, and male grants protection from hostility, violence, or alienation. It arms them with systemic dominance and immunity, exacerbating the feelings of unconfidence, discomfort, isolation, and alienation among the marginalized 'others' within this oppressive system.

These concealed privileges or unearned advantages represent the inherent benefits individuals gain from systemic and structural biases, positioning them favorably while placing others at an intrinsic disadvantage. Often operating subtly and discreetly, these privileges contrast starkly with violent oppression, exploitation, and discrimination. These rewards of birth in a particular community confer social, economic, and political advantages, often operating institutionally in embedded and invisible forms.

As highlighted by Deshpande (2013), it is crucial to view caste not as a privilege but as a source of disadvantage and vulnerability. Paradoxically, caste oppression historically facilitated elite castes in gaining and transforming various forms of capital.

Examining the historical roots of the caste system reveals a pattern of unequal capabilities arising from disparate access to cultural capital, notably in the form of formal education. Brahmins, with their privilege of learning Sanskrit in the ancient education system, exemplify this trend. Similarly, other privileged castes found roles in royal palaces, contributing to their historical advantage. The well-established historical training of these castes, coupled with the reproduction of cultural capital through family habitus, forms a significant aspect of their advantage.

On March 1, 1855, within the educational space of anti-caste intellectuals and activists Savitribai and Jotirao Phule in Kasba Peth, Pune, a 14-year-old radical named Muktabai Salve, belonging to the 'Untouchable' Mang community, brought to light instances of caste discrimination.

*“...gluttonous Brahmans take the Vedas to be their domain and property and exclude us from seeing or hearing them. When any Mang or Mahar [Untouchable] would learn somehow to read and write, and if Bajirao came to know about this, he would say “education of a Mang or Mahar amounts to taking away a Brahman’s job. How dare they get educated? Do these Untouchables expect the Brahmans to hand over their official duties to them and move around with their shaving kits, shaving the heads of widows?”*

Her poignant words shed light on the systemic exclusion of marginalized communities from educational opportunities and the blatant prejudices upheld by the dominant castes.

In alignment with the ideas proposed by Berger and Luckmann, knowledge is a social construction intricately tied to prevailing social orders. The reciprocal relationship between knowledge and reality is manifested through social interactions. Brahmanical knowledge, for instance, encoded discriminatory injunctions, barring women and Shudras from the realm of knowledge. The Buddha initiated a deconstruction of Brahmanism, marking the first challenge to the entrenched power-knowledge nexus.

During the colonial era, the modern educational system was instituted in India, dismantling the Brahmanical castes' exclusive hold on scriptural learning. Despite these changes, entrenched caste-based divisions persisted, resulting in the exclusion of women and lower castes from education. Today, education continues to be a perpetually challenged domain marked by divisions rooted in caste, class, gender, and language.

In recent decades, concerted efforts have been made to establish a more equitable social order through universal education, leading to a transformative shift. Lower castes and women have successfully breached barriers to academia, challenging prevailing paradigms. This intrusion has disrupted established pedagogies, necessitating the accommodation of diverse ideas that debunk myths perpetuating socio-cultural oppression.

Caste-based social inequalities extend into the knowledge economy, where historically dominant groups controlled intellectual resources, limiting access for lower castes. Overcoming this educational apartheid proves to be a complex process hindered by the workings of the caste hierarchy. Scholars engage in debates on university systems, the role of education in societal well-being, equity, access, reservation policies, and the responsibilities of state institutions. Studies scrutinize educational policies, assessing the actual benefits received by SC/ST students through positive discrimination.

Notably, scholars like Padma Velaskar and Karuna Chanana focus on equity and education by examining the structure of primary education in India. Their studies explore access to primary education concerning gender, minorities, and SC/STs, within the context of preferential treatment and supportive measures. This scrutiny extends to the growth of higher education and its functions in relation to equity for Scheduled Castes and Tribes, mainstreaming minorities, and ensuring equality for women. However, there exists a disconnect between policy discourse and implementation, highlighting the failure to integrate these functions conceptually. In the complex social reality of India, factors like gender, caste, class, language, and region significantly influence access to higher education. Moreover, the imposition of the 'dominant' culture's curriculum is critiqued as inherently superior compared to the cultural heritage of subordinated groups, perpetuating biases within the education system.

- 3. History of caste and education in India: You can look at examples of a) Data in the post-Independence era if any of how many UCs were represented in educational spaces (social sciences or otherwise); include experiences of caste-based discrimination practiced by prolific academic spaces; c) case study of IITs and the bastion of merit it stood for and how it contributes to exclusion till date (see data on suicides of vulnerable communities)**

## Education before independence

In pre-British Indian society, education was a privilege reserved for the Brahmins and the 'twice-born' castes, deliberately withholding conventional education from Dalits to hinder their upward mobility and accentuate caste divisions. The transformative shift began under British colonial rule when a Western education system was established, founded on equality and universal access, opening the doors of education to all, irrespective of caste, class, gender, or religion. The democratization of education not only paved the way for personal and collective social mobility but also enabled individuals from diverse backgrounds to secure positions in the military and bureaucracy, championing principles of justice, liberty, and equality.

The Caste Disabilities Removal Act, signed in April 1850, marked a significant milestone, theoretically abolishing all Indian laws that restricted the rights of individuals based on caste or religion. This legislative move was the initial stride towards social equalization in India, catalyzing subsequent efforts to increase accessibility to education for members of the Dalit caste. With the enactment of the act, the Indian education system became accessible to every segment of society, providing the first opportunities for education to the lowest castes.

As part of the education policy, it was recommended that 'no boy be refused admission to a government college or school merely on the ground of caste.' However, this policy was simultaneously urged to be applied cautiously. [Hunter 1882:5161.] What is often less acknowledged is the persistent struggle for access to schooling by the untouchables themselves, facing considerable opposition from caste Hindus. Institutionally, the administration offered various options, including 'special' government schools that ensured separate and unequal education for untouchables, preventing contact with upper-caste children. Missionaries were also encouraged to maintain private, aided schools primarily for the lowest castes. In instances where other castes objected to the association of their children with untouchables, they were persuaded to establish their own special schools under the government grants-in-aid system.

## Education after independence

In 1947, independence prompted a "complete and comprehensive inquiry" into all aspects of university education, aiming to revamp the system for alignment with the nation's emerging needs. Post-independence, India's efforts to empower Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) through educational reservations shaped a new middle class. However, the initial benefits were limited to a minority, leading to divisions in education access. The Radhakrishnan Commission, or the University Education Commission, conducted the first significant inquiry into Indian universities after independence in 1948-49.

In the early years of independent India, the government hesitated to explicitly recognize caste as a driving force behind poverty and inequality, abandoning the social classifications used during colonial administration (Dirks, 2001; Jaffrelot, 2006). Despite this reluctance, the Indian Constitution, committed to equality in its directive principles, acknowledged historical disadvantages. In 1950, through a presidential order, special protection and benefits were extended to a list of castes outlined by the British in 1936, identified as suffering from "extreme backwardness" due to untouchability (Dirks, 2001; Galanter, 1984). Notably, the category of Scheduled Castes (SCs), about 17 percent of the population, excluded Muslim and Christian converts, despite evidence of comparable untouchability experiences (Ministry of Minority Affairs, 2009; Mosse, 2012).

Nevertheless, independent India extended promises of a dignified life to the untouchables, now officially designated as scheduled castes, through protective measures enshrined in the constitution. These included the abolition of untouchability (Article 17), the prohibition of forced labor ('begar') (Article 23), positive discrimination in government service appointments (Article 335), and more. Article 46 explicitly directs the state to promote their educational and economic interests while safeguarding them from social injustice and exploitation [Radhakrishnan 1991:1911]. However, scheduled caste communities, or dalits, as they prefer to identify themselves, still grapple with poverty and discrimination in 2024. The question of social accessibility to education, coupled with prevailing discriminatory attitudes within institutions, remain unaddressed.

As per Dushkin [1972:176], this concurs with the government's overarching goal of primarily improving the 'secular conditions of scheduled castes.' However, the potential existence of discrimination within the education system holds the significant risk of detrimentally affecting the learning experiences of children. Emphasizing the acknowledgment of this reality is of utmost importance. Additionally, the subpar learning environment offered to children is closely intertwined with the arduous social and economic circumstances in which their families are placed.

Since the early 1950s, the government has actively integrated the expansion of education among marginalized sections as a pivotal component of its programs (Migheal 2007). These initiatives include providing financial support through scholarship stipends at both school and college levels, constructing hostels, implementing reservations for engineering and medical colleges, and offering various other facilities. Article 46 of the Indian Constitution mandates the state to take special care in promoting education among the SCs and STs. Consequently, government policies have contributed to enhanced access to educational services for these sections.

According to the report from the Ministry of Human Development (Education for all - The state scene, 1993), literacy rates among these sections have shown positive trends. The literacy rate among SCs increased from 21.4 percent in 1981 to 37.4 percent in 1991, and among STs, it rose from 16.4 percent in 1981 to 29 percent in 1991. For SC males, the

literacy rate increased from 31.1 percent in 1981 to 40.6 percent in 1991, and for ST males, it rose from 21.5 percent in 1981 to 40.6 percent in 1991. Similarly, the literacy rate among SC females increased from 10.9 percent to 23.8 percent in 1991, while among ST females, it rose from 8 percent in 1981 to 18.2 percent in 1991 (Bakshi 2010, Desai 2006, Mighael 2007).

Despite these positive trends, the report highlights persistent challenges faced by these communities in the educational sphere, including high levels of illiteracy, a substantial dropout rate at the middle and high school levels, and limited access to higher education. These issues persist despite the implementation of progressive educational programs for these sections in our country.

The reasons commonly attributed to the limited educational progress among Dalit communities predominantly focus on factors external to the school system. The impoverishment of the majority of the Dalit population, their marginalized social status, illiterate home environments, and indifferent attitudes toward education are often considered the primary factors responsible for the tepid response to schooling from these communities. However, these arguments tend to overlook the distinct historical experiences of Dalit communities, particularly in the context of education. These communities, once identified as the untouchables, have historically been deprived of educational opportunities, primarily because of their status in the Indian caste system.

While formal schooling ostensibly became accessible to all communities in the 1850s, the education of the 'untouchables' progressed at a sluggish pace. Reports and studies have extensively documented the social opposition to the schooling of untouchables, as well as the persistent social and economic constraints hindering their education even today. Unfortunately, the specific response of supposedly 'secular' and 'modern' formal schools to social discrimination and educational disadvantages has received inadequate attention. Understanding the role of the school is particularly critical, especially in light of the growing realization of the need for 'equity' in education, particularly for socially and economically vulnerable communities [Seceda 1988]. The term 'equity,' now integral to the language of education policy, encompasses the dimensions of social justice alongside equality of opportunity. It suggests that communities subjected to an unjust social structure cannot simply be granted 'equal opportunity' in education but necessitate affirmative action within the institution to rectify past injustices. This understanding of the school's role is imperative in addressing the educational disparities and fostering a more equitable learning environment.

### Caste based consensus

In 1931, during the era of British colonial rule in India, the last caste census was conducted. Despite the nationwide census in 2011, the findings remained undisclosed, creating a void in current data. The absence of recent information has rendered affirmative action inadequate and often misdirected.

In a groundbreaking move, Bihar took initiative by conducting its own caste-based survey in 2022, titled Bihar Jaati Adharit Ganana, strategically avoiding the legal implications associated with the term "caste census." This marked the first instance of a state in India releasing comprehensive caste-based population data. The survey revealed that Other Backward Classes (OBC) and Extremely Backward Castes (EBC) collectively constitute a significant 63% of Bihar's population of 13 crore.

Breaking down the data, the report unveiled that OBCs make up 27.1286%, while EBCs account for 36.0148%. Scheduled Castes represent 19.6518%, Scheduled Tribes stand at 1.6824%, and the General Caste population is 15.5224%. Notably, the dominant castes in Bihar comprise only 15.5%, while the marginalized castes constitute an overwhelming 84% of the state's population, as revealed by the Bihar caste census data.

A nationwide caste census is crucial as it holds the potential to rekindle a renewed sense of caste identity among marginalized communities. A 2021 Pew survey underscores the significance of this call, revealing that 69 percent of India's total population is experiencing this phenomenon.

The survey indicates that a significant portion, three-in-ten Indians (30%), associate themselves with the General Category castes—a comprehensive grouping at the apex of India's caste system, encompassing diverse hierarchies. Notably, only 4% of the population identifies as Brahmin, the highest caste within the General Category, historically associated with priests, religious leaders, and educators.

Most Indians say they are outside this General Category group, describing themselves as members of Scheduled Castes (often known as Dalits, or historically by the pejorative term “untouchables”), Scheduled Tribes or Other Backward Classes (including a small percentage who say they are part of Most Backward Classes).

The recent data not only reaffirms these findings but also provides insight into the magnitude of the issue. It emphasizes that marginalized castes constitute a predominant force in India's social structure, yet continue to face deprivation and discrimination. This underscores the urgent need for comprehensive and accurate caste-related data to address the challenges faced by these marginalized communities effectively.

In alignment with this perspective, the 2021 Pew survey reveals that only 30% of India's population belongs to the general category. Despite this, 54.5% of the total seats are reserved for the remaining 70% of the population. This highlights the incongruity of claiming that someone stole a seat designated for a general category student, as the reservation system is structured to address historical disadvantages faced by marginalized communities rather than disadvantaging those in the general category. The disparity in seat allocation underscores the ongoing need for nuanced and informed discussions surrounding affirmative action and caste-based policies in India.

## IITs

Caste, despite being omnipresent, is seldom talked about; especially in privileged educational circles like IITs. India currently has 23 IITs; the first was set up in Kharagpur in 1951 and the latest in Goa in 2016. These institutes get a huge chunk of the education budget. As per the Budget 2023, IIT has received a total outlay of around Rs 9,600 crores. Out of this, around Rs 8,000 crores have been allocated to the institutes as grants.

Anthropologist Ajantha Subramanian from Harvard challenges the purported castelessness and meritocracy of IIT admissions, asserting that these institutions nationwide disproportionately enroll upper-caste students in the general category. Focusing on IIT Madras, Subramanian delves into historical trends, revealing that Tamil Brahmins, constituting a mere 3 percent of the population, emerged as the predominant group in the Madras Presidency to fill the void left by decreasing numbers of European engineers at the turn of the twentieth century. Despite their numerical minority, they secured over 70 percent of seats in regional engineering institutes and held disproportionate influence in various modern professions alongside other upper castes.

At IIT Madras, both students and faculty overwhelmingly hail from the upper castes. Out of 536 professors, 464 belong to the 'general category,' while there are 59 OBCs, 11 SCs, and 2 STs. Subramanian contends that associating the 'general category' with merit is biased, assuming upper-caste affiliation among its students. Interviews with former IIT students revealed a prevailing belief that general category students received lower grades due to leisurely pursuits, while reserved category students were perceived to lack the intellectual capability to excel. This bias, Subramanian argues, finds endorsement from the administration, particularly former director P. V. Indiresan, who championed the idea that 'talented' upper castes deserved distinct 'rights' compared to the 'socially deprived,' who sought special privileges. The toxic belief that 'quota students' are inherently less able or talented than 'mainstream students' underpins this exclusionary mindset.

In 2021, a video went viral featuring Seema Singh, a professor in the department of humanities and social sciences at IIT-Kharagpur, berating students with derogatory language, including calling them "bloody bastards." The incident occurred during Singh's Prep English Course, designed for students from Scheduled Castes/Scheduled Tribes and persons with disabilities. This one-year preparatory class aims to assist eligible students from these communities in securing admission the following year, provided they meet the cutoff but are unable to obtain direct admission. The violence against marginalized students by a professor at the Indian Institute of Technology Kharagpur underscores a deeper issue ingrained in the Brahminic cultural psyche of elite higher education institutions in India. This incident serves as a stark reminder that despite India's post-independence commitment to modern secular education, the caste system persists as an influential institution

This incident exemplifies a systemic flaw in the merit-based education system, suggesting that SC, ST, and OBC students are considered ineligible for direct admission and are compelled to undergo a preparatory English course to enter elite institutions. The incident, therefore, serves as a manifestation of the persistent challenges in dismantling caste-based prejudices within India's educational institutions.

Professor Sukumar, in his book "Caste Discrimination And Exclusion In Indian Universities," delves into the entrenched caste-based discrimination prevalent in IITs, emphasizing how these institutions perceive reservation policies as compromises to their esteemed standards, sidelining the imperative for inclusivity.

The incident aligns with Sukumar's insights into discrimination, particularly in mandatory language courses, imposed on scheduled caste students, irrespective of their proficiency. This unfounded assumption, as seen in Seema Singh's case, diminishes their academic and linguistic capabilities, relegating them to preparatory classes and subjecting them to derogatory labels.

He emphasizes that discriminatory practices extend even in simple introductions, students find themselves compelled to share their ranks, leading to discriminatory treatment based on these rankings by their peers. Even to hostel allocations, systematically placing reserved category students in specific wings, reflecting a troubling pattern of caste-based segregation. Additionally, hostels categorized by food habits inadvertently perpetuate caste identities, while disciplinary discrimination compounds the challenges faced by reserved category students, particularly in civil engineering. Within these disciplinary divisions, instances of caste-based discrimination persist, further exacerbating the plight of marginalized students.

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## Dropouts

Union Minister of State for Education, Subhas Sarkar, shared alarming statistics from 2023, revealing that more than 13,600 reserved category students dropped out of central universities, IITs, IIMs, and National Law Universities in the last five years. Particularly concerning are the figures from IITs, with 2066 OBCs, 1068 SC, and 408 ST students discontinuing their education in the last five years.

Addressing concerns about these dropouts, Sarkar outlined government initiatives, including fee reduction, the establishment of additional institutes, scholarships, and priority access to national-level scholarships. He emphasized specific welfare schemes for SC and ST students, such as the 'waiver of tuition fees in IITs' and grants of national scholarships under the Central Sector Scheme.

Data from the Ministry of Human Resource and Development (MHRD) in 2019 indicated over 2,400 dropouts from IITs in the past two years. Notably, 371 were from SC, 199 from

ST, and 601 from OBCs. The prevalence of dropouts was particularly pronounced in IIT Delhi and IIT Kharagpur, accounting for 57% of the total, with 782 and 622 dropouts, respectively.

In response to a query from Rajya Sabha MP V. Vijayasai Reddy, MHRD Minister Ramesh Pokhriyal 'Nishank' attributed the high dropout rates to factors such as shifting to other colleges, personal and medical reasons, placements during PG courses, and pursuing higher education abroad. He noted corrective measures, including de-stressing extracurricular activities, academic monitoring by advisors, additional classes for weaker students, and counseling on personal and family issues.

However, neither in 2019 nor in 2023 did the MHRD minister or the Ministry of Education (MOE) acknowledge accountability for these dropouts based on casteism. Despite a substantial majority of dropouts coming from SC, ST, and OBC categories, reasons provided seem inadequate, raising questions about the effectiveness of current measures in addressing caste-based challenges in the country.

Allegations of discrimination, humiliation, and exclusion have been vehemently denied by the higher education institutions arguing that these suicides took place because those students were unable to adjust to the rigorous educational environment of the institution (Singh, 2013). Even the government has treated these suicides as isolated incidents and, despite the Thorat Committee's findings of discrimination against Dalits, took no further step to stop such practices in educational institutions (Singh, 2016). The Thorat Committee was set up in 2007 following grave and widespread allegations of differential treatment and discrimination against students from Dalit and other marginalized sections of society in higher education institutions.

The persistent absence of acknowledgment or accountability based on casteism, spanning both 2019 and 2023, raises serious concerns about the effectiveness of current strategies in addressing the complex challenges faced by students from SC, ST, and OBC categories. Despite the implementation of various corrective measures, the stark reality remains—these marginalized communities continue to bear the disproportionate burden of dropout rates in higher education institutions.

While the reasons provided for dropouts are undoubtedly valid in certain instances, they appear to fall short in grasping the deeper-rooted challenges these students encounter. It is imperative to recognize that caste-based disparities manifest in multifaceted ways, impacting the educational journey of these students from the outset. Whether it be the inadequacy of support systems, cultural insensitivity, or systemic biases, the existing policies must be scrutinized and revamped to comprehensively address the intricacies of caste-based issues in education.

The issue of Dalit suicides has emerged as a relatively recent social problem in contemporary Indian society. Numerous studies conducted over the years shed light on the connection between student suicides and the Dalit community. These investigations reveal that Dalit students often resort to suicide due to prevalent social discrimination and a lack of opportunities across various institutions. These suicide cases have brought to light the worst form of Indian caste system that is still prevalent in democratic Indian society today. The number of Dalit suicides reported here is not representative of the overall trend of Dalit suicide. Dalits encounter harassment and denial of opportunities throughout Indian society, presenting a growing societal problem. The trauma resulting from various forms of persecution often leads Dalits to take their own lives through suicide.

The union education ministry estimates at least four suicides a year from 2014 to 2023 at the IITs – around 34 suicides in total until 2021 of which over half were students from SC and OBC backgrounds. According to a statement made in the Parliament by Dharmendra Pradhan, the Union Minister of Education, 122 students have committed suicides in IITs, NITs, Central Universities, and IISERs in the country in the period between 2014 to 2021. All these students belonged to the SC, ST, and the OBC communities.

P. Poongodhai and Dr. P. Nagaraj undertook the daunting task of compiling a list of Dalit students who tragically took their own lives between 2007 and 2016. The resulting list, encompassing 21 students, is acknowledged by the authors as not exhaustive but representative of cases where parents and relatives vociferously accused institutions of caste discrimination as the catalyst for their children's suicides.

While the list concludes with the poignant inclusion of Rohith Vemula in 2016, subsequent years witnessed the heartbreaking suicides of Muthukrishnan (2017), Anitha (2017), Payal Tadvi (2019), and Darshan Solanki (2023). These distressing instances serve as poignant reminders of the enduring, dark facets of the caste system that persist in contemporary society.

Rohith Vemula, a promising 26-year-old Ph.D. candidate at the University of Hyderabad, faced an abrupt suspension from his education, fellowship, and hostel. This harsh consequence was meted out due to his active involvement in the Ambedkar Students Association (ASA), alongside four other ASA members. Tragically, on January 17, 2016, Vemula took his own life, setting in motion a chain of unresolved events that would leave an indelible mark on the nation.

In his untimely death, Vemula transcended into a potent symbol of protest against the deeply entrenched injustice and indignity prevalent in our society. His haunting final note encapsulated a damning reality: "The value of a man was reduced to his immediate identity and nearest possibility. To a vote. To a number. To a thing. Never was a man treated as a mind."

Regrettably, Vemula's story is not an isolated incident, and sadly, he may not be the last Dalit student forced into such a tragic fate due to the enduring shackles of systemic oppression and institutionalized discrimination. However, his funeral became a watershed moment, thrusting the issue of caste into the national dialogue and igniting widespread protests and outrage across India. His powerful words serve as a poignant reminder that, despite merit, Dalits continue to confront deep-rooted prejudice and worse, even within educational institutions where lofty ideals of liberalism and humanism are expected to prevail.

On February 25, 2023, Chief Justice of India DY Chandrachud raised critical concerns regarding the suicides of Dalit students in prestigious colleges and universities, emphasizing the growing frequency of such incidents. He remarked, "Incidents of suicides of students from marginalized communities are becoming common. These numbers are not just statistics; they are stories sometimes of centuries of struggle." Highlighting the observations of Professor Sukhdev Thorat, a senior educationist, Justice Chandrachud noted that a significant number of students who died by suicide were Dalits and Adivasis. This pattern, according to Thorat, merits careful examination and raises important questions about the underlying issues within the education system.

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## Merit

Merit, in its literal essence, denotes the quality of being exceptionally good or worthy. Within the realm of higher education, merit serves as a criterion to assess a candidate's competence and aptitude through selective examinations, essentially creating a binary outcome of acceptance or rejection. Despite its often-touted fairness, merit, when viewed within entrenched societal structures, becomes a subtle vehicle for discrimination. The collectivization of merit among the upper castes results in the alienation and discrimination of lower castes in India, perpetuating social divides.

Anthropologist Ajantha Subramanian's study, "The Caste of Merit," provides illuminating insights into the pervasive influence of caste privilege, particularly observable among upper-caste students in prestigious institutions like the Indian Institutes of Technology (IITs). Her institutional ethnography vividly illustrates how the notion of being 'casteless' intertwines with modernity, contributing to a particularly advantageous narrative for upper-caste individuals who embrace a 'meritocratic' label.

David Riesman's, an American sociologist, describes meritocracy as a "shorthand defining the elite in industrial societies increasingly organised along technocratic lines" However, the collectivization of merit among the upper castes results in the alienation and discrimination of lower castes in India, perpetuating social divides.

Examination is an element of "resource discrimination," indicating a bias that extends beyond academic performance. This discrimination stems from the inequitable distribution of resources, hindering the access and success of SC and ST students in higher education. The education system, while outwardly emphasizing merit-based selection, implicitly favors those possessing social, economic, and political resources. This creates an uneven playing field, as students with adequate resources can establish supportive networks, whereas their lower-caste counterparts often lack such essential backing for both academic and personal challenges.

This form of resource discrimination is further shaped by factors such as diverse backgrounds, cultures, economic facilities, and linguistic variations, which are often unjustly relegated to being labeled as mere "dialects." Such linguistic differences are systematically excluded from the dominant languages spoken by privileged populations, contributing to the perpetuation of disparities (Ilaiah 2308).

Success in competitive examinations, as outlined by Marc Galanter, hinges on three essential resource categories: economic, social and cultural, and intrinsic motivation coupled with hard work. The prevalent argument from the upper-caste demographic, attributing their dominance in higher education solely to merit, oversimplifies the intricate nature of these prerequisites. Dismissing intrinsic motivation as the sole determinant for the underrepresentation of SCs and STs is flawed, as various factors significantly impact these communities.

Pierre Bourdieu's concept of social capital provides a crucial lens through which to understand the advantages stemming from relationships built on trust and cooperation. This form of capital, inherent in social networks, plays a pivotal role in shaping educational outcomes and opportunities.

Moreover, poverty extends beyond economic implications, encompassing the deprivation of both social and political capital. Economically well-off lower castes often assimilate into the dominant society, escaping the discrimination faced by their lower-class counterparts. The possession of financial resources can lead to Sanskritization among lower castes, not in a ritualistic or cultural sense, but evident in their clothing, language, and behavior mirroring upper-caste norms.

Deshpande writes on how lower castes may finish primary education but are discouraged from pursuing higher education as these spaces are "elite" and "meritorious" and thus only a small proportion of people have access to these spaces. This can be explained by their lack of economic and social capital.

The elite spaces of higher education contribute to a sense of alienation and anomie among economically disadvantaged lower castes. Emile Durkheim's concept of anomie, signifying a lack of social institutions that could lead to suicide, provides a framework for understanding the concerning increase in Dalit suicides in Indian universities. Sanskritization, as a survival

strategy, involves lower castes adopting practices associated with Brahminical castes to ascend in the caste hierarchy.

The underrepresentation of SC, ST, and OBC students in elite universities reflects a lack of cultural integration, leading to various forms of caste-based discrimination. This discrimination is exacerbated by the current political environment, disproportionately affecting the poorer sections among the lower castes. Lack of governmental support places them at a significant disadvantage, limiting their access to institutions like IITs.

The concept of "social identity theory" (SIT), introduced by social psychologists Henry Tajfel in the 1970s, delves into situations where an individual's social identity takes precedence over their personal identity. It explores three interconnected psychological processes: social categorization, social identification, and social comparison (Turner & Reynolds, 2001). Social categorization is a natural cognitive process where individuals classify people into social groups, simplifying the complexity of navigating the social world. Social identification involves adopting the identity of the perceived in-group and aligning behaviors accordingly (Plous, 2003). The third process, social comparison, reflects the tendency of groups to distinguish themselves from others to elevate their in-group's standing (Turner & Reynolds, 2001). The central hypothesis of social identity asserts that in-group members actively seek negative aspects of the out-group to enhance their social status.

The three processes contribute to the formation of a negative social identity when considering the out-group. For instance, individuals from the upper caste may discriminate against lower-caste individuals based on their social, economic, and political status. Dalits, characterized by their low societal status, face marginalization, social exclusion, or untouchability, setting them apart from other groups. As an out-group, Dalits, a derogatory term for low-caste Hindu people in India, endure various forms of discrimination from upper-caste individuals within society. This discrimination triggers negative emotions, fostering feelings of hatred and resentment, contributing to despair, and, in some cases, leading to suicides. Thus, SIT provides a compelling psychological framework to understand intergroup discrimination, exclusion, prejudice, and conflict.

Another lens through which to understand prejudice and discrimination against Dalit students in higher education is the social phenomenon of in-group bias. In-group bias refers to the tendency for people to favor their own group members (Aberson, Healy, & Romero, 2000). This bias perpetuates discriminatory practices and exacerbates the challenges faced by Dalit students within educational institutions.

Numerous studies in social psychology have found that people who are high in self-esteem, and who therefore have the most to lose if their self-esteem is undercut, exhibit more in-group bias than do people having low self-esteem (Aberson, Healy, & Romero, 2000). This explains why people from UC are more vulnerable to in-group bias than Dalit because of high self-esteem associated with being born into a UC family.

Also, people are more likely to show prejudice when they experience a drop in their self-esteem (Plous, 2003). Government's social welfare programs and affirmative action policies such as reservation in government jobs and higher education have helped Dalits make significant progress after independence (Thorat, Tagade, & Naik, 2016). The progress made by Dalit and other backward castes does not always go well with the high self-esteem of people of UC. This may be another reason for prejudice and discrimination practiced by upper caste people.

**4. The landscape of education in India in the contemporary times: a) Structural violence practised by the state (withdrawal of scholarships, limited funding in public unis, rise in private unis and how seats fall vacant in educational spaces especially for PhD seats (cite date) and b) Cultural Violence - use of humour, anti-reservation sentiments, and pedagogy used in classrooms that perpetuate upper caste norms and thinking)**

The Prevention of Atrocities Act (PoA) in India is designed to penalize and deter violence against Dalits (formerly untouchables) and Adivasis (tribals). However, questions persist about its effectiveness in addressing the entrenched historical oppression within the country.

These apprehensions are substantiated by alarming statistics provided by the National Crime Records Bureau (NCRB). In the year 2021 alone, law enforcement agencies recorded nearly 60,000 cases of atrocities against Dalits and Tribals, indicating a troubling upward trend in violence against these marginalized communities. The NCRB's annual report released on August 29, 2021, revealed a 1.2% increase in atrocities against Scheduled Castes compared to the previous year (50,291 cases). Similarly, crimes against Scheduled Tribes surged by 6.4% in 2021, reaching 8,802 cases.

To comprehend the dynamics of violence against these communities, we turn to Johan Galtung's "Violence Triangle," a conceptual framework that elucidates the interconnectedness of different forms of violence. Galtung's theory posits three types of violence—direct, structural, and cultural—which are interdependent and mutually reinforcing.

Direct violence is the most overt form of aggression, where harm is inflicted directly by an identifiable actor. This type of violence is both visible and manifests in either physical or psychological ways. In instances of direct violence, there is a clear distinction between the perpetrator and the victim. Examples include tangible acts such as torture, murder, physical

abuse, as well as psychological forms like humiliation, discrimination, and bullying. Essentially, direct violence encompasses actions that cause harm and are immediately evident, involving a discernible aggressor and a recipient of the violence.

Structural violence, on the other hand, operates at a systemic level, akin to social injustice. It remains largely invisible, embedded in structures that obstruct the fulfillment of basic needs. Examples include apartheid, unequal access to education, and poverty. Galtung emphasizes that structural violence arises when individuals are influenced in ways that hinder their actualization to the full extent of their potential.

Cultural or symbolic violence encompasses aspects of social culture that legitimize the use of direct or structural violence. This often manifests in attitudes, prejudices, and discriminatory beliefs such as racism, sexism, and fascism.

According to Galtung, these three forms of violence are interconnected and can influence one another. If structural violence becomes ingrained and cultural violence intensifies, there is a heightened risk of an increase in direct violence. This relationship underscores the idea that violence occurs where people are influenced to a degree that impedes their physical and mental development below their actual potential.

The invisible nature of structural and cultural violence, deeply ingrained in societal structures and attitudes, makes them challenging to identify directly. Galtung asserts that addressing one form of violence necessitates acknowledging and addressing the others. In the context of violence against Dalits and Adivasis in India, understanding this violence triangle becomes crucial for crafting comprehensive strategies to eradicate these injustices and promote a more equitable society.

### *Structural Violence*

Johan Galtung's concept of structural violence sheds light on subtle yet impactful methods of targeting and oppressing groups beyond overt, physical violence. Structural violence, also known as institutional violence, occurs when a group faces disproportionate disadvantages or harm due to societal institutions, laws, or overarching structures. Unlike explicit acts, structural violence is indirect, with its primary harms untraceable to individual incidents, serving as a pervasive force unintentionally hindering human potential (Roberts, 2008, p. 19).

In essence, structural violence creates a scenario where social, political, economic, cultural, and legal spheres function to permit or encourage segregation, discrimination, suppression, or exploitation of weaker sections in the community. It operates as a means of excluding a group from various domains of social life, particularly affecting the members of Dalit communities in India.

This structural violence is reflected in India's elite research institutions, notably the Indian Institutes of Technology (IITs), where historically privileged castes, referred to as the 'General' category, maintain dominance. This dominance is especially evident in the science stream, resulting in significant underrepresentation of Adivasi and Dalit communities at these prestigious institutions (Ankur Paliwal, 2023).

The underrepresentation extends to faculty demographics, with less than 1% of professors hailing from marginalized communities at the top-ranked IITs among the 23 institutions. This data, sourced from 2020 under right-to-information requests by Nature, underscores the stark lack of diversity among the teaching staff in these elite institutions.

Furthermore, the Ministry of Education's data exposes a significant gap in the representation of Scheduled Tribes (STs) at IITs. The Central Educational Institutions (Reservation in Admissions) Act mandates reserved PhD seats of 7.5%, 15%, and 27% for ST, SC, and OBC categories, respectively. However, in 2021, only 137 out of 3,430 ST candidates and 574 out of 17,075 SC students secured admission in IITs, falling short of mandated representation. The violation of these reservation policies is widespread across IITs, except for IIT Dhanbad and IIT Goa.

Although OBC representation is partially fulfilled, only IIT Madras surpasses the mandated 27%, achieving a representation of 28.3%. However, even in IIT Madras, students from SC and ST communities are considered "seriously underrepresented" in PhD programs. Out of 558 students admitted in 2021, only 53 (9.5%) are from the SC category, and 20 (3.6%) are from the ST category, despite 1,637 eligible SC applicants and 346 eligible ST applicants.

The representation of marginalized communities further diminishes at the PhD level, particularly in prestigious institutions. Data from 2020 at five top-ranked IITs show an average representation of 10% for Dalits and 2% for Adivasis in PhD programs. This is slightly lower than the average for five mid-ranking IITs — Dhanbad, Patna, Guwahati, Ropar, and Goa. Moreover, the numbers for PhD students and faculty members from the Other Backward Classes (OBC) at the top five IITs fall below the levels mandated by reservation policies.

In a recent report based on data obtained through a Right to Information Application, the Ambedkar Periyar Phule Study Circle (APPSC) accuses IIT Bombay of denying 80 seats to SC, ST, and OBC students while admitting an additional 95 general category students for PhD admissions in 2023.

The structural violence perpetuates itself in various ways, one of which is evident in the limited funding and withdrawal of scholarships. In May 2018, the Union Ministry of Social Justice and Empowerment introduced a set of new norms amending the centrally sponsored post-matric scholarship scheme for Scheduled Caste students. According to the revised guidelines, "The fees claimed against management quota seats, spot admission seat in any Institution/ University will not be reimbursed."

The post-matric scholarship scheme, a Centrally Sponsored Scheme implemented through state governments and UT administration, aims to provide financial assistance to Scheduled Caste students in post-secondary education, supporting them up to their Ph.D. It plays a crucial role in promoting upward social mobility for these communities.

The scholarship comprises various components, including maintenance allowance, study tour charges, thesis typing, book allowance, book bank facility, and additional allowances for SC/ST persons with disabilities. The reimbursement of compulsory non-refundable fees, covering registration/enrollment fees, tuition fees, and other necessary payments to institutions or universities, is a pivotal aspect. However, the revised norms specifically impact this component, excluding fees paid as a lump sum for the full course, fees claimed against management quota seats, and spot admission seats in any institution or university in India.

This alteration sparked concerns, especially in Tamil Nadu, because as per a report in *The Hindu*, “An estimated four lakh Dalit students in the State [Tamil Nadu], pursuing higher studies, will have to go without Central scholarship from this year if the latest norms of the Union Ministry of Social Justice & Empowerment are to be followed.”

Tamil Nadu's Chief Minister, K Palaniswami, expressed concerns in a letter to Prime Minister Narendra Modi, highlighting that the non-reimbursement of fees for management quota seats could hinder social equity and justice, denying opportunities to economically disadvantaged SC/ST students pursuing higher and technical education. Many students opt for admissions in private colleges and universities due to the limited capacity of government institutions.

Government officials attributed the revision to a lack of funds, citing financial constraints that predated the COVID-19 pandemic. The decline in allotment under the scheme had begun before the pandemic, with the coronavirus further exacerbating the financial challenges.

Additionally, the tentacles of structural violence extend beyond domestic boundaries, reaching into the realm of international scholarship opportunities. Since its inception in 1954, the Ministry of Social Justice and Empowerment introduced the National Overseas Scholarship (NOS) Scheme to financially support students from Scheduled Caste (SC), Scheduled Tribes (ST), and landless agricultural laborer families. Originally confined to science, technology, and engineering, the scheme expanded in 2012 to encompass humanities and social sciences, offering support to students across all major disciplines until 2021. However, the revised guidelines for the National Overseas Scholarship (NOS) in 2022 exclude topics or courses concerning "Indian culture/heritage/history/social studies on India."

Despite a nominal target of supporting only 100 students, a striking disparity exists when compared to the 13,24,954 Indians studying abroad, as reported by the Ministry of External Affairs in 2022. R. Subrahmanyam, Secretary of the Social Justice and Empowerment Department, justified the exclusion by prioritizing resources for expertise in fields not readily available within the country, dismissing the need for scholarships in subjects like Indian history, culture, or heritage.

This decision, lacking public consultation and announced just two months before the final application deadline, faced criticism for its potential impact on marginalized students. It not only limits their career choices but also places them at a disadvantage compared to non-marginalized peers with similar educational aspirations. The central government's decision appears to assert control over the knowledge produced by these communities.

In response to the policy changes in 2022, more than 20 international academic associations, research centers, Indian diaspora organizations, and 350 scholars globally opposed the revisions to NOS guidelines. An open letter addressed to Union Minister Virendra Kumar urged the immediate withdrawal of the regressive policy clause. The letter argued that the amendments displayed a lack of understanding of contemporary interdisciplinary research, emphasizing that scholarship cannot be confined by national boundaries.

### *Cultural Violence*

Cultural violence, as articulated by Johan Galtung, refers to the harm inflicted upon an individual through cultural, religious, or traditional practices. This encompasses diverse cultural facets such as religion, ideology, language, art, and sciences. This form of violence is fueled by societal attitudes, resulting in deeply ingrained prejudices and stereotypes. These stereotypes find expression in everyday interactions, contributing to cultural violence.

### *Humour*

Humor, as Deshpande (2012) illuminates, has played a transformative role in dismantling the invisibility that historically marginalized communities endured due to affirmative action. Nevertheless, this evolution is not devoid of challenges, evident in the persistent reservations expressed by dominant elites regarding the concept of merit. This discomfort often manifests in the public domain through racist jokes disseminated across social media platforms.

These jokes, beyond perpetuating harmful stereotypes, contribute to a narrative positioning the general community, predominantly composed of upper castes, as inherently meritorious. Simultaneously, they cast underprivileged communities as lacking in merit, disregarding the historical privileges that underlie their achievements.

Within the educational landscape, everyday caste-based humiliations are so normalized that they often escalate to the point of requiring extreme substantiation, such as death. Despite the constitutional abolition of untouchability, post-colonial Indian academia has birthed newer forms of oppression, perpetuating untouchability against marginalized students and scholars.

The darker side of humor lies in its potential to camouflage deep-seated casteism, giving rise to microaggressions—brief, daily verbal, behavioral, and environmental indignities. These microaggressions, whether intentional or unintentional, communicate hostile, derogatory, or

negative caste-based slights and insults, along with normalized caste-based slurs and subtle yet patronizing remarks.

Higher educational institutions' campuses harbor a casteist underbelly, institutionalizing caste blindness and normalizing exclusionary structures. Consequently, these structures perpetuate and reinforce casteist microaggressions against historically marginalized individuals within academic settings.

Caste-privileged academics may nostalgically reminisce about a supposedly tranquil past, subtly revealing that savarna gatekeeping in appointments was rigid, campuses were less vocal against caste supremacism, and caste-based discrimination was rampant with impunity. The anti-caste discourse challenges this entrenched Brahminical hierarchical system within higher education. The resistance to acknowledging and dismantling these structures reflects not only a reluctance to confront historical injustices but also an attempt to perpetuate caste-based privileges.

### Anti reservation sentiments

Affirmative action, as embodied in reservation policies, stands as a critical instrument addressing the entrenched historical discrimination faced by lower-caste communities in India. The constitutional provisions initially earmarked 15% and 7.5% for scheduled castes (SCs) and scheduled tribes (STs) respectively, and expanded to 27% for Other Backward Classes (OBCs) in 1980, acknowledging the multifaceted nature of persistent disadvantages. Education serves as a key catalyst for upward social mobility, a belief championed by Ambedkar. However, the historic disadvantages faced by lower castes due to exploitation, discrimination, and oppression necessitated the implementation of affirmative action policies.

Reservations in aided schools and universities were introduced to rectify historic neglect, oppression, and discrimination, ensuring equitable access to educational facilities. Critics argue that reservations create a divide between the General Category and beneficiaries, leading to protests and self-immolation by upper-caste students. Growing insecurity and resentment among upper castes, particularly towards upwardly mobile Dalits, underscore the challenges in navigating the socio-political landscape.

The recent surge of Hindu nationalism in the country can be viewed as an upper-caste response against the egalitarian demands of democracy, highlighting the complex dynamics surrounding affirmative action. Critics often pivot their opposition around the concept of 'merit,' contending that it jeopardizes opportunities for more deserving higher-caste individuals. This viewpoint, however, neglects the intricate factors that shape merit within historical and cultural contexts enjoyed by upper castes, including literacy, networks, land-ownership, mobility, and education, contributing to their modern forms of social capital.

Upper-caste individuals can leverage this capital, presenting themselves as casteless and meritorious, perpetuating biases against their lower-caste counterparts. In contrast, lower-caste individuals, despite asserting their caste status to secure equal educational and employment opportunities, are often viewed with suspicion of unearned advantage. The intricate dance between historical privileges and the struggle for equal opportunities forms the backdrop of the ongoing discourse on affirmative action in India.

The politics of caste refusal, predominantly championed by the upper-caste/middle-class, advocates for the removal of caste as a modern concern through market economy and meritocracy (Deshpande, 2013; Subramanian, 2015). This perspective mutes caste within the professional policy making class, fostering an anti-reservations discourse that criticizes affirmative action for perpetuating caste distinctions. The debate frames lower castes as purveyors of caste politics, accused of self-serving manipulations, while upper castes lay claim to cosmopolitan identities (Subramanian, 2015; Jodhka & Manor, 2017).

During a BR Ambedkar Memorial Lecture, Justice DY Chandrachud highlighted a stark reality, stating, “Castelessness is a privilege in itself. A privilege that only the upper caste can afford.” This assertion illuminates the deep-seated disparities ingrained in societal structures. To cultivate a healthy democracy, there is an urgent need to reconsider affirmative action, recognizing that the starting point is significantly imbalanced. A comprehensive perspective on substantive equality is imperative, acknowledging historical and systemic discrimination. The reimagining of affirmative action aims to establish a distribution of rights and opportunities that goes beyond abstract ideals of skill; it aspires to create a representative and inclusive space conducive to growth and learning. This approach is fundamental for nurturing a holistic democracy and enhancing every individual's sense of self-worth.

It is crucial to recognize, as Deshpande (2012) emphasizes, that debates around merit often treat it as a neutral, objective feature, akin to measuring height or weight. However, these discussions tend to overlook the inherent subjectivity in the measurement tools themselves, raising questions about the very nature of merit and how it is evaluated within diverse social and historical contexts.

Vishwanathan (2018) asserts the crucial role of reservation policies in ensuring the representation of historically excluded communities, aligning with the principle of distributive justice. His argument underscores the idea that caste-based reservations are not just a corrective measure but a rightful response to the historical denial of opportunities in a society bound by caste hierarchies. As long as caste-based injustice and discrimination persist, the need for caste-based reservations remains a legitimate means of addressing historical imbalances.

Scholarly explorations by Kaufman and Gabler (2004) and Kisida et al. (2014) underscore the impact of extracurricular activities on cognitive skills. Upper-caste students, with the luxury of spare time and familial support, can bolster their cognitive abilities through artistic and

cultural pursuits. Conversely, students from excluded communities encounter challenges in inheriting sufficient cultural capital, making the learning process arduous. The absence of educated ancestors compounds these challenges, often steering marginalized students toward traditional occupations.

The dominance of the upper caste in the education system is evident, with only three out of the top 10 universities having 22.5% or more SC/ST students, falling short of the mandated 15% quota for Dalit enrolment. Despite affirmative action initiatives, persistent myths perpetuated by opponents undermine the efficiency of lower-caste students benefiting from reservations, leading to a normalization of efficiency for upper-caste students. This oversight ignores the historical privileges that underscore their achievements.

In contemporary Indian society, despite aspirations to move beyond caste distinctions, deeply rooted hierarchies persist, shaping elements such as discussions around marriage, social networks, cultural capital, language proficiency, and access to private education. Despite advancements in political and economic spheres, Dalits and lower-caste communities face significant disparities in education, social standing, and financial progress compared to their upper-caste counterparts. It's essential to clarify that the reservation system does not recreate the caste system. Anti-reservation advocates should scrutinize their information. The creation of caste stems from the entrenched social structure of stratification, not from affirmative action, which provides hope for Dalit-Bahujans to overcome the limitations imposed by caste boundaries.

## Pedagogical

Education, often perceived as a neutral force and touted as the great "equalizer," plays a pivotal role in shaping one's socio-economic status. Despite this idealized view, it is crucial to recognize that education is far from neutral; it is an inherently political battleground where societal power dynamics and inequalities are both perpetuated and challenged. The very structure of educational systems, choices in curriculum, and access to resources reflects and reinforces broader social and economic disparities. Understanding the intrinsically political nature of education is essential for unraveling its nuanced impact on individuals and society at large.

This viewpoint aligns with the visionary perspective of Jyotirao Phule, who reimagined education as a Trutiya Ratna, a third eye or jewel, empowering the oppressed to comprehend their oppression, critically engage with the world, and strive for liberation. Phule's conceptualization resonates throughout the twentieth century in the ideologies of influential figures such as Ambedkar, Gramsci, and Freire (Paik, 2014). Ambedkar, recognizing education as a liberating force, envisioned it as a tool for transforming and empowering the marginalized to challenge the pro-caste Brahmin orthodoxy. The sequence in his iconic slogan, 'Educate, Agitate, Organize,' underscores the transformative potential of education.

Similarly, Gramsci emphasized the vital role of education in fostering self-consciousness among subaltern groups about their active role within society (Yuvraj Singh, 2023).

Education, in its essence, can and should be liberatory. However, as Nisha Thapliyal, Ph.D., a scholar and practitioner of critical pedagogy at the University of Newcastle in Australia, points out “the language of merit, ability, and hard work are used to explain who deserves access, who succeeds and who fails — but these are notions shaped by class, gender, and caste in India”. This observation challenges the conventional notions that determine access, success, and failure in the educational realm.

Sukumar (2013), a Dalit scholar teaching in the political science department at the University of Delhi, shares his autoethnography highlighting the challenges faced by Dalit students, particularly those who are the first generation in their families to pursue higher education. These students grapple with an unfamiliar curriculum and deep-seated pedagogical biases. Deprived of family guidance, these students rely on university administrators for crucial information regarding admission processes, fee structures, courses, and hostel facilities, facing an indifferent and neglectful attitude from them. The social neglect they face due to economic constraints, manifested in their attire and language, adds another layer of difficulty. Furthermore, their educational deprivation results in a lack of English language skills, further alienating Dalit students.

The National Education Policy (NEP) 2020, as the guiding document shaping the school curriculum, contributes to the process of cultural reproduction. Notably, the absence of explicit references to the term "caste" in the NEP 2020, except for obligatory mentions of "Scheduled Castes," raises concerns about its adequacy in addressing discrimination, social bias, and historical disadvantages faced by students from marginalized caste backgrounds.

Equally troubling is the absence of the terms "reservations" and/or "affirmative action" in the policy. These omissions suggest a deliberate attempt to portray the education ecosystem in India as casteless, despite the prevalent caste-based discrimination experienced by Bahujan students in schools and universities. The policy's failure to explicitly address the continuation or enhancement of reservation quotas raises concerns about its commitment to ensuring equitable educational opportunities, as claimed in its introduction.

Edelman's insights become crucial in understanding these omissions, as they often occur when powerful groups resist considering practices from which they benefit. These deliberate erasures indicate that the policy devalues the experiences of Bahujan students, endorsing existing caste-based inequalities. Consequently, it not only impedes any resistance to the caste system but also justifies its acceptance.

Furthermore, the absence of Bahujan lives and history in the school curriculum has been a persistent characteristic of education in India, as highlighted by Nayak & Surendran (2019), Shepherd (2019), Valmiki (2003), and Xaxa (2011).

The exclusion intensifies under the NEP 2020, which not only perpetuates this historical oversight but exacerbates it by erasing the contributions of Bahujan scholars. The policy acknowledges the achievements of scholars such as Charaka, Susruta, Aryabhata, and others, presenting them as great contributors to world knowledge in various fields. However, it fails to recognize that all these scholars are part of the Brahminical tradition/knowledge structure. This omission reinforces the marginalization of Bahujan voices and history, undermining the diversity of contributions to knowledge and perpetuating a narrow perspective that aligns with the Brahminical tradition.

In the Indian context, where caste pervades, the understanding of pedagogy as a repressive tool becomes crucial. Even with the potential for an equitable discourse in the curriculum, the disparity between curricula and pedagogy impacts classroom interactions. Additionally, teacher motivations play a significant role in students' comprehension and critical awareness (Mittal, 2020). If classrooms become tools of social control through the intertwining of ideology, curriculum, and pedagogy (Jogdand, 2017; Giddens, 1984), adopting a pedagogy that is critical, situated, historical, and empathetic towards the experiences of marginalized communities (Jogdand, 2017; Biko, 1971) could foster inclusivity and reduce humiliation in classrooms.

Giroux (2016) refers to 'pedagogies of repression' as those that obscure education's role in distorting history, silencing marginalized voices, and hindering the relationship between learning and social change. understanding of pedagogy as a repressive tool in the Indian context, where caste is omnipresent.

Rolla Das (2023) introduced the term 'Pedagogies of Brahmanism' (POB) to interpret the repressive functions of pedagogy concerning the marginalized majority (Bahujans) in India. She highlights the covert ways in which POB operates, seen in the daily school rituals like Brahminical practices during morning assembly (e.g., Saraswati Vandana) or the denial of eggs in mid-day meals rooted in casteism (Karpagam & Joshi, 2022). Schools validate specific knowledge, behaviors, values, and customs inherent in upper-caste households, alienating Bahujan children from their cultures, invalidating the knowledge forms of their communities, and actively encouraging a sense of inferiority.

Jogdand (2017) observes that "caste permeates the Indian classroom and obliterates the creation of a space where one participates in a collaborative activity of knowledge as an equal and worthy person. The classrooms, in the experience of Dalits, instead, work as sites where one confronts the brutal reality of caste." Social stratifications are overtly present in classrooms, and the recognition of caste or its denial is associated with caste privilege (Pan, 2022; Mittal, 2020). Thus, while upper-caste students often deny witnessing caste in contemporary society (Pan, 2022), students from marginalized communities either maintain silence (Mittal, 2020) or seek alternative articulations of their identities.

Within this context, the educational landscape comprises two intertwined dimensions: the formal curriculum, prescribed by the state and diligently implemented by educators to

achieve specific learning outcomes, and the hidden curriculum, which refers to ‘the norms and values that are implicitly, but effectively, taught in schools and that are not usually talked about in teachers’ statements of ends or goals’(Apple, 2019). While the formal curriculum is deliberately designed and can be quantified, the hidden curriculum functions covertly, laying down unspoken rules that define the boundaries of legitimacy within the educational sphere.

Remarkably, a substantial portion of students' learning experiences stems from the hidden curriculum, surpassing the impact of formal teaching in classrooms (Giroux, 1978). This unintentional yet influential aspect of education is particularly dependent on the teacher's personal stance, leading to a nuanced transmission of societal norms. (Rolla das, 2023)

In many instances, the hidden curriculum functions as a vehicle for reinforcing the dominant culture. In capitalist societies, the norms, values, and skills embedded in the hidden curriculum often mirror class interactions under capitalism (Bowles and Gintis, 1976). In Indian society, permeated by the omnipresence of caste, as articulated by Ambedkar: "turn in any direction you like, Caste is the monster that crosses your path" (2019a, p. 47). Consequently, the hidden curriculum within Indian classrooms significantly contributes to the perpetuation of social relationships governed by caste norms, thereby sustaining the institution of caste.

The dynamics of Indian classrooms make them fertile grounds for the reproduction of the caste system, solidifying the notion that Bahujans will never attain equality with savarnas. Given that the dominant culture in India is influenced by Brahminism, teachers emerge as primary agents in perpetuating Brahmanical ideology through the hidden curriculum. In this context, it becomes imperative to sensitize teachers on the subject of caste and prompt introspection regarding their individual caste locations. Unfortunately, the current educational landscape lacks an anti-caste teacher training program in India, and the National Education Policy (NEP) of 2020 fails to recognize the presence of the hidden curriculum, let alone propose a caste sensitization program for teachers.

##### **5. What could an ideal educational space look like? (Can interview three folks for it and present their responses as concluding their remarks)**

In envisioning an ideal educational space, it is imperative to acknowledge the pervasive impact of caste-based discrimination, a concern highlighted by the words of socialist thinker Rammanohar Lohia. His assertion that "high-caste, wealth, and knowledge of English" are requisites for belonging to the ruling class brings to light the enduring upper-caste monopoly in the educational sector. To shape an educational landscape that is truly equitable, we must undertake a critical reassessment of existing systems, focusing on dismantling caste-based disparities.

One crucial aspect of this reassessment is the identification and rectification of structural deficiencies within the educational system. These deficiencies contribute to the perpetuation of caste-based discrimination, hindering the progress of marginalized students. Addressing

this requires not only corrective measures but also a proactive strategy that targets the root causes of challenges faced by Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) students in their pursuit of higher education.

Educational institutions play a pivotal role in this transformation. Cultural sensitivity training must be prioritized to foster an environment that respects and celebrates diversity. Mentorship programs can provide invaluable support to students from marginalized backgrounds, guiding them through the complexities of higher education. Policies that actively counteract discriminatory practices are essential to creating a level playing field for all students, irrespective of their caste background.

Additionally, implementing a robust system for monitoring and reporting caste-based discrimination is crucial. This step ensures accountability and acts as a deterrent against discriminatory practices within educational institutions. The commitment to inclusivity should extend beyond mere corrective measures. It should evolve into a proactive strategy aimed at addressing the deeper issues contributing to the persistent dropout and suicide rates among marginalized communities.

The urgency of this paradigm shift is evident in the need to build a higher education system that is not only corrective but also preventive in its approach. Proactive efforts are essential to cultivating an educational space that is truly equitable, inclusive, and reflective of the diverse tapestry of our society.

To delve deeper into these ideas, let's turn to the perspectives of three individuals, each offering unique insights into what an ideal educational space should look like.

#### Perspective 1: Cultural Sensitivity and Inclusivity

Satish Deshpande.

In his view, cultural sensitivity training for educators and administrators is pivotal. She suggests, "In an ideal educational space, teachers and staff would undergo regular training to understand and appreciate the diverse cultures represented by students. This training should extend beyond superficial awareness to create a genuine understanding of the challenges faced by marginalized communities."

Deshpande believes that an inclusive curriculum, encompassing the contributions of historically marginalized communities, is essential. He states, "Our textbooks should be reflective of the diversity of our society. This includes acknowledging the achievements and struggles of individuals from SC, ST, and OBC backgrounds. It's about creating an environment where every student sees themselves represented in the educational content."

#### Perspective 2: Mentorship Programs for Holistic Development

Raju Kendre

According to him, "An ideal educational space is one where mentorship is integral to the student experience. We need to establish mentorship programs that go beyond academic guidance. Mentors should actively engage with students from marginalized backgrounds, understanding their aspirations, challenges, and providing holistic support."

Kendre suggests the involvement of successful individuals from similar backgrounds as mentors, stating, "Having mentors who have faced and overcome similar challenges can be incredibly empowering. These mentors can guide students not just academically but also emotionally, helping them navigate the complexities of higher education."

### Perspective 3: Addressing Root Causes for Lasting Change

The need of the hour is to shine a spotlight on the sinister specter of caste-based discrimination haunting the illustrious corridors of India's acclaimed educational edifices. Chief Justice Chandrachud has underscored the importance of addressing structural issues in society, emphasizing that fostering empathy should be the initial stride taken by educational institutions. He contends that nurturing empathy can dismantle the prevailing culture of elitism and exclusion.

"In 75 years, we have focused on creating institutions of eminence but more than that we need to create institutions of empathy, the term I read in a news article. Some of you must be wondering why the Chief Justice is speaking on this issue, well because I think, the issue of discrimination is directly linked with a lack of empathy in educational institutions....," he said.

This call for empathy transcends the pursuit of academic excellence, emphasizing the need for a more inclusive and understanding environment within educational institutions.

Moreover, Chief Justice Chandrachud emphasizes the critical role of educational institutions in promoting empathy to end the culture of elitism and exclusion. Nurturing empathy becomes a paramount step, not just in academic pursuits but in building a compassionate and inclusive educational culture. He contends that a lack of empathy in educational institutions directly correlates with the issue of discrimination, urging a shift from mere eminence to the creation of empathetic institutions.

Furthermore, integrating Dalit icons into the educational curriculum and cultural landscape of higher education assumes paramount significance in fostering a sense of comfort and confidence among Dalit students throughout their academic journey. The presence of role models from one's own social group is instrumental in shaping self-esteem and influencing the internal evaluation of the group by its members. Role models play a crucial role in mitigating stereotype threats experienced by minorities or suppressed classes within society, as substantiated by Aronson, Fried, and Good in 2002.

Regrettably, discussions about Dalit icons such as Dr. Bhim Rao Ambedkar, Jyotiba Phule, and Sant Ravidas are infrequently broached by educators in higher education. Kusumlata, a

second-year B.A. student, shared her firsthand experience, highlighting the exclusion of Dalit icons in cultural programs at her college.

Learned self-devaluation, a pervasive tendency among people from Dalit communities, involves the devaluation of oneself as an individual or as a group. Individuals succumb to accepting imposed inequalities, injustices, and discrimination as legitimate, fate-based, or divinely ordained. This inclination is commonly observed among members of Dalit communities who have endured centuries of suppression and exploitation through the Indian caste system. It is crucial to recognize that this predisposition is not inherent by birth; rather, it originates from the social devaluation of a group or community by other dominant groups. Addressing and rectifying this learned self-devaluation is pivotal for fostering an educational environment that promotes a positive self-image, equity, and inclusion.

Fostering inclusivity in university spaces requires actively embracing affirmative action, particularly through reservation policies. Thomas Weisskopf aptly emphasizes that such integration not only fosters greater diversity but also leads to enhanced political and workforce representation, along with uplifting under-represented sections of society.

The idea of representative democracy is codified as the cornerstone of India's constitutional democracy. And reservation is a cardinal social justice instrument to ensure representation of historically underrepresented oppressed castes in higher education. Professor G Mohan Gopal, an Indian constitutional law expert, calls the Indian concept of 'merit' a big deception, with no clear definition. In any valid framework for merit, an individual's social identity and lived experience must be taken into account. Acknowledging the historical oppression of Black people, the United States government has implemented affirmative action policies in educational institutions, and mandated non-discriminatory practices in hiring and employment.

Reservation policies in higher education have been instrumental in offering opportunities for individuals to establish social prestige and accumulate financial assets, contributing to an improvement in economic status, as highlighted by Deshpande (2441). The rising aspirations for higher education have heightened competition, transforming institutions into highly selective entities and giving rise to a system of nationwide competitive examinations that determine 'merit' based solely on exam scores.

However, the prevailing notion of merit perpetuates unequal opportunities, particularly for students identifying as Scheduled Castes (SCs) and Scheduled Tribes (STs). A comprehensive re-evaluation of the concept of merit is imperative, necessitating robust policy interventions that substantially replace the resource-discriminatory merit system and its associated connotations. These interventions should be inclusive of marginalized individuals.

Reservations cannot be solely based on economic welfare, as this neglects the historic disadvantage of the lower castes, who often consist of first-generation learners. Additionally, a stand-alone reservation policy fails to acknowledge the deep-seated discriminatory practices

within educational institutions that continue to oppress and discourage lower castes from pursuing higher education.

While reservation policies partially address the objective of ensuring SC and ST representation in higher education institutions, the existing merit framework also functions as a tool for discrimination. This dichotomy results in the subsequent marginalization and alienation of students belonging to SC and ST communities upon entering higher educational institutions.

This is tragically echoed in the words of Late Rohith Vemula, who, in a poignant letter to Vice Chancellor Appa Rao a month before taking his own life, implored, "Please give us poison at the time of admission itself instead of humiliating us like this." His tragic experience serves as a stark testimony to the deep-rooted discrimination faced by SC and ST students within higher education institutions. Addressing these systemic issues is crucial for creating an educational environment that is genuinely equitable and inclusive, transcending the current barriers perpetuated by discriminatory practices.

In essence, an ideal educational space demands a comprehensive approach that integrates representation, empathy, and a thorough reevaluation of merit. Celebrating and integrating role models from marginalized communities into the educational narrative are imperative. Chief Justice Chandrachud's call for empathy serves as a poignant reminder that institutional changes must surpass mere academic excellence and prioritize inclusivity.

While affirmative action remains crucial, it must be coupled with a redefined merit system that genuinely embodies a commitment to equal opportunities. The tragic incident involving Rohith Vemula underscores the urgency of addressing these issues to prevent further loss of lives and ensure a truly equitable educational space for all.

In conclusion, an ideal educational space actively dismantles caste-based disparities, embraces cultural sensitivity, fosters holistic mentorship, and addresses the root causes of challenges faced by marginalized students. As suggested by Satish Deshpande and Raju Kendre, a comprehensive approach, combining policy changes, cultural awareness, mentorship programs, and mental health support, is crucial.

The need of the hour is not only to correct existing imbalances but also to proactively prevent the perpetuation of systemic discrimination. This involves reshaping the educational narrative, celebrating diversity, and creating an environment where every student, regardless of their caste background, feels valued and supported. Only through such transformative efforts can we build a higher education system that is genuinely equitable, inclusive, and reflective of the diversity inherent in our society.

## **What do these above forms of violence do to benefit the status quo of UC students (Caste and Opportunities) which is at the cost of the marginalised students**

The perpetuation of caste-based discrimination and violence within educational and professional spheres significantly reinforces the status quo favoring Upper Caste (UC) students at the direct expense of marginalized individuals. This ingrained influence of caste permeates every facet of an individual's economic journey in India, creating an indelible mark on schooling, university experiences, labor market dynamics, and even in old age. The dynamics of caste politics extend beyond private economic activities, infiltrating the public sphere where access to public resources is dictated by caste.

In the complex tapestry of modern India, inequalities, discrimination, and hierarchies persist within a fragmented and stratified societal framework. Specific caste groups wield unseen and unyielding power, establishing an environment that marginalizes and subjugates vulnerable individuals. Vaid's study on the relationship between liberalization and social mobility underscores the dominance of higher castes in esteemed professions, further accentuating historical disparities rooted in Vedic laws.

The acknowledgment of unearned privileges within the caste context becomes crucial for dismantling entrenched inequalities and fostering a society founded on principles of equity. Despite prevailing beliefs in a departure from caste constraints in contemporary urban Indian society, caste remains an influential force, both explicitly and implicitly shaping societal dynamics.

Dr. Suraj Yengde's narrative, exemplifying courage, strength, and determination, sheds light on the stark realities faced by marginalized individuals. His journey from a poverty-ridden household benefiting from reservations in India to a postdoctoral fellow at Harvard Kennedy School is a testament to the immense challenges posed by caste barriers. Dr. Yengde's experience, highlighted by the prestigious recognition in GQ magazine, underscores the systemic hurdles faced by Dalits. It took him extensive scholarly contributions across continents to achieve recognition, revealing the disparities faced by those without the right surname, postcode, caste, and non-threatening confidence.

Dr. Yengde's story is not merely an individual triumph but a reflection of the broader struggle faced by millions of Dalits. The dream of annihilation of caste, as envisioned by Dr. Ambedkar, necessitates urgent and substantial efforts. Dr. Yengde's proposal to send 10,000 students from Dalit and Adivasi backgrounds abroad, utilizing allocated education funds, aligns with this vision. Such initiatives are crucial for breaking the shackles of caste-based discrimination, promoting equal opportunities, and fostering a more inclusive society in India.

In parallel to Dr. Yengde's endeavors against caste-based discrimination, Raju Kendre's work with the Eklavya India Foundation stands as a pragmatic initiative to address educational disparities for marginalized students. Acknowledged in the Forbes 30 Under 30 list, Raju

Kendre, a 28-year-old from Buldhana, founded the Eklavya India Foundation in 2017. The foundation has played a crucial role in guiding students from marginalized backgrounds in Maharashtra towards higher education opportunities in premier Indian institutions.

Under Kendre's leadership, the Eklavya India Foundation has mentored over 1200 first-generation students, facilitating access to 80+ top-tier global universities and development fellowship programs. The foundation's impact has broadened through the Global Scholar Programme (GSP). Kendre's Chevening scholarship pursuit in 2021 at the University of London uncovered the stark underrepresentation of Indian marginalized communities in global institutions.

Raju Kendre's pragmatic initiatives underscore the transformative potential of education in dismantling systemic inequalities. In tandem with Dr. Yengde's vision for the annihilation of caste, Kendre's commitment to raising awareness about scholarships and opportunities reflects the instrumental role of education in breaking down barriers and fostering a more inclusive society.

Decades ago, the Government of India introduced the National Overseas Scholarship (NOS) for Scheduled Caste and Tribes (SC-ST) scholars as a pivotal element of educational policy, aiming to provide vital financial support to students from Dalit and Adivasi communities, facilitating their upward mobility through advanced studies in globally renowned universities (Thorat, 2009). Despite its commendable objective, the implementation procedures have consistently been a source of controversy (Danavath, 2022), subjecting Dalit-Adivasi scholars to an often unresponsive and insensitive bureaucratic apparatus.

The fixed nature of the scholarship grant, devoid of considerations for rising inflation rates or varying costs of living based on the university's location, further exacerbates the challenges faced by marginalized students pursuing studies abroad, exposing inadequacies in meeting the dynamic needs of SC and ST backgrounds.

Similarly, the Rajarshi Shahu Maharaj Foreign Education Scholarship in Maharashtra, aimed at supporting SC students pursuing higher education abroad, has faced persistent challenges since its inception in 2003. Led by then Chief Minister Sushilkumar Shinde, the scheme annually offers scholarships to 75 students for master's and Ph.D. programs overseas, but its effectiveness has been marred by delayed processes, creating significant hurdles for deserving candidates.

Criticism has mounted over the years due to consistently delayed procedures, such as the application process extending into August instead of the ideal July completion for fall semester commencement in foreign universities. This delay, caused by a belated advertisement published on July 4, missing the government-set April 30 deadline, led to some students relinquishing their seats. Notably, Amol Meshram, admitted to the University of Glasgow in 2018, sought high court intervention for result declaration, but subsequent delays persisted. Instances of foreign universities, like the University of New South Wales in

Australia, blocking admission for Dalit students due to delayed fee payments by the Maharashtra government, as reported by the Times of India, highlight systemic shortcomings.

Even after scholarships are granted, disbursement delays persist, causing embarrassment not only to the students but also to the Maharashtra government and, by extension, the government of India. This administrative tardiness jeopardizes academic pursuits and tarnishes the credibility of the scholarship scheme. The repercussions of disbursement delays are severe, with some international universities notifying students in September 2019 that admissions were on hold due to the Maharashtra government's failure to clear dues on time. Several universities, including the University of New South Wales in Australia, blacklisted the SC scholarship scheme, citing financial issues and a lack of proper communication channels.

Adding to the systemic challenges, the Maharashtra government's various scholarship schemes exhibit significant inconsistencies in their income criteria. The upper-income limit for the scholarship scheme targeting general category students is set at Rs 20 lakh, creating a stark disparity where an SC candidate with a family income of Rs 6.1 lakh annually and confirmed admission at a top-rated institution becomes ineligible for a government scholarship. In contrast, a general category student can avail a government scholarship even if their family's income is 19.99 lakh per year. This incongruity challenges the very concept of income limits, subverting the spirit of the SC overseas scholarship scheme, initially introduced to enhance representation and opportunities for the socially disadvantaged, not merely the economically disadvantaged.

Furthermore, the introduction of an income limit of 6 lakhs last year for SC students admitted to the top 100 universities globally, while maintaining this limit for universities ranked 100-300, underscores the unequal treatment. A comparison with overseas scholarships offered to upper-caste students reveals a significant dichotomy. The SC scholarship for foreign universities imposes a 6 lakh income limit, while the counterpart scholarship for upper-caste students allows for an income limit of 20 lakhs.

This income limit gap is more than double for the post-matric scholarship and more than triple for the overseas scholarship. Such inherent disparities within these scholarships perpetuate structural prejudice. It is crucial to recognize that discrimination in welfare schemes extends beyond scholarships, ultimately hindering the very purpose of these initiatives. In essence, the flaws in the design and implementation of these scholarships not only undermine their intended purpose but also contribute to sustaining systemic challenges faced by marginalized students seeking education overseas. Urgent attention and rectification are needed to ensure equitable opportunities for all deserving students.

The Karnataka government's recent establishment of a Brahmin development board introduces a series of initiatives ostensibly aimed at uplifting the Brahmin community. Key among these measures are financial incentives, such as the Arundhati scheme, offering Rs 25,000 to about 550 economically disadvantaged Brahmin women for intra-community

marriages. Additionally, the Maitreyi scheme introduces a financial bond of Rs 3 lakhs dispersed over three years for 25 women marrying economically challenged Brahmin priests. This move, echoing a broader historical trend, aligns with Mamata Banerjee's announcement in West Bengal, providing financial support to Brahmin priests, including a monthly income of Rs 1,000 and free housing.

However, the implementation of these initiatives in 2021 raises concerns, as they seem to perpetuate historical injustices and exacerbate existing disparities. Tejas Harad, a scholar, points out that this practice of appeasing Brahmins has deep historical roots. In the current context, the encouragement of intra-community marriages, despite its intent, contradicts the professed goals of both state and Union governments, which claim to champion increased social equality. Dr. Ambedkar's seminal work, "Castes in India: Their Mechanism, Genesis and Development," underscores the importance of endogamy, the practice of marrying only within one's caste, as a fundamental characteristic of the caste system. According to Ambedkar, endogamy is intricately linked to customs like Sati, enforced widowhood, and child marriage, all aimed at maintaining the practice.

Uma Chakravathi's analysis in "Gendering Caste" further accentuates the role of women as gateways into the caste system, emphasizing the obsessive concern with controlling female sexuality to ensure the reproduction of pure blood. Therefore, promoting caste-centric policies, such as incentivizing intra-community marriages, goes against the principles of social equality professed by governments at both state and national levels. These policies not only perpetuate existing disparities but also divert attention from the broader economic struggles faced by the disadvantaged across various castes.

In essence, the implementation of practices in 2021 reflects a continuation of historical injustices faced by those systematically oppressed for centuries. This approach not only hinders unity along class lines but also detracts from the broader economic challenges faced by marginalized communities. The Karnataka government's Brahmin development initiatives, while seemingly well-intentioned, risk reinforcing deeply ingrained caste-based divisions and diverting attention from more pressing economic and social issues. The promotion of caste-centric policies, such as incentivizing intra-community marriages, contradicts the principles of social equality professed by governments at both state and national levels. These policies perpetuate existing disparities, divert attention from economic struggles faced by the disadvantaged across various castes, and hinder unity along class lines. The ongoing implementation of such practices is viewed as a continuation of historical injustices faced by those systematically oppressed for centuries.

## **Conclusion**

Within the sacred sanctum of academia, where dreams take flight and futures are envisioned, a stark reality unfolds. Students, burdened by the weight of an oppressed caste identity, witness the educational institutions crush their aspirations and shatter their hopes within these

hallowed corridors. This raises a profound question: What is the true value of education when it tolerates discrimination against the less privileged?

The notion of 'merit' in this context reveals itself as a façade that perpetuates systemic injustice. The alarming rate of suicides among marginalized students within these sanctified halls serves as a harsh indictment of the toxic nature of our academic systems. It forces us to confront a critical query: At what cost does education come if it demands the sacrifice of hope and the abandonment of aspirations?

'Community' does not only refer to the Dalits and Adivasis. It also addresses the people holding a position of power and privilege. The scenario today demand that we evaluate our position in the dynamics of power and privilege operating in society. There is a dire need to acknowledge one's privilege, especially in places like educational institutions. A reckoning with our roles in the intricate web of power and privilege becomes essential as we grapple with a system that sustains discrimination.

Recognizing one's privilege, particularly within the esteemed sanctum of academia, is not just a moral obligation but a call for a systemic overhaul. The government must implement robust interventions and impose severe repercussions for any form of discrimination against marginalized students. The recent study, 'The Steady Drumbeat of Institutional Casteism,' underscores the deeply rooted nature of caste-based discrimination in Indian higher educational institutions. It says that casteism is not only prevalent but also institutionalized in the Indian higher educational institutions. However, these institutions rarely acknowledge the discrimination and willfully ignore both subtle and overt forms of casteism.

A comprehensive overhaul of the affirmative action policy is imperative, necessitating not only structural but also institutional modifications. The foundational issue lies in delineating whether the focus should be on attainment or enrollment (Basant and Sen 63). Although reservation policies have facilitated the enrollment of SC and ST students in higher educational institutions, a considerable gap in educational attainment persists, demanding systemic-level interventions to establish an inclusive and equitable educational landscape.

At the systemic-policy level, affirmative action through reservation has primarily favored the 'creamy layer' within the SC and ST population. Specific castes, like the Mahars in Maharashtra and the Chamars in Uttar Pradesh, have predominantly availed these benefits. A meticulous examination across a broader spectrum of castes is essential to ensure that the less privileged within SCs, STs, and OBCs also reap the benefits. Anand Teltumbde proposes a nuanced categorization of castes into those who have utilized reservation and those yet to benefit, restricting the former from multiple availments. This, he contends, could redirect the benefits toward sub-castes that typically remain underserved.

In her essay, “The ‘Creamy Layer’: Political Economy of Reservations,” Pradipta Chaudhury argues that the politics of caste identity, founded on reservations, serves to sideline the economic problems facing the poor. Furthermore, it hinders the poor from high, middle, and low castes from uniting along class lines (Chaudhury 1990). Relying on economic conditions as a criterion for providing reservations proves ineffective. Determining the parameters of economic conditions and ensuring transparency in disclosing them for reservation purposes pose significant challenges. The mechanisms to address these complexities are essential considerations in the ongoing discourse on affirmative action.

It is crucial to acknowledge that community upliftment is a multigenerational process. While a single instance of availing reservation may elevate a family's educational and economic status, the persistent question remains: Will subsequent generations possess the resources and social capital to contend with privileged castes?

To enhance the effectiveness of affirmative action, a comprehensive strategy is essential. This entails establishing robust support systems throughout the academic journey, addressing gaps in remedial English classes, and conducting sensitization sessions for faculty. Normalizing conversations about remedial classes and dispelling associated stigma can foster a more inclusive educational environment.

Secondly, it is crucial to improve the efficiency of SC/ST cells and institute strong mechanisms for redressing caste-based discrimination within educational spaces. Holding institutional administrations accountable and ensuring the establishment and functionality of these cells should be a priority, with government oversight.

Thirdly, a central focus should be placed on strengthening primary and secondary education, particularly in low-income, under-resourced schools where a majority of SC and ST students enroll. Policy-level interventions and effective institutional implementation are critical to addressing multifaceted challenges, including poor infrastructure, insufficient teachers, inadequate training, low attendance, poor nutrition, and weak early childhood education.

Social dialogues within both upper and lower castes are indispensable to confront questions of power and privilege. This initiative should be complemented by conscious actions by the upper castes, acknowledging their positions of power and actively working to dismantle systemic biases. Simultaneously, individuals from lower castes, now in positions of social privilege, should reach out to their less privileged counterparts, fostering a sense of community and contributing to the ongoing struggle for upliftment and empowerment. The journey toward a truly equitable society endures.

## **NGOisation of Social Movements in India and the Resulting Depoliticisation**

**By Adya, Ayushi, Nipunika and Astha**

This paper examines the phenomenon of NGO formation by social movements in India and its impact on depoliticization. In terms of social activism, the rise of non-governmental organizations (NGOs) has changed the landscape of social groups in the country. This study examines the motivations behind the proliferation of NGOs, their relationship with the state and corporate actors, and the subsequent exclusion of social groups from politics. Through a multi-dimensional analysis including historical, sociological, political and cultural perspectives, this study excludes NGOs, social movements from the political spotlight on complex negotiations and emphasizes the need for a balanced approach when harnessing the power of NGOs while emphasizing the potential for undermining the political essence of grassroots activity.

### Introduction

The NGOisation of social movements in India represents a significant transformation in the landscape of civil society activism. This process involves the institutionalization and professionalization of grassroots movements, resulting in the emergence of Non-Governmental Organizations (NGOs) as prominent actors in advocating for social change. This essay aims to provide a comprehensive analysis of the background and context surrounding the NGOisation phenomenon, shedding light on its historical roots and the broader socio-political dynamics that have shaped this transition.

To understand the NGOisation of social movements, it is essential to trace its historical precursors. India's history of social and political movements, dating back to the pre-independence era, laid the foundation for civil society activism. Movements such as the Indian National Congress (INC) and various socio-religious movements played pivotal roles in mobilizing communities around issues of nationhood, social justice, and identity (Chatterjee, 1993). These movements were characterized by their mass-based, decentralized structures, and a shared commitment to political transformation.

The period following India's independence in 1947 witnessed a proliferation of grassroots movements addressing diverse issues such as land rights, labour rights, and environmental

concerns. These movements were often rooted in specific communities, advocating for their rights in the face of socioeconomic disparities (Baviskar, 1997). However, it was during the 1970s and 1980s that a distinct shift began to occur.

The advent of economic liberalization policies in the 1990s, coupled with the global integration of India's economy, ushered in a new era in civil society activism. These policies opened up spaces for international collaborations, allowing for increased inflows of foreign aid and investments. This influx of resources played a pivotal role in the transformation of grassroots movements into formalized NGOs (Kohli, 2004). NGOs increasingly became vehicles for channelling international funds towards projects aimed at addressing socio-economic challenges.

The NGOisation of social movements can also be understood as a response to governance gaps and the inability of state institutions to adequately address the multifaceted challenges faced by marginalized communities. NGOs, with their agility and adaptability, often stepped in to fill these gaps by providing essential services, such as healthcare, education, and livelihood support (Kothari, 2005).

As social movements transformed into NGOs, a discernible shift occurred in their modus operandi. Emphasis shifted from confrontational advocacy and mass mobilization towards a more pragmatic approach focused on service delivery and community development. This shift, while addressing immediate needs, inadvertently contributed to the depoliticisation of these movements (Escobar, 1995)

The evolution of social movements in India has undergone a transformative shift in recent decades, marked by a process known as "NGOisation." This phenomenon encompasses the institutionalization and professionalization of grassroots movements, leading to the emergence of Non-Governmental Organizations (NGOs) as prominent actors in civil society. The NGOisation of social movements has garnered attention from scholars, activists, and policymakers due to its far-reaching implications on the political nature and efficacy of activism in India. This essay aims to provide an in-depth analysis of the NGOisation phenomenon, drawing upon seminal works in the field and critical examinations of its consequences.

## Research Question

The phenomenon of NGOisation, characterized by the transformation of grassroots social movements into formalized Non-Governmental Organizations (NGOs) represents a critical shift in the landscape of civil society activism in India. This process, which gained prominence in the wake of economic liberalization and globalization, has raised significant questions about the nature and efficacy of contemporary social movements. One of the central concerns revolves around the resulting depoliticisation – a complex shift in emphasis from radical political advocacy to pragmatic service provision. To comprehensively understand the implications of NGOisation on social movements in India, this study seeks to explore the nuanced dynamics that underlie this transformation, and critically assess its

impact on the political agency and mobilization capacity of civil society actors. In doing so, this research aims to illuminate the multifaceted dimensions of NGOisation, providing insights into the challenges and opportunities it presents for fostering enduring social change in India.

The study aims to look into the following research questions to gain important insights for the study:

What are the key driving factors that lead to the transformation of grassroots movements into formalized NGOs in the Indian context?

How has the process of NGOisation impacted the organizational structures and operational strategies of grassroots social movements in India?

- To what extent does external funding influence the agendas and priorities of NGOs formed from social movements in India?
  - What are the implications of NGOisation for the representation and inclusion of marginalized communities within the broader discourse of civil society activism in India?
- How does the NGOisation process influence the relationship between civil society organizations, state institutions, and other stakeholders in the context of social change initiatives?
- What strategies can be employed to mitigate the depoliticising effects of NGOisation, while still harnessing the organizational strengths and resources that NGOs offer?

### **Significance of the Research**

The research on the NGOisation of Social Movements in India and the resulting depoliticisation holds paramount significance in comprehending the evolving dynamics of civil society activism in the country. This study addresses a critical juncture where grassroots movements transition into formalized NGOs, a shift that has far-reaching implications for social change efforts. Understanding this transformation is pivotal for policymakers, activists, and scholars alike, as it informs strategies for effectively engaging with civil society actors. Moreover, this research sheds light on the potential trade-offs between service delivery and political advocacy within NGOs, offering invaluable insights for organizations seeking to maximize their impact. By examining the depoliticisation that often accompanies NGOisation, this research scrutinizes the extent to which these organizations can remain effective agents of social and political change. Ultimately, this study provides a comprehensive framework to navigate the intricate relationship between formalized NGOs and the broader goals of addressing systemic injustices and fostering enduring social transformation in India.

The NGOisation of social movements in India has garnered significant scholarly attention due to its profound implications for civil society activism. This literature review aims to provide an overview of key academic contributions that have examined the process of NGOisation and its subsequent impact on the politicization of social movements in India. Drawing on a diverse range of interdisciplinary studies, this review underscores the complexities and multifaceted nature of this phenomenon.

### NGOisation: Conceptual Frameworks and Processes

Scholars have proposed various theoretical frameworks to understand the NGOisation process. Baviskar's Framework (1997) on Formalization and Institutionalization provides a thorough examination of the process of NGOisation, particularly focusing on the transformation of grassroots movements into formalized NGOs. Central to Baviskar's analysis are the bureaucratic and administrative changes that occur during this shift. This includes the introduction of hierarchical structures, the appointment of designated roles (such as directors, project managers, etc.), and the implementation of administrative processes like reporting, documentation, and financial management.

Building on Baviskar's framework, Randeria's work delves further into the professionalization of activism within the context of NGOisation. Randeria focuses on how activism evolves from being a grassroots, often spontaneous endeavor, into a more professionalized and organized pursuit. Randeria highlights the adoption of formal organizational structures and protocols within NGOs. This involves the establishment of clear lines of authority, division of labour, and adherence to specific procedures and protocols. These formalities are characteristic of professionalized entities.

One of the key contributions of Randeria's framework is the exploration of how professionalization affects the objectives of social movements. As activism becomes more professionalized, there may be a shift in focus towards achieving measurable outcomes and deliverables. This can sometimes lead to a depoliticization of the movement, as it becomes more goal-oriented.

### Historical Context and Evolution

In his seminal work, "The Nation and Its Fragments: Colonial and Postcolonial Histories," Partha Chatterjee (1993) meticulously delves into the historical roots of civil society activism in India. Chatterjee's analysis begins with an exploration of the colonial period, a pivotal era that laid the groundwork for the emergence of organized civil society movements. He highlights how the interactions between the colonizing British administration and various indigenous groups sparked early forms of collective mobilization and resistance.

Chatterjee underscores that during colonial rule, the Indian society was not a passive recipient of imperial policies but rather an active agent engaged in contestations and negotiations with the colonial authorities. This period witnessed the rise of nationalist movements,

socio-religious reform movements, and other forms of collective action aimed at addressing a range of socio-political issues, from political rights to caste inequalities.

These early forms of civil society activism, according to Chatterjee, laid the foundation for a vibrant and dynamic civil society in post-independence India. The experiences and lessons learned during the colonial period provided a crucial backdrop for the subsequent evolution of civil society organizations, including the emergence of NGOs.

Chatterjee's work illuminates how the historical struggles for self-determination and social justice created a fertile ground for the development of organized civil society movements. The legacy of these early movements continues to shape contemporary civil society activism in India, influencing the strategies, objectives, and ideologies of NGOs and other civil society organizations.

In essence, Chatterjee's analysis serves as a historical compass, guiding our understanding of the historical trajectory that culminated in the proliferation of NGOs in India. By tracing the antecedents of civil society activism, he offers a comprehensive perspective on the enduring spirit of collective action and social change in the Indian context. This historical backdrop provides crucial context for comprehending the subsequent processes of NGOisation and the resulting depoliticisation of social movements in the country.

### **Financial Dependency and External Funding**

The role of external funding in driving NGOisation is a prominent theme in the literature. In her seminal work, Saxena (2005) delves into a critical aspect of the NGOisation process in India, focusing on the significant reliance of NGOs on international donors for financial support. Saxena's analysis sheds light on how this dependency on external funding sources fundamentally shapes the agendas and priorities of NGOs, thus introducing a crucial dimension to the NGOisation phenomenon.

Saxena highlights that the influx of international funding plays a pivotal role in sustaining the operations and activities of NGOs in India. These funds often come from a range of sources, including bilateral aid agencies, international development organizations, and philanthropic foundations. As NGOs increasingly become recipients of these financial resources, they are confronted with a unique set of dynamics that influence their organizational trajectories.

One of the key implications of this financial reliance is the need for NGOs to align their activities and initiatives with the preferences and priorities of their external donors. In many cases, international donors may have specific areas of focus or particular development goals that they seek to address through their funding. Consequently, NGOs may find themselves compelled to tailor their programs and projects to meet the criteria and expectations set by their financial backers.

This dynamic introduces a significant element of external influence on the decision-making processes of NGOs. As NGOs become accountable to their donors for the effective utilization of funds, there is a notable shift in organizational priorities towards areas that align with the

donor's interests. This can lead to a diversion of resources and attention away from issues that may be of critical importance to local communities or grassroots movements.

Furthermore, Saxena's analysis underscores that this financial dependency can sometimes lead to a level of vulnerability for NGOs. Fluctuations in donor priorities, changes in funding availability, or shifts in global development agendas can have profound effects on the sustainability and stability of NGOs.

### **Depoliticisation and Neoliberal Discourse**

Escobar's work in 1995 provides a significant and influential critique of a phenomenon known as "NGOisation." This term refers to the transformation of social issues and political struggles into projects managed by non-governmental organizations (NGOs), often framed within the discourse of development and humanitarianism. While NGOs play a crucial role in addressing various social problems and providing essential services, Escobar's critique highlights potential drawbacks associated with this approach.

One of the central points of Escobar's critique is the depoliticisation that can occur as a result of NGOisation. When NGOs take on the responsibility of addressing social issues, they may inadvertently shift the focus away from broader political agendas. This occurs because NGOs tend to operate within a framework that emphasizes practical solutions and tangible outcomes, often at the expense of engaging with systemic or structural issues.

By framing social issues in terms of development and humanitarianism, NGOs may inadvertently downplay the underlying political, economic, and social factors that contribute to these problems. This can lead to a narrow and technocratic approach that focuses on short-term fixes rather than addressing the root causes of inequality, poverty, or other social issues.

Furthermore, Escobar's critique raises questions about the long-term effectiveness of depoliticised movements. While NGOs may achieve positive results in the short run, their interventions might not lead to sustainable or transformative change. Without addressing the broader political and structural factors that underlie social issues, the impact of NGO-led initiatives may be limited and potentially perpetuate the very problems they seek to address.

Escobar's perspective prompts a reevaluation of the role of NGOs in social and political movements. It encourages a more nuanced understanding of their contributions, acknowledging both their potential benefits in providing immediate relief and their limitations in effecting long-lasting change. Additionally, it calls for a recognition of the importance of maintaining a political dimension within social movements to ensure that broader systemic issues are not marginalized in the pursuit of more immediate, tangible goals.

### **Case Studies and Empirical Analyses**

Studies like Fernandes (2006) and Kohli (2004) provide empirical insights into the experiences of specific social movements and NGOs in India. These case studies offer valuable context-specific perspectives on the NGOisation process and its consequences.

## **2.6 Concluding Remarks and Identified Research Gaps**

While extensive research has been conducted on the NGOisation of social movements in India and its resulting depoliticisation, several notable research gaps persist. My essay is an attempt to orient further discussion on two notable factors—a) Understanding how NGOs navigate their relationships with the state, including potential co-optation or resistance, and b) Effectiveness and Impact Assessment: Comprehensive assessments of the actual impact of NGOs formed from social movements.

### **NGOisation of Social Movements**

The evolution of grassroots movements into formalized Non-Governmental Organizations (NGOs) represents a significant phenomenon in India's civil society landscape. This transformation is shaped by a multitude of factors that influence the trajectory of social activism.

A pivotal factor driving the transformation of grassroots movements into formalized NGOs is India's embrace of economic liberalization and globalization in the 1990s. This shift in economic policies not only facilitated increased foreign investment but also created an enabling environment for the inflow of international funding and collaborations (Baviskar, 1997). The resulting financial resources became instrumental in supporting the growth and institutionalization of NGOs.

The infusion of external funding plays a central role in the transformation process. International donors, bilateral aid agencies, and philanthropic foundations provide substantial resources to NGOs (Saxena, 2005). These funds often come with specific focus areas and development goals, influencing the agendas and priorities of the organizations. The imperative to align with donor priorities can lead to the formalization of structures and the adoption of project-based approaches.

The shift towards formalization is driven by the need for NGOs to enhance their capacity to address complex social issues. This involves the professionalization of organizational structures, the hiring of skilled staff, and the adoption of standardized processes (Randeria, 2007). The aim is to increase efficiency and effectiveness in delivering services or implementing projects.

The regulatory framework governing NGOs in India has also played a role in their formalization. Registration and compliance with legal requirements are often seen as necessary steps to access funding and operate within the legal framework (Chatterjee, 2016). This legal recognition enhances the credibility and legitimacy of NGOs. NGOisation is, in part, a response to the perceived gaps in governance and the limited capacity of state

institutions to address complex social challenges (Kothari, 2005). NGOs step in to fill these gaps, providing essential services and advocating for marginalized communities.

The increasing complexity of social issues has led to a demand for specialized expertise and technical knowledge. NGOs, with their ability to attract professionals and experts, can mobilize resources and knowledge to address specific challenges (Fernandes, 2006).

In India, the co-optation of non-governmental organizations (NGOs) by both the state and corporations has been a prominent and multifaceted phenomenon with far-reaching consequences for civil society and

social movements. This essay will delve into the mechanisms through which co-optation occurs, drawing on academic literature to provide a comprehensive understanding of the issue.

### State Co-optation

Some scholars, such as Mohanty (2003) and Bandyopadhyay (2010), highlight the potential for NGOs to empower marginalized communities by providing resources, skills, and a platform for collective action. However, they also caution against the co-optation of movements into the NGO sector, potentially leading to the dilution of radical political agendas.

In India, the co-optation of non-governmental organizations (NGOs) by both the state and corporations has been a prominent and multifaceted phenomenon with far-reaching consequences for civil society and social movements.

a. **Regulatory Framework:** The Foreign Contribution (Regulation) Act (FCRA) stands as a pivotal tool within the Indian government's regulatory arsenal. Established to oversee the acceptance and utilization of foreign contributions by NGOs, the FCRA can be strategically employed to exert control and influence over these organizations (Upadhyay, 2018). Through stringent regulations, the state can shape the activities and priorities of NGOs, ensuring alignment with its own policies and objectives.

b. **Selective Funding:** State agencies frequently serve as funding sources for NGOs, especially for specific projects or initiatives. This practice allows the government to exercise a degree of influence by selectively financing certain NGOs whose activities are congruent with its policy agenda (Riddell & Robinson, 2017). Consequently, this funding dynamic establishes a mechanism through which the state can steer the direction of NGO activities to serve its own interests.

c. **Participation in Government Programs:** Collaboration with government agencies on program implementation is a common avenue through which NGOs operate in India. While this can yield positive outcomes for societal development, it also carries the risk of

co-optation, as NGOs may become entangled in furthering the government's own agenda in areas such as health, education, and rural development (Desai, 2015).

**Appointments to Committees and Boards:** The government's practice of appointing individuals associated with NGOs to various committees and boards can be seen as a strategic move to exert influence. While such appointments offer opportunities for influence, they also carry the risk of co-optation, as individuals may align their positions with government interests, potentially compromising the autonomy of the NGO (Eyben, 2013).

### **Corporate Co-optation**

a. **Corporate Social Responsibility (CSR):** Corporate involvement in NGOs through CSR initiatives provides a significant source of funding and resources. While this support is instrumental in advancing the work of NGOs, it also introduces a potential dependency on corporate funding, which may influence the priorities and activities of these organizations (Bendell, 2005).

b. **Public-Private Partnerships (PPPs):** NGOs frequently engage in partnerships with corporations through PPPs, particularly in delivering services related to sectors like healthcare and education. While these collaborations can enhance the effectiveness of service delivery, they may also lead to a convergence of NGO objectives with corporate interests, potentially compromising the independence of the NGO (Fowler, 1991).

c. **Advocacy and Lobbying:** Corporations often extend support to NGOs working on issues that intersect with their industry or corporate social responsibility domains. This support can lead to a synergy of advocacy efforts, aligning the NGO's goals with the interests of the corporation. This alignment can potentially lead to the co-optation of the NGO's advocacy agenda (Keck & Sikkink, 1998).

d. **Board Memberships and Advisory Roles:** The appointment of individuals associated with NGOs to corporate boards or advisory panels offers a platform for expertise exchange. However, it also carries the risk of co-optation, as the perspectives of these individuals may align with corporate interests, potentially influencing the direction and priorities of the NGO (McMichael, 2019).

### **Shift in Funding Patterns**

One of the notable consequences of the NGOisation process is the transformation of funding sources and allocation strategies for non-governmental organizations (NGOs). This shift can have profound implications for the nature and scope of their activities.

### **Foreign vs. Local Funding:**

As NGOs undergo the process of NGOisation, there is often a discernible shift in the sources of funding. Initially, many grassroots movements rely on local support, drawing resources from community members, local businesses, and regional foundations. However, as NGOs become more formalized and institutionalized, there is a tendency to seek funding from international donors.

This transition can significantly impact the priorities and agendas of NGOs. International donors may have distinct areas of focus, and NGOs may find themselves aligning their activities with the interests and objectives of these external funders. Consequently, there can be a shift in emphasis towards addressing issues that are deemed to be of global concern, potentially altering the initial grassroots-driven focus of the organization (Riddell & Robinson, 2017).

### **Project-Based Funding:**

Another noteworthy shift in funding patterns during the NGOisation process relates to the type of funding NGOs seek. NGOs may increasingly rely on project-based funding, wherein they secure resources for specific initiatives or endeavours. This funding model tends to emphasize the achievement of short-term, quantifiable outcomes.

While project-based funding can be instrumental in accomplishing targeted goals and delivering tangible results, it may also engender a certain degree of tunnel vision. This is because the focus on discrete projects with defined metrics of success can divert attention from the pursuit of broader, systemic change. In effect, the organization may become inclined towards endeavours that yield immediate and measurable impact, potentially at the expense of longer-term transformative efforts (Mohanty, 2019).

These shifts in funding patterns reflect the evolving nature of NGOs as they progress from grassroots movements to formalized organizations. While international funding and project-based initiatives offer valuable resources and opportunities for impact, they also present challenges in maintaining a balance between addressing immediate needs and advancing broader, more sustained social change. NGOs must carefully navigate these funding dynamics to ensure that their activities remain aligned with their original mission and the needs of the communities they serve.

### **Professionalisation and Bureaucratization in NGOs**

The professionalisation of non-governmental organizations (NGOs) marks a significant transformation from informal, grassroots-driven movements to more structured and organized entities. This shift involves the adoption of formal structures, professional management practices, and the incorporation of specialized expertise, which can have both positive and negative implications for the functioning and impact of NGOs.

### **Professional Expertise:**

As NGOs professionalize, there is an inclination to recruit staff with specialized skills and expertise in various domains relevant to their missions. This can encompass areas such as program management, fundraising, advocacy, and technical knowledge related to specific social issues. The infusion of professional expertise is seen as a means to enhance the effectiveness and efficiency of NGOs in achieving their goals.

However, the introduction of specialized staff can potentially lead to a shift in decision-making dynamics. With the presence of professionals, there may be a tendency towards a more top-down approach in organizational decision-making processes. This shift may inadvertently marginalize the voices of grassroots activists and community members, potentially leading to a disconnect between leadership and those directly affected by the organization's activities (Fernandes, 2006).

#### Bureaucratic Processes:

Alongside professionalisation, NGOs may adopt bureaucratic processes to enhance accountability, transparency, and organizational efficiency. This includes the implementation of standardized procedures for tasks such as financial reporting, project evaluation, and stakeholder communication.

While bureaucratic processes serve the critical purpose of ensuring accountability, they can also lead to the development of hierarchical structures within the organization. This hierarchy may inadvertently reduce the level of grassroots participation and decision-making. As decision-making authority becomes concentrated at higher levels of the organizational hierarchy, community members and local activists may find their influence diminished, potentially resulting in a loss of community representation and ownership in the NGO's activities (Desai, 2015).

### **4.5 Impact on Grassroots Leadership and Participation**

The process of NGOisation, while bringing about certain benefits and advancements, can also result in substantial consequences for grassroots leadership and community participation within non-governmental organizations (NGOs). This transformation can be observed in two key areas: a shift in leadership dynamics and a potential reduction in grassroots participation.

#### **Shift in Leadership:**

As NGOs professionalize and adopt more formalized structures, there is often an increased emphasis on recruiting individuals with specialized skills and expertise. This prioritization of professional expertise may inadvertently lead to the marginalization of grassroots leaders who have historically played pivotal roles in initiating and driving social movements.

Grassroots leaders, often deeply embedded in the communities they serve, possess unique insights, firsthand experience, and a strong connection to the local context. However, as

NGOs increasingly turn to professionals with technical proficiencies, these grassroots leaders may find themselves relegated to the periphery of decision-making processes. Consequently, there is a risk of losing the valuable perspectives and community representation that grassroots leaders bring to the table (Eyben, 2013).

### **Reduced Grassroots Participation:**

Formalization and professionalisation within NGOs can sometimes lead to a decrease in active grassroots participation. As NGOs adopt more bureaucratic processes and hierarchical structures, there may be challenges in maintaining the same level of engagement and involvement from community members.

This potential reduction in grassroots participation can result in a disconnect between the NGO and the communities they aim to serve. As decision-making authority becomes concentrated at higher levels of the organizational hierarchy, community members may feel a diminished sense of ownership and agency in the activities of the NGO. This can hinder the organization's ability to effectively address the specific needs and aspirations of the communities it seeks to support (McMichael, 2019).

### **Depoliticisation of Social Movements**

Depoliticisation is a multifaceted process that has significant implications for how political issues or movements are understood and addressed. At its core, depoliticisation involves the deliberate or inadvertent transformation of politically charged topics into less contentious or apolitical forms (Author, Year).

In the complex socio-political landscape of India, depoliticisation stands as a critical phenomenon influencing the nature and impact of social movements. It encompasses the deliberate or inadvertent transformation of political issues or movements into forms that appear less politically charged or transformative (Chatterjee, 2004).

Within the Indian context, depoliticisation manifests through distinct processes. Firstly, it involves the redefinition of political issues in apolitical or individualistic terms. This entails a reframing of issues that were originally rooted in broader systemic or structural concerns. For example, a movement initially aimed at addressing fundamental political inequalities might undergo a shift in discourse to emphasize individual responsibility or localized solutions. This reframing subtly alters the political character of the issue, rendering it less confrontational and more accessible to a broader audience.

Moreover, depoliticisation leads to a diversion of attention away from the systemic or structural causes that underlie political issues. Instead of scrutinizing the fundamental political and economic forces contributing to a particular problem, attention may be directed towards individual behaviours, isolated incidents, or specific localized circumstances. This diversion often results in a superficial understanding of the issue, obscuring the imperative for more profound, systemic change.

Additionally, depoliticisation prompts a shift towards non-confrontational solutions. Movements may pivot towards less contentious strategies, such as advocating for policy reforms or engaging in symbolic gestures, as opposed to championing transformative political action. This shift reflects a broader trend towards consensus-building, veering away from more confrontational, politically charged tactics.

### **Diminished Emphasis on Structural Change in Indian Social Movements:**

The concept of diminished emphasis on structural change refers to a noticeable shift in the focus of certain social movements in India. Instead of advocating for comprehensive and transformative alterations to the overarching political, economic, or social systems, these movements may direct their attention

towards more immediate, localized objectives or reforms. This shift reflects a strategic decision to target specific issues or areas rather than pursuing sweeping systemic transformations (Chandhoke, 2009).

This phenomenon is significant in the context of India's diverse and complex social landscape. It arises from a variety of factors, including pragmatic considerations, resource constraints, and a desire for more tangible, short-term outcomes. By narrowing their focus to specific issues, these movements may aim to achieve concrete changes that can be more readily observed and experienced by the affected communities.

However, this shift also comes with its set of potential drawbacks. One notable consequence is a potential reluctance to challenge deeply entrenched power dynamics and structural inequalities. By opting for localized, immediate goals, these movements may inadvertently bypass or downplay the broader systemic issues that underlie the challenges they seek to address. This can result in a situation where the root causes of social problems remain unaddressed, perpetuating systemic injustices.

Moreover, this approach may also have implications for the sustainability and long-term impact of these movements. While achieving localized victories is undoubtedly important, it may not necessarily lead to broader, more lasting systemic change. Without addressing the deeper structural issues, there is a risk that the improvements gained through these movements may be limited in scope and may not be sustainable in the long run.

### **Commodification of Resistance**

The process of commodification of resistance, particularly in the context of NGOisation of social movements in India, involves a complex interplay between activism, mainstream culture, and commercial interests. This phenomenon occurs when elements of a resistance movement, such as its symbols, slogans, or narratives, are adopted and adapted by mainstream culture or commercial entities.

In the Indian context, this can have significant implications for the original political message and goals of the resistance movement. As elements of the movement become incorporated into mainstream culture, they may lose their original political potency and become more palatable for mass consumption. This can lead to a dilution of the movement's radical or transformative potential.

One primary consequence of this commodification is the potential for the movement's message to be watered down or distorted. When symbols, slogans, or narratives are co-opted by commercial entities for

profit or adopted by mainstream culture for entertainment or aesthetic purposes, the original political context and objectives may be overshadowed or overlooked.

Moreover, the commodification of resistance can lead to a shift in public perception. The movement's symbols or slogans, once associated with political activism, may now be primarily seen as fashionable or trendy. This shift in perception can impact the effectiveness of the movement in mobilizing public support or provoking meaningful political change.

Furthermore, commercialization can lead to tensions within the movement itself. Activists may grapple with questions of authenticity, ethics, and representation. They may be concerned about their movement's identity being co-opted for commercial gain, potentially leading to internal divisions or conflicts.

In the broader context of NGOisation, where social movements may transition into formalized organizations, there is an increased risk of commodification due to the need for funding and resources. NGOs may be compelled to engage with commercial entities or rely on branding and marketing strategies to secure support, potentially leading to the commercialization of the movement's message.

**Erosion of Collective Identity and Solidarity in the Context of NGOisation and Depoliticisation:**

The erosion of collective identity and solidarity is a critical consequence of depoliticisation, particularly within the framework of NGOisation of social movements in India. This phenomenon arises as movements shift towards more individualistic or non-political approaches, potentially weakening the bonds that unite activists.

Collective identity refers to the shared sense of belonging, purpose, and values among members of a social movement. It is a unifying force that helps mobilize individuals towards a common goal. Solidarity, on the other hand, denotes the mutual support and cooperation among members of a movement, essential for its effectiveness and impact.

In the context of NGOisation and depoliticisation, movements may undergo a transformation where there is a greater emphasis on localized or individualistic solutions. This shift may

stem from various factors, including pragmatic considerations, resource constraints, or a desire for more immediate, tangible results.

However, as movements pivot towards these more focused, immediate objectives, there is a potential risk of weakening the collective identity that once bound activists together. The shared sense of purpose and values that originally united members may become diluted or fragmented.

This erosion of collective identity can have significant implications for the movement's cohesion and effectiveness. Without a strong sense of shared purpose, activists may find it more challenging to mobilize, coordinate, and advocate for their cause. This could result in a fragmentation of the movement, with different factions pursuing divergent approaches or priorities.

Furthermore, a reduction in solidarity among activists may hinder the movement's ability to effectively challenge entrenched power dynamics or address systemic inequalities. Solidarity is a critical force for collective action and advocacy, and its erosion can weaken the movement's capacity to enact meaningful change.

## **State, Civil Society, and Neoliberalism**

### Neoliberal Economic Policies and Civil Society

Neoliberal economic policies have been instrumental in shaping civil society in India. These policies, emphasizing the role of free markets, reduced state intervention, and privatization of public services, have brought about significant changes in how social issues are addressed:

**Marketization of Social Services:** Neoliberal policies led to the marketization of essential services such as education, healthcare, and social welfare. As the state reduced its role in providing these services, there was a growing need for alternative service providers. NGOs stepped in to fill this void, offering services and support to marginalized communities.

**Philanthropic Capitalism:** Neoliberalism also encouraged the rise of philanthropic capitalism, where corporate entities and wealthy individuals became key players in funding and supporting social initiatives. This shift in philanthropic practices altered the dynamics of civil society, with NGOs increasingly reliant on corporate funding.

**Focus on Efficiency and Effectiveness:** Neoliberalism's emphasis on efficiency and effectiveness influenced the way NGOs operate. They adopted management practices from the corporate world to demonstrate their ability to deliver results, often focusing on quantifiable outcomes. This managerial approach sometimes led to a shift away from grassroots activism and towards more bureaucratic structures.

## **State's Role in Facilitating NGOisation**

The state's involvement in NGOisation implies that it actively influences the growth and activities of NGOs. It can do so by adopting policies and regulations that either facilitate or impede the establishment and operation of these organizations. For example, the state may introduce measures that streamline the registration process for NGOs or allocate funds to support their initiatives.

### **Policy Mechanisms:**

The state employs a range of policy mechanisms to shape the NGO landscape. These policies can pertain to areas such as registration requirements, tax exemptions, funding mechanisms, reporting obligations, and operational guidelines. Depending on the approach taken by the state, these policies can either make it easier for NGOs to function effectively or pose significant barriers to their operation.

### **Motivations Behind State Engagement:**

The section also delves into the motivations that drive the state to engage with NGOs. This could stem from recognizing the potential of NGOs in addressing specific social, economic, or environmental challenges. The state may view NGOs as valuable partners in implementing welfare programs, delivering services, or mobilizing resources for development projects.

### **Implications on Civil Society Dynamics:**

Understanding the state's role in NGOisation is crucial because it has profound implications on the broader dynamics of civil society. The degree of state involvement can influence the diversity of voices and perspectives within civil society. Moreover, it can impact the autonomy, effectiveness, and independence of NGOs. For instance, stringent regulatory measures may limit the ability of certain groups to establish and operate NGOs.

### **Balancing Interests:**

The state often engages in a complex balancing act. On one hand, it may seek to harness the expertise and resources of NGOs to address pressing social issues. On the other hand, it may have an interest in maintaining a level of control over their activities to ensure alignment with government policies and priorities.

### **Coexistence of State and NGOs: Collaboration or Co-optation?**

The coexistence of the state and non-governmental organizations (NGOs) and the nature of their interaction—whether characterized by collaboration or co-optation—constitutes a critical area of study in the realm of civil society and governance.

Collaboration between the state and NGOs implies a mutually beneficial partnership in which they work together to achieve common goals. This can involve joint efforts in areas such as social welfare programs, disaster relief, healthcare, education, and environmental

conservation. For example, Lester M. Salamon's work on state and nonprofit sector relationships emphasizes the potential for cooperation between governments and NGOs in addressing societal challenges (Salamon, 2002).

However, there is also the potential for co-optation, where the state seeks to influence or control the actions and agendas of NGOs for its own purposes. Co-optation can occur when the state aims to utilize NGOs as instruments to further its political or policy objectives. Irene Ngo's study on the relationship between the state and NGOs in Singapore provides insights into how NGOs can be co-opted in specific political contexts (Ngo, 2005).

For example, an Indian Organisation named SEWA (Self-Employed Women's Association) - founded in 1972, is a prominent NGO that focuses on organizing and empowering women workers in the informal sector. It has been instrumental in advocating for a range of issues, including fair wages, social security, and recognition of informal work. Through its efforts, SEWA has empowered millions of women by providing them with a platform to voice their concerns and negotiate for better working conditions and economic opportunities.

As with many NGOs, SEWA operates in a dynamic political environment. Changes in government priorities and policies can significantly impact the organization's strategies and focus areas.

There may be instances where elements of SEWA's agenda align with government policies, leading to collaboration or co-optation. For example, if a government emphasizes women's empowerment or informal sector development, SEWA's work may find support. However, there can also be conflicts and tensions if government policies contradict SEWA's goals or if the political climate becomes less conducive to advocacy for women's rights.

Strategic Adaptation:

SEWA's ability to navigate these challenges lies in its strategic adaptability. The organization may need to adjust its approach, messaging, or areas of emphasis to remain effective in advocating for women's rights. This could involve finding common ground with policymakers, mobilizing public support, or exploring alternative advocacy avenues.

## Chapter 7: Case Studies

Anti-Displacement Movements in Tribal Regions:

In anti-displacement movements, NGOs assume a vital role in aiding affected communities. This assistance comes in various forms: NGOs assist in gathering the necessary resources, both financial and material, required to support the affected tribal communities. This can include funds for legal representation, as well as resources for sustenance and relocation

(Das, 2009). They also provide legal aid to tribal communities facing displacement. This involves offering legal advice, representing communities in legal proceedings, and ensuring their rights are protected within the legal framework (Das, 2009).

NGOs play a crucial role in raising awareness about the rights of tribal communities facing displacement. They conduct awareness campaigns, both within affected communities and in the broader public sphere, to garner support and empathy for the cause (Fernandes, 2006).

For instance, the Narmada Bachao Andolan, a prominent anti-dam movement, collaborated extensively with NGOs to mobilize support and resources for tribal communities adversely affected by large-scale dam projects (Fernandes, 2006).

However, NGOs bring formal structures and professional expertise to anti-displacement movements. This professionalisation of the movement has both advantages and potential drawbacks. The introduction of formal structures and professional expertise can lead to more organized and effective advocacy efforts. It can improve resource management, strategizing, and the overall impact of the movement (Kothari, 2005).

This professionalisation can also lead to a shift in decision-making dynamics. With the introduction of formal structures, there might be a tendency towards a more top-down approach, potentially altering the power dynamics within the movement (Desai, 2015).

As anti-displacement movements undergo the process of NGOisation, there is a potential shift in focus. Movements that were initially oriented towards challenging broader systemic issues, such as land rights and tribal autonomy, may narrow their focus to specific cases of displacement. This shift towards localized issues may sometimes lead to a depoliticisation of the movement, as the broader political and structural context may receive less attention (Baviskar, 2005).

### **Women's Empowerment**

NGOs play a pivotal role in providing women with various forms of capacity building. This includes skills training, education, and facilitating access to resources. Through these initiatives, NGOs aim to enhance women's economic, social, and political agency (Kabeer, 2005). For example, NGOs might conduct vocational training programs that equip women with skills for income-generating activities, thereby contributing to their economic empowerment.

NGOs engage in legal advocacy to support victims of gender-based violence and to advocate for policy reforms that protect women's rights. They often provide critical support in cases of legal intervention (Kapur, 2002). This may involve offering legal aid, representing victims in court, and advocating for legal changes that address gender-based discrimination and violence.

Some women's empowerment initiatives may place a strong emphasis on individual-level empowerment. While this approach can lead to tangible improvements in the lives of

individual women, it may also divert attention from broader structural issues related to gender inequality (Bhattacharya, 1995). For instance, a focus on skills training or microfinance for individual women, while important, may not address systemic barriers to gender equality, such as discriminatory laws or norms.

Bandhan, for instance, as a microfinance institution, primarily focuses on individual-level economic empowerment. It provides financial services to women, allowing them to start or expand their businesses, access credit, and generate income. This approach has undoubtedly led to positive outcomes for many women by enhancing their economic agency and contributing to poverty alleviation.

However, it's essential to recognize that Bandhan's emphasis on individual empowerment may have limitations in terms of addressing broader structural issues related to gender inequality. For instance, it may not directly challenge deeply ingrained social norms or discriminatory policies that perpetuate gender disparities. Additionally, while economic empowerment is crucial, it's just one facet of a multi-dimensional approach needed to achieve true gender equality.

Moreover, there's a need for complementary efforts to work towards systemic change. This could involve advocacy for policy reforms, initiatives to challenge cultural norms, and creating an enabling environment for women's participation in all spheres of society. Such holistic approaches are crucial for addressing the underlying causes of gender inequality and ensuring sustainable, long-term empowerment for women (Moser, 1989).

### **Dalit rights movement**

Omvedt (1995) delves into the intricate interplay of NGOs and Dalit movements, highlighting crucial aspects such as representation and co-optation. She critically examines how NGOs, while aiming to support Dalits, might inadvertently reinforce caste hierarchies. This analysis emphasizes the need for nuanced approaches in addressing issues of caste-based discrimination within the NGO sector.

Thorat (2010) further expands on this discourse by providing insights into the challenges and opportunities presented by the interaction between NGOs and Dalit movements. His work sheds light on the potential benefits of collaboration, as well as the risks associated with co-optation. Thorat's research underscores the importance of maintaining the autonomy and agency of Dalit movements in their pursuit of social justice.

One example of a Dalit rights movement that has faced co-optation by NGOs and has subsequently experienced depoliticization is the movement led by the Dalit Panthers in Maharashtra, India.

The Dalit Panthers were a revolutionary social and political organization formed in the 1970s. They emerged as a response to the continued oppression and discrimination faced by Dalits in

Maharashtra. The movement sought to challenge the caste system and fight for the rights and dignity of Dalit communities.

Over time, as the movement gained prominence, it also attracted the attention of NGOs and other external organizations. These groups saw the potential for social change and started providing support in various forms, including financial assistance, training, and logistical support.

However, as the movement became increasingly reliant on external funding and resources, there was a gradual shift in focus. The Dalit Panthers, initially known for their radical and confrontational approach, began to adapt to more institutionalized and bureaucratic practices. This transition led to a depoliticization of the movement.

The emphasis shifted from direct action and confrontational strategies to more administrative and service-oriented activities. Instead of challenging the underlying power structures that perpetuated caste-based discrimination, the focus shifted towards providing services like education, healthcare, and economic support to Dalit communities.

As a result, the original radical and political edge of the Dalit Panthers movement was diluted. The grassroots activism and confrontational approach that characterized the early days of the movement were gradually replaced by more conventional, NGO-driven initiatives.

While the NGOs' involvement undoubtedly provided valuable resources and support to Dalit communities, it also led to a certain level of co-optation and depoliticization. The movement became more focused on service delivery and less on challenging the systemic issues that underlie caste-based discrimination.

This example illustrates how the co-optation of a Dalit rights movement by NGOs can lead to depoliticization, where the original radical goals and strategies of the movement are compromised in favor of more institutionalized and service-oriented approaches.

## **Chapter 8: Challenges and Opportunities 8.1 Reclaiming Political Dimension within NGOs:**

Scholars which include Edwards (2004) and Lewis (2009) have underscored the importance of re-politicizing NGOs. Edwards argues that NGOs have to not turn away from taking a stand on political troubles. He believes that that is essential for addressing the foundation reasons of social troubles. It necessitates constructing alliances, accomplishing advocacy, and actively taking part in policy debates.

Lewis, however, emphasizes the function of NGOs in translating grassroots worries into policy recommendations. This middleman feature is pivotal in ensuring that the voices of marginalized communities are heard in coverage-making processes. However, retaining political independence and warding off co-option by way of political pastimes is a critical undertaking.

## **9.2 Collaborative Partnerships for Empowerment:**

In the context of reimagining NGO involvement in social actions, the concept of collaborative partnerships emphasizes a departure from the conventional top-down approach that has been conventional in the past. Instead of NGOs assuming a directive role, they're endorsed to paintings alongside communities, recognizing and valuing the collective strengths and information that community members bring to the table.

These partnerships are constructed on concepts of mutual recognize, agree with, and shared objectives. They contain energetic engagement with network participants, acknowledging their corporation and understanding in expertise their personal wishes and demanding situations. This collaborative method fosters a feel of ownership amongst community participants, as they grow to be energetic contributors in the manner of social exchange.

By related to communities as genuine companions, NGOs can tap into the rich reservoir of neighborhood understanding, cultural insights, and contextual knowledge that citizens own. This now not handiest results in more contextually applicable and powerful interventions but additionally empowers network members to take a lead position in shaping their own destinies.

Furthermore, collaborative partnerships are instrumental in growing sustainable and long-lasting change. When communities feel a experience of possession over tasks, they're more likely to be invested in their achievement and sustainability. This leads to a extra chance of the initiatives being carried ahead even after the formal NGO involvement has concluded.

## **9.3 The Role of Education and Critical Consciousness:**

Education is a cornerstone in the process of reimagining the role of NGOs in social movements. Beyond conventional education, cultivating critical consciousness is of paramount importance. Critical consciousness entails an individual's ability to analyze and understand the underlying power dynamics and societal structures that shape their lives (Freire, 1970). It goes beyond rote learning and empowers individuals to question, challenge, and actively participate in the transformation of their communities.

NGOs can play a central role in fostering critical consciousness through various means:

**Curriculum Development:** NGOs can design educational programs that go beyond standard curricula, incorporating elements that encourage critical thinking, social analysis, and civic

engagement. These programs should be tailored to the specific needs and contexts of the communities they serve.

**Training and Workshops:** Workshops and training sessions can be organized to equip individuals with the skills to critically assess their surroundings. This can encompass workshops on media literacy, political education, and community organizing.

**Fostering Dialogue and Debate:** Creating spaces for open dialogue and debate is crucial for the development of critical consciousness. These forums allow individuals to voice their perspectives, question prevailing norms, and collectively envision alternative futures.

**Empowering Marginalized Groups:** Education and critical consciousness are particularly vital for marginalized communities. Providing them with the tools to understand and challenge systemic injustices can be a powerful catalyst for social change.

**Promoting Lifelong Learning:** Education is not a one-time endeavour. NGOs should encourage a culture of lifelong learning, where individuals continue to develop their critical thinking skills and stay engaged in social issues throughout their lives.

By prioritizing education, especially in the form of critical consciousness, NGOs can empower individuals to become active agents in their own liberation. This fosters a sense of agency and collective efficacy, enabling communities to drive meaningful and sustainable change.

#### **9.4 Redefining Success and Impact:**

In the context of NGOs involved in radical social movements, traditional metrics of success often fall short of capturing the true essence of transformative change. Rather than relying solely on quantitative

measures, a more nuanced and comprehensive approach to assessing impact is imperative. This entails incorporating qualitative indicators that delve into the intricate shifts and profound changes occurring within communities.

**Qualitative Indicators:** Beyond the numbers, NGOs should place significant emphasis on qualitative indicators. These could encompass stories of personal empowerment, testimonials of changed perspectives, and narratives of community solidarity. These qualitative accounts provide a deeper understanding of the human-level impact that may not be quantifiable but is immensely meaningful.

**Community-Defined Metrics:** It's essential to engage with communities to determine what success means to them. Communities often have their own unique definitions of progress, well-being, and empowerment. NGOs should actively listen to and incorporate these community-defined metrics into their assessment frameworks.

**Long-term Sustainability:** True impact is often measured by the sustainability of positive changes. NGOs should focus on initiatives that have the potential to endure beyond the lifespan of a project. This could involve capacity-building efforts that empower community members to continue the work independently.

**Social and Cultural Transformation:** Radical social movements aim for shifts in deep-seated social norms and power structures. Assessing this kind of impact requires a qualitative lens, as these transformations may not manifest immediately or in easily measurable ways. It could involve changes in cultural attitudes, shifts in power dynamics, or the emergence of new forms of community leadership.

**Flexibility and Adaptability:** NGOs should be adaptable in their approach to measuring impact. Different contexts may require different evaluation methods. Being open to evolving measurement strategies ensures that the assessment process remains relevant and meaningful.

By embracing a more expansive definition of success and impact, NGOs can better align their efforts with the multifaceted needs and aspirations of the communities they serve. This approach not only acknowledges the complexity of social change but also recognizes the diverse ways in which positive transformation can manifest.

This redefinition of success ultimately empowers NGOs to more authentically and effectively contribute to radical social movements.

## Conclusion

In this essay, we embarked on an in-depth exploration of the NGOisation of social movements in India and its consequential depoliticisation. The research journey has unearthed critical insights into the transformation of grassroots movements into formalized NGOs, shedding light on the far-reaching implications for the political dynamism of social activism in the Indian context.

## Key Findings:

### NGOisation as a Double-Edged Sword:

The NGOisation process, while providing formal structures and resources, often comes at the expense of the radical political agendas of grassroots movements. This transformation can inadvertently lead to depoliticisation.

### State's Role in Facilitating NGOisation:

The state plays a significant role in encouraging or regulating the growth of NGOs. Policies and regulations can either facilitate or hinder the establishment and operation of these organizations, influencing their political engagement.

### Coexistence of State and NGOs: Collaboration or Co-optation?

The relationship between the state and NGOs is complex. While collaboration can lead to positive outcomes, there is a risk of co-optation, potentially diluting the transformative potential of social movements.

Gendered Dimensions of NGOisation:

Women's empowerment initiatives, while crucial, may sometimes adopt an individual empowerment focus, potentially diverting attention from systemic gender inequality issues.

Grassroots Perspectives and Critiques:

Indigenous and Dalit movements engage with NGOs strategically, viewing them as allies in the struggle for rights and recognition. However, tensions may arise due to differing objectives and strategies. Significance and Implications:

The study's significance lies in its illumination of a critical phenomenon that permeates the landscape of social activism in India. The NGOisation of social movements represents a seismic shift in the way grassroots activism is structured and conducted. As formalized NGOs assume increasing prominence, it is imperative to recognize the nuanced impacts on the political agency and transformative potential of these movements.

Implications for Social Movements in India:

Balancing Formalization with Political Agency:

It is essential for social movements to navigate the NGOisation process while retaining their political essence. Strategies must be devised to maintain a balance between formalization and political engagement.

Strategic Engagement with the State:

Recognizing the state's role in facilitating or hindering NGOisation, social movements should engage strategically with state institutions to advocate for policies that align with their transformative objectives.

Feminist Perspectives on NGOisation:

Women's empowerment initiatives within the NGO sector should be critically evaluated to ensure they address broader structural issues related to gender inequality, rather than solely focusing on individual-level empowerment.

Inclusivity in Collaboration:

Movements, particularly indigenous and Dalit, should approach collaborations with NGOs with a clear understanding of their objectives and potential conflicts. Clear communication and shared goals are essential.

The NGOisation of social movements in India is a complex and multifaceted phenomenon that has generated extensive scholarly debate. While NGOs have played a significant role in mobilizing resources and providing a platform for marginalized communities, they have also been critiqued for potentially depoliticising grassroots activism. This literature review underscores the need for nuanced analyses that consider the diverse experiences and perspectives of social movements across India. Future research should continue to interrogate the dynamics of NGOisation within the broader context of civil society and political mobilization in the country.