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Intersectionality in India: an analysis and legal framework in reference to marginalized groups in India

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ABSTRACT :

India's marginalized businesses are complex discriminatory networks rooted in overlapping identities, transcending Dalits, tribal groups, women and religious minorities.

This article examines the relevance of intersectionality as an analytical tool for understanding those overlapping oppressions inside the Indian context. It seriously evaluates the countrywide legal framework, which includes provisions consisting of planned containers and deliberate tribes (preventing brutality) and gender-particular laws, and determines their suitability in addressing multidimensional inequality through a combination of theoretical analysis and empirical evidence this paper highlights the want for criminal reforms to recognize the interactions between caste gender and monetary deprivation and advocate a roadmap for integrated justice.

KEYWORDS – Intersectionality, Marginalized groups, Discrimination, legal framework

Introduction

India is a country that has been praised for its diversity, and its social class and systematic inequality have long determined the experience of people. For marginalized groups, the Dalits dealing with exclusion in the box, Women facing patriarchal norms where Adivasis is displaced, or religious minorities facing discrimination against local government tensions are not unique phenomena. Instead, it is the convergence of several identities, such as caste, gender, class, religion, and ethnicity, that intensifies alienation. This complex interaction of oppression corresponds to the concept of intersectionality, a framework that illustrates a overlapping system of drawbacks for designing personal and collective reality. Although India's legal framework, fixed in the constitution and strengthened by laws such as planned boxes and planned trunks (prevention of atrocities), attempts to tackle inequality, his approach is often fragmented and does not take into account these intersecting vulnerabilities entirely.

This article addresses the connection between the emergencies of marginalized communities in India and the intersecting critical analysis of existing legal mechanisms and understanding its effectiveness in preserving justice. By examining theoretical foundations and practical effects, this aims to uncover the gap between politics and practice and to assert a more holistic and integrative approach in one of the world's most complex societies.

INTERSECTIONALITY MEANING

Intersectionality is a sociological framework that helps to analyze how the combination of various social and political identities—such as gender, caste, sex, race, ethnicity, class, sexuality, religion, disability, height, physical appearance, age, and weight— shapes unique experiences of discrimination and privilege. These overlapping identities can both empower and oppress individuals, influencing their experiences in distinct ways.

The interconnected nature of social categorization such as race, class, and gender, regarded as creating overlapping and interdependent system of discrimination or disadvantage” intersectionality is the acknowledgement that everyone has their own unique experience of discrimination and oppression (1)

HISTORICAL ORIGIN

The term was coined in an article in 1989 by [Kimbarre Crenshaw](#), a well-known American civil rights lawyer and academically critical racial theory. The work was rooted in black feminism and critical racial theories to address the alienation of black women in anti-division law, feminist theory, and anti-racist politics. (2)Clenshaw highlighted legal cases where black women are between racism or sexism and are unable to address the combined effects that underscore the need for a cross-sectional approach (3) Clenshaw further developed the concept in a 1991 article, [Mapping margins](#): intersectionality, identity policy, violence against women of color, and how social movement organizations and support for violence against women often overlooked the weaknesses of women with community of color and society. This expansion demonstrated the advantages of intersectionality in a broader context for social justice.

Understanding Intersectionality in the Indian Context

Core Dimensions

1. Caste

The foundation of social hierarchy reveals through a troubling reality. A Dalit individual classified as a Scheduled Caste is not merely positioned lower on a societal ladder they frequently face complete exclusion from essential resources such as education and land. According to the 2021 data from the National Crime Records Bureau (NCRB), there were 50,900 reported crimes against Scheduled Castes, highlighting the persistent impact of caste discrimination.(4)

2. Gender

Patriarchy affects all demographics yet its manifestations vary an upper-caste woman may advocate for her independence within a prosperous family where as a tribal woman struggles for survival in the face of displacement and violence.

3- Religion

Muslims, Sikhs and Christians experience different levels of exclusion. A Muslim craftsman residing in an area prone to riots endures both economic vulnerability and communal distrust, with these identities intensifying one another.

4- Class

Economic status can either mitigate or exacerbate other forms of marginalization. For instance, a wealthy Dalit entrepreneur may evade certain caste-related prejudices, whereas a financially struggling Brahmin widow continues to retain caste advantages, even in the face of poverty.

5- Region

Adivasis in Chhattisgarh and tribal communities in the Northeast experience cultural erasure and land loss, which sets their challenges apart from those faced by urban slum residents.

How its plays out

Consider a Dalit woman working as a farm laborer in Punjab in contrast to a middle- class Hindu man residing in Delhi. The woman faces challenges related to caste-based untouchability, gender wage disparities (with women earning 20-30% less than men), and the hardships of rural poverty. In contrast, the man may deal with the pressures of urban life but occupies a position of privilege within the majority of power structures. Their experiences are not merely different; they are profoundly influenced by the intersection of their identities with the broader systems in India.

Current Perspective

An obvious illustration of intersection authority is the numerous deficient that exist in contemporary India. During the 2020 farmer protest, Sikh farmers who were mostly from economical disadvantage, background came together across gender boundaries to confront issues of regional and class marginalised by connecting cast issue to the global struggle for racial justice, the social media #Dalitslifematter emphasis the significance of role identities on a global scale. Moreover, initiative such as transgender protection act 2019 strives for inclusivity, but they unusually fall short when cast or class budget, keep peoples from utilising their advantage.

In India, nationality essentially shows the operation cannot be used as a simple story. Instead, it manifest as a complex web that is intricate interconnected and specific to each person affected instead of just addressing individuals issues at a surface level, it is imperative to investigate this intersectional in depth in order to truly comprehend this phenomenon.

Instances of intersecting forms of oppression Black women in the workplace

Black women in the workforce frequently encounter a distinct type of discrimination that arises from the intersection of race, cast , gender and background resulting in compounded challenges that are not adequately addressed when examining racism or sexism in isolation . This intersectional oppression is evident in various form,"For instance, including but not limited to wage inequalities restricted opportunities for advancement and widespread stereotypes A notable illustration of this issue is the wage gap. Black women earn considerably less than their white male peers.

Indigenous women and violence

Indigenous woman in India referred to as Adivasi woman, endure various forms of violence that arises from the complex, interplay of general, cast and class and ethnicity. This intersectional exposes them to distinct types of discrimination and miss treatment both within their own communities and from outside influences one particularly serves from this violence is the practice of witch hunt women, particularly those, who own land or defy partriarchal convention are frequently, accused of witchcraft, resulting in social exclusion, physical harm and even homicide. Such accusation are often utilized as instrumental, undermine woman empowerment and to seize their property rights

The Adivasi women who resist the vagaries of mining and industrial developments in their ancestral lands are particularly and grievously persecuted. Physical assaults, arbitrary arrests and sexual violence are common methods of silencing them. This mutt cover is significantly accentuated in mineral-rich states, where Indigenous peoples are violently displaced to accommodate resource extraction. In conclusion, The high jockeying towards fighting against violence against Adivasi women needs an intersectional approach that realises that these women are subject to multi-dimensional discrimination howling at them. Legal systems should get accustomed to these subtleties, and empowerment programs should aim to amplify their voices and protect their rights.

Muslim women wearing hijab

Muslim woman in India, who opt to wear the Hija face a challenging landscape of overlapping identities, resulting in various forms of discrimination, their experience or influenced by their interplay of gender region and social economic factors, which together intensify their marginalised, the hijab serve as a prominent symbol of Islamic identity often exposing the muslim woman to increase scrutiny and prejudice in the workplace (5), those who were hijabs commonly expressed discrimination during the hiring process as their appearance is often used as inconsistent with corporate standards. This bias not only restricts their job prospects but also reinforces economic inequality.

Disable LGBTQ Individuals

The Indian legal system frequently treats disability rights and LGBTQ plus rights as distinct issues, failing to incorporate provisions that acknowledge their intersection. This gap result in LGBTQ plus individuals with disability being at risk of experiencing heightened discrimination with insufficient legal protection available to them the lack of clear safeguards can create obstacles in obtaining education and employment, ultimately resulting in financial difficulties.(6)

Socially these individuals frequently face marginalisation from both the LGBTQ plus and disability communities. Mainstream eligibility Q organizations may not educate and address the specific need of their disabled member while disability advocacy groups, often neglect matters concerning various sexual orientation and gender identities. This dual marginalisation can lead to feelings of isolation and a deficiency in supportive networks, economically workplace. Discrimination poses a major challenges, employs may hold biased against hiring divisions who identify as both disabled entity use viewing the team as a less competent and fear potential description in workplace dynamics.

Such prejudice restrict their job prospects and hinder their financial autonomy.

INTERSECTIONALITY IN THE INDIAN JUDICIAL SYSTEM

Judge Dy Chandrachud in [Patan Jam Vari's](#) case of A.P.'s condition gives an view of intersectionality. He says that pain is subjective, but can be properly assessed after careful analysis of all the factors in play.H. A variety of oppressive values that come together to weave networks of sub conditions due to low privilege. An organized system of social relations relies on a system of values, freedom, and fraternity. Justice acts as a synthesizer between conflicting values (7) .However, punishment does not increase our obligations and does not cover the basis of moral justice. For this reason, the law can be unfairly explained. Moral justice is the idea of equality based on strong principles and immortality. They form the foundation of society. D.D. Raphael sees two forms of justice, in two forms, for protecting the status quo and following the commands of the established nature of society, and for following other reformed justice, a system that requires revision of the social order. Blindly mimicking rules and regulations written in a particular context without conscious examination is not consistent with judicial bias and is a step after the wrong way. There have been many instances in which Indian courts undoubtedly ignore the concept of intersectionality, and in accordance with the exact language of Article 15(1) of the Indian Constitution, discrimination and classification is prohibited only on the basis of religion, breed, caste, caste, gender and place of birth.

In the case of [Mahadeb](#) against Dr. BB Sen, we found that discrimination itself does not exist if there are some add-ons along with sex to make the law discriminatory. In any case, "some people did this because they didn't seem to look outside the written text.(8) The groundbreaking case of all adults, including decriminalization, by [Navtej Singh Johar](#), the mutual gender among all adults, including gays, was also used by the concept of intersectionality to understand the overall protection against discrimination guaranteed in accordance with the constitution. Judge Dy Chandrachud observed that the formalistic interpretation of Article 15 was not in harmony with the reasons for the article, primarily. He stated the article's meticulous view that takes into account the cross-characteristic nature of gender discrimination that is not isolated by other identities.(9)

A [study](#) by the International Dalit Solidarity Network asked about 500 Dalit women across India who endure violence, showing a bleak reality. 62.4% meet one or more episodes with verbal abuse. 54.8% were physically attacked, 46.8% experienced sexual harassment, and 43% were targeted for rape. With many of these cases hidden before the fear of additional bias from police or an effective judicial response, the full extent of this crisis remains shifted to uncertainty and accurate measurements.(10)

Marginalized groups in Indian

1. Dalits women

Dalit women in India are exposed to different and reinforced forms of discrimination due to their cross-identities at the intersection of caste and gender. They often take away the lowest social and economic status and look like both excluded women and Dalit men (11).As members of the Dalit community, they endure systemic caste-based oppression, social exclusion and economic alienation. At the same time, they are exposed to gender-specific violence, patriarchal norms, and limited access to education and employment as women. This double discrimination leads to increased sensitivity to sexual violence, labor supply and political awakening. Legal frameworks often fail in implementation due to social bias that provides protection, strengthens alienation and limits access to justice and equality.

2. Adivasi (Ingenious) communities: Ethnic and Gender disparities

Women in Adivasi are exposed to increased discrimination due to their ethnic identity and gender. They often live in remote areas where access to resources and services is limited. Issues such as land alienation, migration due to development projects, and cultural erosion disproportionately affect them. Aditonally, Adivasi and Dalit women are subjected to disproportionately high sexual violence due to caste and gender-specific discrimination, systemic oppression and lack of legal enforcement. Research shows that they are one of the most endangered groups that are often targeted by the dominant box.

Structural inequality, socioeconomic marginalization, and inactivity of the state further tighten the risk. No cases have been reported in many cases due to fear, stigma and institutional bias. (12)

3. LGBTQ+ individuals: Multiple layer of discrimination

LGBTQ+ individuals often navigate complex discrimination layers. This is due to the interface between sexual orientation or gender identity and other aspects of identity, such as race, ethnicity, disability, and socioeconomic status.

4. Persons with Disabilities

People with disabilities in India face considerable challenges, including limited access and social stigma. When disability overlaps with other marginalized identities such as gender or caste, these people often encounter an increase in discrimination, limiting access to education, employment, and social participation.

Legal Recognition of Marginalized Groups in India Constitutional Framework

Caste-based discrimination has deep historical roots in India. The Constitution provides robust protection against it through Articles 15, 17 and 46. Article 15 prohibits discrimination on reasons of religion, race, caste, gender, or birthplace, and ensures that the state empowers the state and implements positive policies of action for the progress of scheduled caste (SCS), scheduled tribes (STSTRUMS), etc.

This was confirmed in the case of [Indra Thorney](#) (13) against the Indian Union, and the Supreme Court recognized caste as a determinant of social and pedagogical retrospectiveness and therefore confirmed the reservations of other backward classes (OBCs) of public employment offenses against Scheduled Castes (SCs) and Scheduled Tribes (STs), imposing harsher penalties on those who commit atrocities, hate crimes, and engage in systemic oppression. It criminalizes a range of abusive behaviors, such as physical violence, sexual assault, social ostracism, and economic exploitation.

Furthermore, the Act establishes special courts to facilitate expedited trials and includes provisions for the protection and rehabilitation of victims. Enhancing the enforcement of this Act is crucial for achieving justice and dismantling deeply ingrained caste-based oppression.

In addition to enhancing these safeguards, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 specifically targets offenses committed against Scheduled Castes and Scheduled Tribes, with the objective of preventing atrocities and hate crimes.

LGBTQ+ Rights and Legal Recognition

India has made great strides in recognition and protection of the rights of LGBTQ+ personnel through a variety of legal and judicial developments.

On September 6, 2018, the Supreme Court of India delivered a historic ruling that decriminalized consensual same-sex relationships by abolishing Section 377 of the Indian Penal Code. This law, a remnant from the colonial period, had criminalized "carnal intercourse against the order of nature," thereby prohibiting homosexual acts. The Court's ruling marked a significant advancement for equality, recognizing sexual orientation as a natural aspect of human sexuality and underscoring the rights to privacy and dignity for individuals within the LGBTQ+ community.

Anti-Discrimination Protections

Despite some advancements in judicial rulings, there is a notable absence of comprehensive anti-discrimination laws that specifically safeguard LGBTQ+ individuals. The current legal framework fails to adequately tackle discrimination related to sexual orientation and gender identity in critical sectors, including employment, housing, and public accommodations.

Challenges in Adopting an Intersectional Framework within Indian Legal System Analysis of Article 15

The application of intersectional framework in Indian law, specially in relation to article 15 of the Constitution encounter obstacles, [article 15 \(1\)](#) explicitly form the state of discrimination against any citizen on ground, only of religion, race, cast place of birth or any of them. Traditionally, the judiciary has understood the term only to imply that claims of discrimination must steam from a singular basis. This interpretation frequently disregard cases were various factors intercept, thus acknowledge the complex, discrimination, experience and individual with multiple muscle teeth. In instance, discrimination arises from the interplay of caste and gender. The existing legal framework may fall short in addressing the complex reality of such intersectional discrimination, the focus on individual groups does not fully reflect the experience of individual who endure multiple intersection forms of oppression

To adequately take international discrimination. It is essential to re-examine article 15(1) to acknowledge and include various forms of discrimination. This would require transcending a strict formal interpretation of the provisions and embracing a more substantive approach to equality that acknowledge the intricate dynamics of social hierarchies and diverse aspect of discrimination(14)

Integrating and intersectional viewpoint into Indian law necessitates both legislative and judicial efforts to expand the definition of discrimination to encompass various interconnected factors. This strategy would provide more extensive protection of rights and foster to equality for all citizen, organizing the complex and multifaceted identities that individual experience with society

Lack of recognition for intersectional recognition

The integration of an intersectional perspective into Indian law encounters considerable obstacles, chiefly stemming from the absence of clear acknowledgment of intersectional discrimination. Article 15(1) of the Indian Constitution forbids the State from discriminating "on grounds only of religion, race, caste, sex, place of birth or any of them." Traditionally, this provision has been interpreted in a limited manner, focusing on discrimination based on singular categories in isolation. Such a viewpoint neglects the complex and unique forms of discrimination faced by individuals who embody multiple marginalized identities.

The expression on ground only of has been a significant aspect in judicial interpretation frequently resulting in the dismissal of claim where discrimination stems from multiple factors, for example, the lead movement may experience discrimination that is influence not just by caste or gender in individually, but by the interaction of both the existing legal of failure to recognise the intersectional creates a deficiency in safeguard against complex forms of discrimination

There has been notable changes in judicial view point overtime in the case of Navtej Singh Johar versus union of India 2018 Justice Chandrachud recognise that a frequently interact across various identities highlighting that limited interpretation of article 15(1) phase 2 account for the complex nature of compound discrimination. This acknowledgement represent shift away from conventional single axis framework and emphasise the necessity for a broader and more inclusive interpretation of discrimination within the constitution. Notwithstanding this recognition, the lack of comprehensive anti-discrimination laws that specifically intercept discrimination remains a major obstacle. The existing fails to offer sufficient means for addressing complaints that stem from the convergence of various marginalised identities (15). This gap highlights the urgent need for legislative reform that adopt an intersectional perspective, thereby ensuring that the law effectively saved individuals who experience multiple layer of discrimination

Lack of Extensive Anti-Discrimination Laws

The lack of comprehensive antidiscrimination law presents a considerable cycle in tracking intersectional discrimination where individual face, multiple layers, operation stemming from various identity factors including gender, religion, disability and sexual orientation. Although article 15 of the Indian constitution provide discrimination of certain ground. Its conventional interpretation has frequently been restricted to individual categories neglecting the intricate nature of intersectional. This limitation leads to this disjointed legal framework, which existing laws addressing specific types of discrimination in isolation

For example, the schedule cast schedule tribe, prevention of atrocities act is aimed to cast space discrimination while the protection of the woman and domestic violence offering advocate protection to individual whose encountering discrimination at the intersection of multiple identities, such as delete woman who may experience compounded by traditional to both cast and gender

The lack of comprehensive, an additional law result in individual facing intersectional discrimination frequently being deprived of adequate legal recourse they may find themselves needing to submit several complaints under various laws, which can create procedural challenges and yield, inconsistent results. The judiciary, traditional method of handling discrimination claims that focus on individual grounds, add to the challenges of acknowledging and addressing intersectional grievance

To address this issue, there has been a proposal for the introduction of an equality act in India. This legislation would seek to establish comprehensive of that clearly acknowledged and tackles, intersectional. Discrimination mandates positive equality, responsibility for the state and broadens antidiscrimination requirements to include the private sector. In this way, it would enhance protection and remedies for the individual experience with this forms of discrimination (16)

Recommendations and Way Forward

The necessity for clear acknowledgment of intersectional discrimination within legal frameworks.

India court have taken a narrow interpretation of article article 15 of the Constitution focusing on discrimination based on individual groups. This perspective has constant the judiciary is capacity to offer solution for intercept discrimination. For example, in instance, considering the Dalit woman, the combined effects of cast and gender operation have not been sufficient recognised emerging recognition of intersection. Recent case rulings suggest a growing recognition of intersectionality in the case of [M.Sameeha Barvin v. The joint secretary](#), the Madras high court acknowledges the multiple layers of discrimination experienced by a female athletes with disabilities, highlighting the necessity of constitutional acknowledgement of intersectional discrimination.(17) The Supreme Court decision in [National legal Service Authority v. Union of India](#) recognised the distinct challenges encountered by transgender individual representing significant advancement in the comprehension of intersectional discrimination(18)

Requirement for Legislative Change

Notwithstanding these developments, the absence of legal measures, targeting intersection issue proponents causes for those antidiscrimination laws that explicitly intersectional establish positive equality responsibility for the state and broader antidiscrimination requirements to include the private sector. These reforms are crucial to guarantee the individual experience, multiple forms of discrimination of sufficient protection and redress

Recommendations for policies aimed at promoting social justice

Enact comprehensive anti-discrimination legislation: formulating and enforce an equality act that clearly identifies and prohibits intersectional discrimination, this legislation would take various and overlapping functions of discrimination, offering strong legal liberties for those impacted

Establish an equal opportunity commission: create a specialized entity responsible for monitoring, investigating and resolving issues related to intersectional discrimination. This commission would promote accountability and foster equitable practice across different sectors.

Implement diversity and inclusion program: require organization to establish diversity and inclusion policies that take intersectional into account. This would involve regular training sessions. Aim to raise employee awareness about the complexity of multiple identities and their influence on discrimination.

Promote inclusive education: update education curricular to include discussion on intersectional, encouraging awareness and understanding from a young age for more ensured. The education institute are accessible and supportive of those students from various backgrounds and abilities.

Enhance data collection practices: gather and analyse disaggregated data that reflects the experience of individual encountering international discrimination. This information is essential for informed policy making and for evaluating the effectiveness of implementing strategy.

Support grassroot movement : allocate funding and resources to community organization that assist marginalized groups empowering these organisation ensure that policies are informed by the real experience of those most affected

Conclusion

Indian legal framework has made progressive tackling discrimination. However, it frequently fails to acknowledge and address the compound and effects of intersectional operation experienced by marginalized communities. The convention method of addressing description through distinct categories such as gender cast or religion does not educate reflects the intricate realities of individual who navigate multiple marginalized identities this not only sustain systematic inequalities, but also abstract the formulation of inclusive policy that addresses the varied experience of all citizen to advance towards a more equitable society, it is essential for legal and policy framework to incorporate an intersectional perspective. This entails recognition and addressing how different forms of discrimination intersects and exacerbated one another resulting in unique challenges for those affected

By embracing this approach, India can enhance its legal system response to the complicity of discrimination, ultimately, fostering substantive equality and justice for all its citizen

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