ECONOMIC & POLITICAL WEEKLY

Mental Health and Migrant Workers

The mental health system's response to the COVID-19 pandemic is marked by the avoidance of the sociopolitical circumstances, and a rights-based language is essential to account for the trauma suffered by daily-wage migrant workers.

Sex Workers during the Lockdown

The stigma attached to the profession has intensified the vulnerabilities of sex workers during the pandemic, and their immediate distress has to be addressed from a human rights perspective, as well as by rethinking of social norms and practices.

The State of Front-line Workers

Essential workers are the backbone of the healthcare delivery system, but their condition is debilitating due to social hierarchies, lack of equipment, and institutional neglect.

Dignity and Judicial Reasoning

The absence of a rigorous constitutional doctrine of dignity could devalue the concept due to the lack of clarity over its constitutional status and practical scope.

Intellectuals, Truth and Truthfulness

The report concerning Jeffrey E Epstein's connections to Harvard University opens a window into the internal working of eminent knowledge institutions, the integrity of intellectuals, and the place of Truth in public life.

<div style="transform: rotate(-90deg)">ECONOMIC & POLITICAL WEEKLY</div>

National Education Policy 2020

The Right to Education (RTE) Forum has welcomed the reiteration of increasing public investment in education to 6% of the gross domestic product in the recently approved National Education Policy (NEP). The RTE Forum has also acknowledged the recommendation on the universalisation of school education for three to 18 years. However, the organisation has expressed its apprehension on how universalisation will be achieved, as the policy is silent on the extension of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act).

The draft NEP 2019, submitted by the Kasturirangan Committee to the human resource development minister and subsequently released to the public for suggestions, had promised downward and upward extension of the RTE Act to include pre-primary and secondary education within the ambit of the act. All sections of the civil society welcomed this as it would have been a big step towards the universalisation of school education. But with disappointment, it is noted that the final draft fails to make pre-primary and secondary education a legal right.

The final policy talks about the universalisation of school education from three to 18 years, without making it a legal right. Hence, there is no mandatory mechanism for the union and state governments to make it a reality. Without the RTE Act, universalisation will be very difficult. There are significant numbers of dropouts after elementary levels, especially among girls. The RTE Act is the highest stage reached in the evolution of education policy in India and it confers a legal right, while a policy document does not confer such rights.

The RTE Forum, meanwhile, has appreciated the creation of the Gender Inclusion Fund to promote and strengthen girl's participation and completion of school education. Another laudable aspect of the policy is that it rightly states that there will be emphasis on conceptual understanding rather than on rote learning; creativity and critical thinking will be encouraged.

The policy mentions that vocational training of students will begin from Class 6. This can have an adverse impact as it will push children into the labour market, and their education will be discontinued.

There is a lot of emphasis on digital education, which the RTE Forum fears will promote further segregation of children. India currently does not have adequate infrastructure to support this, and more than 70% children from marginalised backgrounds could be excluded, as evident from the COVID-19 pandemic, wherein many children are missing online classes due to the digital divide in the country.

The policy, in the name of philanthropic schools and public–private partnership mode, is laying the road map for the entry of private players in education, which will further commercialise education, and the existing inequalities will be exacerbated.

The RTE Forum has observed that this policy is silent on the Common School System (CSS), which was first recommended by the Kothari Commission (1964–66) and reaffirmed in the National Education Policies in 1968 and 1986, as amended in 1992. The RTE Forum believes that the only way to remove discrimination in the school education system is to introduce a CSS in the country, which will ensure uniform quality of education to all the children and that the NEP 2020 needs a robust road map for affirmative action.

Right to Education Forum
NEW DELHI

A Social Stock Exchange

The necessity of a social stock exchange (SSE) has long been felt as we have roughly 2 million social enterprises, and the thrust for financial mainstreaming was expressed in the Union Budget 2019–20. The capital market regulator, Securities and Exchange Board of India (SEBI), was entrusted to constitute a working group in September 2019 that was responsible for suggesting the possible structures and financing mechanisms within the ambit of securities markets in order to facilitate capital access by social enterprises and voluntary organisations as well as sketching an associated regulatory framework, inter

alia, covering the issues relating to eligibility norms for participation, disclosures, listing, trading, oversight, etc.

Following several consultations with voluntary organisations, social enterprises, and philanthropic bodies, the working group perhaps understood the modalities for blending of conventional capital and social capital, and the significance of "value plurality" and "economic and moral performativity" in the enterprise performance. In other words, the rationale for an independent SSE hinges on the mainstreaming of philanthropic or development, strategic or private risk capital to those social enterprises that have evinced interest and demonstrated their sustainable business performance.

While India has several conduits through which the social sector accesses funding, their varying degrees of modalities, effectiveness, and implementation dynamics have been observed. To overcome this, a unified broad-base exchange platform with a standard reporting and measurement system has been felt important.

Now, it is important to discuss some key outcomes of the report of the working group relating to the role of SSE in structuring and mainstreaming or advancing the frontiers of social finance.

First, the report mentions the financing mechanisms and modalities for effectively deploying the fundraising instruments, their structures and regulatory guidelines for social enterprises. Unlike the matchmaking or directory connecting platform between social enterprises and potential investors created by SSEs in Canada and the United Kingdom, the working group reasoned out that there is a distinction in the functioning of for-profit enterprises (FPEs) and not-for-profit organisations (NPOs), and their difference is manifested in balance sheet and income statements.

Second, the funding instrument is therefore proposed to be different for FPEs and NPOs. For example, FPEs can meet their financing need through equity and social venture funds (SVFs), while for NPOs, instruments are like zero coupon bonds, SVFs, mutual funds, various pay-for-success structures like social impact bond, other securities and units. For Section 8 Companies, equity and debt could be a major fundraising option.

Third, the report stresses the importance of fostering the social sector development by creating a capacity-building unit (with a provision of ₹100 crore funds), which would be responsible to set up a self-regulatory organisation (SRO) for bringing the existing information repositories (IRs) in the immediate term, which can extend the necessary support to the SSE. SRO would be accountable to implement the minimum reporting standards for social enterprises that access capital from SSE. Social impact scorecard relating to reach depth, inclusion, strategic intent and goal setting criteria are proposed to be an integral part of such minimum reporting standard for the immediate term. Also, capacity building fund can be set up to enhance reporting capabilities of NPOs, apart from awareness creation and driving adoption of this fund among NPOs, philanthropists, and donor agencies.

Fourth, it is apparent that the SSE would contribute to championing social enterprises as the exchange can catalyse financial intermediation for the social sector. However, the unification process of social impact assessment framework for adoption and listing modalities of the social enterprises (other than Section 8 Companies) on the SSE could raise some concerns in academic and policy circles. The working group here emphasised on SEBI's capabilities and bandwidth to work out an appropriate regulatory framework for allowing the NPOs, say trusts/societies, to raise funds through zero coupon bonds, which can attract the investors who want to anchor and invest in socially responsible ventures.

Fifth, the working group envisaged that the setting up of the SSE can also be a policy response to COVID-19. A COVID-19 fund has been proposed to activate solutions like pay-for-success bond with philanthropic foundations, corporate social responsibility (CSR) spenders, impact investors, and so on. In addition, structured pooled loans with domestic banks and non-banking financial companies as senior lenders and philanthropic foundations, CSR contribution, and impact investors as junior lenders are also made an option. However, in the absence of appropriate regulatory architecture and convergence of social, financial, and environment dimensions of sustainability, such a solution could be a distant reality.

Sixth, it is implicit that the SSE can advance the frontiers of social finance for innovation and entrepreneurship. While Brazil, South Africa, Canada, United Kingdom, and Singapore have operational SSEs for near about a decade, the proposed model for India bears novelty because the exchange can provide a comprehensive solution to FPEs and NPOs, and it can go beyond pure matchmaking or discovery to institutionalise a common standard for reporting, locate avenues for direct listing and mainstream fundraising for NPOs, new funding instruments and mechanisms for harnessing the potential of social enterprises for inclusive growth and development.

Nevertheless, execution is key to succeed the SSE in India as the self-regulatory organisation needs to be encouraged to strike a chord between the exchange, potential investors, and social enterprises. Without handholding or intensive orientation of native enterprises, the success of a social stock bourse would be far-reaching.

Sectoral orientation with a motive for impact investing is necessary for the foundation of the SSE. Due diligence is important for channelising funds to the listed social enterprises as the magnitude of risk capital being pumped by the pool of investors would depend on the trade-offs between speculative gains and impact investment for sectoral growth and sustainability.

In other words, the investor risk appetite for profiteering may drive the magnitude of alternative investment funds or SVFs in social enterprises. The regulator should keep a vigil on the performance or utilisation of such funds in the future course.

Kushankur Dey
LUCKNOW

EPW Engage

The following articles have been published in the past week in the *EPW* Engage section (www.epw.in/engage).

(1) No Love Lost between Hate Speech and Indian Laws —*Neha Gupta and Kavya Gupta*

(2) Justice, Care and Feminist Spaces —*V Geetha*

(3) How Does the National Education Policy Accelerate the Privatisation of Higher Education? —*Lakshmi Priya*

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'One Nation, One Market'

Market integration will remain a pipedream without structural changes in agricultural markets.

In early June, the cabinet had approved two agricultural ordinances—namely, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 and the Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020—potentially to enable barrier-free inter- and intra-state trade in agricultural produces outside the physical premises of the (deemed) markets notified under the agricultural produce marketing legislations and to empower the farmers to engage with the buyers of their choice. Both these ordinances should be welcome steps with their perceived scope of ensuring seamless flow of farm produce across the country without regulatory restrictions and excessive intermediation, intuitively vital for raising price realisation by the farmers on the one hand, and enabling the supply of food to the consumer at competitive prices on the other, among several things. While the actual effects of these ordinances can only be comprehended during/after this year's kharif harvest in September, there is already much scepticism about the usefulness of these ordinances on various grounds.

According to existing empirical evidences, a maximum of two-fifths of the agricultural marketable surplus in India passes through the regulated marketing yards/*mandi*. The remaining three-fifths or more finds its way outside the regulated premises and is no less fraught with the marketing bottlenecks that make price realisation by the farmers, especially the smallholders, at least as challenging as on the mandi premises. For instance, the minimum support price (MSP) frequently ends up being the ceiling price, instead of the benchmark/floor price, so much so that private traders/aggregators refrain purchasing from the farmers while the government procurement is on. However, the MSP procurement window being narrow, farmers eventually end up selling to the private buyers at much lower prices. Or, take the example of the surreptitious method of bidding for the "best price" between the commission agents and buyers on the Agricultural Produce Market Committee (APMC) yards, by "touching hands under a handkerchief," whereby the price of the same commodity changes with every buyer. Not to forget, here is also the case of the market charges and commission rates charged to the farmers/sellers on these premises, which conveniently overshoot the officially mandated rates, thereby making the marketing costs prohibitive for them.

Given such instances, various questions can be raised on these ordinances, particularly that on the Farmers' Produce Trade and Commerce (Promotion and Facilitation). First, while all APMC acts have exemptions for farmers to sell their produce anywhere, and some even allow turnover-based exemptions to buyers (/traders), it is not clear why this ordinance is being promoted as a reform that will give farmers the freedom to sell their produce anywhere in the country. Second, if the purpose of the ordinance is to expand the market outreach of the farmers, why is it using the APMC-notified produce to define "scheduled" farmer produce, given that such notification is likely to have limited relevance only to the APMC yards? Moreover, with such notifications being at the state APMC level, one is perplexed about their justification, especially when the objective of the central government in taking the ordinance route is presumably based on the past experiences of low or no cooperation from the states for agricultural market reforms?

In this context, it may not be too off the mark to conjecture that "one nation, one market" could be mere sloganeering, in tandem with this government's politics of "homogenisation." That market integration and hence improved competitiveness can benefit farmers, whether small or big, could be intuitively appealing. But practically it is rendered a paper lion, when the regulations for implementing the process leave much to be desired in their design itself.

Say, for example, the direct purchase clause under the Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Services is not only poorly drafted but also lacks sensitivity towards smallholders. We find that this is considered almost as a default method of procurement for the "contracting parties" like large retailers or supermarkets, and not a selling option for the farmers. The ordinance itself is rather uncaring about the farmers' interest, in general, so much so that it does not make a written contract—with prior price commitments—mandatory, despite it being desirable. Simultaneously, a serious lacuna lies in the contract farming clause that links the contract price with the APMC mandi price or electronic market price. Ideally, in the contract farming case, the price should be negotiated by the contracting

parties. Further, if the objective of the ordinance is to provide alternative channels to farmers and create competition in APMC markets to make price discovery efficient there, then this aspect of a poorly drafted contract foils the very purpose of this law.

Over the past decade or so, Indian agriculture has diversified from cereal-centrism towards relatively perishable, high-value agricultural products, largely driven by the urban demand pull. Consequently, supply is now more dispersed over time and space, which in turn has increased the chances of both returns and risks. For 80% of the Indian farmers, who are smallholders, the prospects of returns dwindle if risks cannot be adequately hedged. By using the APMC as a yardstick for price discovery, these ordinances are undermining these smallholders' concerns. It is high time that the policy discourse brainstorms on creating better logistics and infrastructure, enhanced access to modern capital, and efficient price risk hedging mechanisms in agriculture, if this sector must emerge as the country's green shoots in the post-pandemic era.

Political Crisis in Rajasthan

Judicial intervention into the deadlock of defection has only caused further confusion and instability.

In the midst of a raging pandemic, Rajasthan finds itself in a political crisis that has once again shown how little political leaders care for constitutional norms and niceties. The Ashok Gehlot-led Congress government has been destabilised by a group of Congress members of legislative assembly (MLAs) led by former Deputy Chief Minister Sachin Pilot who have refused to attend legislature party meetings and have holed themselves up in a resort. Depending on who one listens to, the source of troubles are either Pilot's reckless ambition for the top post or Gehlot's manoeuvring to sideline Pilot and his coterie of MLAs. Either way, it is the last thing any state attempting to address a pandemic and economic crisis needs.

Attempts to bring some sort of stability and certainty to the situation have been stymied by the Rajasthan High Court and the governor of the state. When Rajasthan Assembly Speaker C P Joshi issued disqualification notices to the 19 MLAs in Pilot's group, the Rajasthan High Court stepped in to stay these notices. When the Rajasthan cabinet resolved to call a session of the state legislative assembly, the governor simply refused to do so, raising trivial, technical objections to the exercise. Worse still, the governor seemed to want to dictate how the assembly session would be carried out, something that is well outside his limited constitutional mandate, given that he has not questioned the Congress's majority in the assembly. Although he eventually relented and has agreed to call the assembly to session on 14 August, it once again highlights how the office of the governor can be easily used for partisan ends.

Since the National Democratic Alliance (NDA) received a thumping majority in 2014, destabilising opposition-led state governments has become an unhealthy pastime for the regime. The habit did not begin with them for sure, and the Constitution arguably gives too much power to the union government to meddle in the affairs of the state government. That said, the crux of the problem has to be laid at the door of the holders of two offices who were expected to be impartial and neutral, namely the governor and the speaker. In the long history of the Indian republic, they have proven to be anything but.

If the governor has been turned into an "agent" of the union government at the state level, the speaker has proven to be an "agent" of the ruling party in helping create majorities and break oppositions at will. No political party in power has covered itself in glory on either of these matters, doing the very things in power it complained about when out of it.

However, it is not enough to blame political partisanship for the current state of affairs. The Constitution's provisions relating to the appointment and removal of the governor and the Tenth Schedule relating to the defection of elected representatives are flawed. They have created perverse incentives for parties to act in the way they do. Rajasthan Governor Kalraj Mishra acts the way he does because he owes his position to the NDA government at the centre and knows that he will be removed from office by them if he does not. When it suited his party, Joshi did not bother to adjudicate the disqualification of Bahujan Samaj Party MLAs who switched to the Congress, but when the need for the party was dire, he tried to disqualify the disaffected legislators. He too enjoys his position at the pleasure of his party.

Far from providing any certainty in the matter, judicial intervention has only caused further confusion and instability. There is a reasonable argument that the Supreme Court's judgment in *Kihoto Hollohan v Zachillhu and Others* (1992), interpreting and upholding the Tenth Schedule, needs to be reconsidered. However, it is an act of judicial indiscipline for the Rajasthan High Court to assume that it can decide the correctness of Kihoto Hollohan and then proceed to stay the speaker's notice on this basis alone without offering any substantive reasoning about the merits of the claim. While there is a debate about the extent and scope of the speaker's powers under the Tenth Schedule, to stay the proceedings altogether without going into the basic question of whether it is legally permissible to do it in this case is bizarre.

High court has indefinitely stayed the disqualification proceedings without offering any tangible reasons. If all of this paints a dismal picture about the state of the constitutional government in India, it is by no means an exaggeration. The events in Rajasthan have played out in some way or the other as they did in Manipur, Goa, Maharashtra and Karnataka. It is quite likely that, irrespective of the outcome in Rajasthan, the public at large is unlikely to come away with the belief that constitutional institutions in India work as they are supposed to.

A Portrait of Defection Politics

From the point of view of idealistic or pure politics, political acts like defection and floor-crossing may not enjoy much moral credibility or even institutional integrity. When defection or floor-crossing becomes a regular practice, politics tends to lose its moral essence, although such a practice may find its support in the institutional procedures. Those who are holding idealistic point of view would not lend themselves to endorse the politics of defection. The recent political developments in Rajasthan, Madhya Pradesh and Karnataka that suggest continuation of the politics of capturing and usurping formal institutional power by means of engineering party defection, show nothing but the ailing side of democratic politics.

It is often claimed that the decision to defect is driven by the urgency to defend one's political autonomy and stand by the principles of democracy and justice. Thus, in defection, such defectors may choose to find a "noble" cause. From the defector's point of view, defection may be treated as a moral protest that is aimed at restoring democracy, both within the party in question and in promoting democratic spirit in the polity. Such defectors, in their feat of self-righteousness, may also locate the value of justice in the act of crossing over to other parties. Put differently, such moves of defection are seen as desirable as though they were driven by larger concerns for justice; justice that anticipates the party bosses to treat their leaders with fairness and dignity.

One may find some merit in defection on the grounds that it is through defection that the principle of justice gets linked to the larger cause of making democracy an ideal condition. However, it would be naïve to grant the defector the advantage of keeping self-interest at bay while fighting for justice and democracy. The much more complex question that we need to raise is this: Is the struggle for justice completely separable from self-interest?

It is hard to argue in favour of such a separation and this is for three reasons. First, arguably, in most of the cases of defection, it is the personal ambition to be in power or get closer to power that is at the root of this decision. Since such defection driven by selfishness looks brazenly selfish, such defectors seem to take cover on normative grounds in order to defend their decision to defect. For example, in most cases, including the recent ones, the defectors seem to be taking a high moral ground of justice and democracy for seeking justification for such a decision.

Second, the element of justice that is sought to be integrated into the act of defection is much narrower a conception of justice, which is based on an economic model. Put differently, from the economic point of view, it would be just and fair to defect to a party as long as it is beneficial to the individual. Parties that, due to their lack of material resource or commitment to idealistic politics, are considered as a "liability" may not attract the defector. The cost of defection, for example, to the natal party or to the constituency that the defecting legislators "represent," however, does not figure in the instrumental conception of justice that guides the decision of the defectors. Being fair to one's self-interest forces a particular defector to adopt it as a means to continuously defect from one party to another till the personal interests are protected.

In an instrumental sense, defection is justified as a fair means for achieving personal interest, but it robs a defector of the moral capacity to be intensely aware about the need to realise that one's interests are actually divergent from the collective interests of the party or the electoral constituency that they represent. The defector does not care to see that their decision to defect also disregards the larger concerns of justice that expect the defector to be fair to the electoral constituency that they represent. Instead, the tendency is: Why care about the moral need to be fair to the electorate when defection would help one to serve one's personal interest?

A political party or parties that have achieved mastery in the manipulation of the selfishness of the potential defector would provide necessary incentive for such a person to be "just" to oneself. From a realistic point of view, it is difficult to separate the defector's claim to common good from their personal and parochial interests. It is in this regard that one can leave the idea with the defector. Will the defector make the moral will to become a crusader and fight for collective good and democratic values and take this fight within the party and to the level of the common people? This, however, is an ideal alternative to a defector who wants to achieve the highest pay-off of self-interest without choosing to become a crusader for systemic change.

Gopal Guru

The Emerging Triangle

If there was ever any doubt that China was well set on the path to emerge as the world's Third Super Power, events of the last few months have set it at rest. The Cultural Revolution has come and gone without the disastrous consequences that many were fondly predicting. All the signs now point to a new and perhaps higher level of stability in that society. The launching of an earth satellite marked the climax of a series of remarkable successes in the fields of science and technology which together have ended the hopes that sheer paucity of resources will force China to be content wit h a low level nuclear capability. The diplomatic isolation of China is ending. Not only has Peking succeeded in recent months *in* becoming the leader of the Asian communist countries, it has also become an important factor in the policies of such European Communist countries as Yugoslavia and Rumania. Within the non-communist world more and more nations are showing their keen desire to establish economic and political links with China. Among the Great Powers also there is a fresh awareness of the importance of China, as evidenced by France's renewed interest in that country.

It is only among its non-communist neighbours that a great deal of fear and concern about China persists. Developments in Cambodia have, while bringing about a new kind of solidarity among Asian communist countries, created new anxieties among nations like Indonesia, Malaysia, Thailand, Philippines, Burma, Laos and Singapore about the future of the present political structures in these societies. India also remains convinced that China poses a threat to its security.

Trump's Desperation and the Manufactured China Threat

ATUL BHARDWAJ, INDERJEET PARMAR

As Donald Trump faces the possibility of a catastrophic electoral defeat in November 2020, he has constructed an enemy that can be constantly vilified, and whose alleged intentions and actions to end American primacy may generate fear psychosis among American voters and also among as many of his international allies he can persuade or coerce. Yet, his strategy may backfire as domestic uprisings against police racism and brutality against peaceful protestors, combined with a pandemic reaching deep into Trump's own political heartlands, continue to demolish his credibility. And the levels of economic interdependence between the United States (US) and China, between American farmers and Chinese consumers, not to mention with Asian and other major economies, indicate that whatever security concerns animate strategy, China is too economically significant to be permanently alienated.

Other powers might fear China's military and technological strength, but they look with hungry eyes at the economic opportunity it represents, especially in recovering from the pandemic-induced global crisis.

This is not, therefore, a new version of the US-Soviet Union Cold War. There is no existential threat from China to the US and the West, no division of the world into rival ideological camps, and no competing military blocs. This is a straightforward geopolitical competition underpinned by economic interdependence.

Trump needs a foreign enemy, and hence is rallying a broad US elite that distrusts his motives regarding China. Democrats do not believe that Trump represents US national interests; his only interest being in political survival and cronies' financial interests. Yet, even cronies like Sheldon Adelson have significant interests in China's casinos (Cuccinello 2019).

The US foreign policy establishment believes Trump has alienated allies like the European Union, weakened America's hand in competing with China, and has brought US power into disrepute across the world. They have a more nuanced view of China, as a security concern and economic opportunity and potential future (junior) partner or "responsible stakeholder," that is, as a subordinate to US hegemonic strategies. The scenario today is more Karl Kautsky than Vladimir Lenin, with inter-capitalist class shared interests with sharp competition, even tension and turbulence, rather than inevitable inter-imperial warfare (Parmar 2019; Huo and Parmar 2019).

Great Power Competition

The war on terror is definitely over, which has been the case since Barack Obama–Hillary Clinton's pivot to Asia a decade ago. Great power rivalry is back on the agenda, embedded in the 2017 National Security Strategy. And the Communist Party of China (CCP) and President Xi Jinping are the villains of the piece.

While outrightly condemning the CCP and regime, the strategy claims to support the Chinese people. According to the White House, "The US has a deep and abiding respect for the Chinese people … We do not seek to contain China's development, nor do we wish to disengage from the Chinese people" (*White House* 2020: 1). Yet, the Trump administration has threatened to sanction all 90 million members of the CCP and their families—which could amount to almost a quarter of China's population.

Trump is not, however, fundamentally different from the foreign policy elite. His levels of personal and political desperation, however, threaten the broader US elite programme of bringing China to heel. He has launched a desperate multipronged propaganda campaign against the CCP, blaming it for almost all evils:

> economic espionage, data, and monetary theft and illegal political activities, using bribery and blackmail to influence US policy and last but not the least for being "engaged in a whole-of-state effort to become the world's only superpower by any means necessary." (*BBC* 2020)

The Trump administration's strategy of demonising China is succeeding, its propaganda is being promoted by the GOP (the Republican Party) as an effort to advance a higher cause. And members of Congress are busy vying with each other to be the top China hawk. On the other hand, the Chinese media blitzkrieg, in defence of its own actions, is falling flat. Xi's anger and humiliation are spilling over in violence on Himalayan borders, in the South China Sea, Taiwan, and Hong Kong.

The Pentagon has identified 20 Chinese commercial firms operating in the US, branding them proxies of the People's Liberation Army. In an open letter to Trump, Brian Kennedy, president of Committee on the Present Danger: China (CPDC) alleges, "under Beijing's intelligence statutes, all PRC companies and nationals are required to conduct espionage" (Kennedy 2020). Hard evidence, as ever, appears unnecessary when it comes to the vilification of any competitor state that may appear to have future potential to challenge the world's self-declared hegemonic power.

Besides elections, the second driver of Trump's China policy is the American problem with the 5G technology that the Chinese company Huawei has unleashed globally.

The 5G Problem

Nobody understands penetration of sovereignty—through soft and hard power—better than the US. It has adroitly used its imperial skills to advance the "American century" since 1945. For the first time in decades, US hegemony is confronted by a potentially comprehensive counter-hegemonic force. But the China challenge is greater than the Soviet strategy of militarily irritation. Far more significantly, China is marching ahead in the technological sphere.

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For more than three decades, American corporations and Wall Street elites have happily coexisted with and helped to build Chinese capitalism, including the Belt and Road Initiative (BRI). So what is so different now? Why is the US feeling so threatened by one Chinese company namely Huawei?

The basic problem is that Huawei has introduced 5G technology to the world, which revolutionises network speeds and ushers in the era of the Internet of Things (IOT), artificial intelligence and machine learning technologies. This is a great leap forward by the Chinese that has caused frenzy among Americans, who are deluded into believing that they will remain technologically superior to all others for posterity. The American fear is that the Chinese 5G will colonise or subordinate them.

To make matters worse, the consortium of US companies—Microsoft, Dell, and others—are still struggling to come up with an effective counter to Huawei's 5G products. According to *Foreign Policy* magazine, Huawei is way ahead of other competitors in the field. Huawei 4G infrastructure is already being used by 170 countries and the "majority of countries in Europe, Asia, Africa, and Latin America have begun working with Huawei to develop their 5G networks" (*Foreign Policy* 2020).

To the US foreign policy elite, and their representatives in the US Congress, it seems they are losing to the Chinese, and lagging so far behind that catching up may become impossible. The US failure to lead the technological revolution is being watched by the world.

It is not that Washington has surrendered. The "Sputnik moment" in the late 1950s triggered the Dwight Eisenhower administration to create the National Aeronautics and Space Administration (NASA), the Advanced Research Projects Agency (ARPA) to avoid future technological surprises. Likewise, there is bipartisan consensus among the lawmakers in Washington that tens of billions of dollars should be invested in "America's semiconductor industry over the next 5 to 10 years to help the US retain an edge over Beijing" (Swanson and Clark 2020).

The net result is that 5G is a game-changing technological issue with geopolitical ramifications. Washington is worried that it is losing its grip over world. In May 2019, Trump signed an executive order to ban Huawei from accessing US information and communications technology and services supply chain (Doffman 2019).

The Ultra Hawkish Think Tank

At the core of the anti-Huawei campaign is the recently-resurrected and retooled CPDC, which has 60 members from varied backgrounds, government, non-government and international actors. According to an ongoing study of the CPDC by the authors of this article, more than 40% of the committee members are former military and intelligence officers.

The three most prominent members of the CPDC team are its president Brian T Kennedy, vice president Frank Gaffney, and Steven Bannon, the former White House strategist. Kennedy is former president of the Claremont Institute, a California-based conservative think tank.

The essay titled "The Flight 93 Election,"[1] published in the *Claremont Review of Books* played a crucial role in making Trump acceptable to conservatives. Kennedy is also the president of the American Strategy Group[2] that works on "the existential threats to the US and western civilisation presented by the Islamic world, Russia, China, and the loss of America's founding principles."

The vice president of CPDC, Frank Gaffney, is the executive chairman of Center for Security Policy (CSP), an anti-Islamic think tank that advocates hawkish attitude towards Syria and Iran. Bannon, a former navy officer and hedge fund manager, is one of the most active members on the international stage, playing an important role in forging an international right-wing movement and in convincing right-wing parties across the world about the supposed dangers posed by the CCP. In a recent statement, Bannon declared that the Trump administration has a war plan against China,

including aiding India on the borders of "Chinese-occupied Tibet" (Jha 2020).

The CPDC is influential with direct reach to the White House. It has all the elements to show that it is a part of the deep state that runs the US and its foreign policy.

Other prominent CPDC members are James Fanell, former US navy captain and director of Intelligence and Information Operations, US Pacific Fleet, and R James Woolsey, former Central Intelligence Agency director and venture capitalist. Rod Martin is recognised as one of the leading experts on the linkages between technology and politics. Martin was senior advisor to Peter Thiel, the founder of PayPal. Thiel is an important pillar of conservatism in the Silicon Valley, and major Trump backer.

The committee has five Chinese dissidents, including Xiaoxu "Sean" Lin, who works for the US Army as a microbiologist, specialising in viral diseases. He claims to be a survivor from the 1989 Tiananmen Square massacre in Beijing and a victim of persecution by Chinese authorities for following Falun Gong, a religious cult. An active networker and broadcaster, he founded WQER-LP community public radio and the Sound of Hope Radio Network, a Chinese radio network in America.

CPDC, the hotbed of American conservatives, believes that Henry Kissinger was one of the main architects of American decline, and there is a fundamental need to steer the foreign policy away from old shibboleths.

Kissinger Contra Americanism

Trump is now the self-styled "Wartime President" who is fighting an "invisible enemy," which he and his administration have identified as the "China virus" or "Kung Flu." Trump's style of diplomacy based on name-calling and insulting the adversary, according to Kishore Mahbubani (2020), lacks what George Kennan had identified as "spiritual vitality." This lack comes from the fact that paleoconservatives who deride classical conservatism believe that blatant Islamophobia and Sinophobia provide the much-needed moral clarity to understand that American civilisation is worth defending. This ideological stance considers Trump's

aversion to political correctness as an indispensable qualification for a commander-in-chief.

Inspired by CPDC and other conservative think tanks in May this year, the White House released a report titled, "United States Strategic Approach to the People's Republic of China," enunciating its China strategy. The report highlights the obduracy of the CCP to resist any form of convergence with the free and open order, a euphemism for the US empire. The report laments that the CCP's desire to shape the international order has "compelled the US to adopt a competitive strategy, guided by a return to principled realism" (White House 2020: 7). The phrase is considered to be the bedrock of Trump's foreign policy doctrine since its use in National Security Strategy, 2017.

In an article by Stephen B Young, available on the website of CPDC, "principled realism" is explained as "principle as an inspiration for action and realism as a constraint." The article is critical of Kissingerian realism, which it considers unprincipled and "idolatry" because it is rooted in the appeasement of the powerful and devoid of values and idealism. Kissinger's realism "justifies cronyism—the sucking-up to those with power, celebrity, and money" (Young 2020).

Kissinger's crimes include détente with the Soviet Union and cultivation of Deng Xiaoping after Mao Zedong. Trump's China policy is not interested in offering Beijing détente nor any cultural and economic carrot because it does not consider them capable of constraining Chinese expansion and undermining its authoritarianism. Trump's foreign policy self-servingly claims that the CCP is inherently aggressive. Hence, China must be placed under perpetual pressure. American power is reasserting itself and is pitching for a regime change in China.

Trump's foreign policy wants sovereignty as the lynchpin of the world order. The fact, however, is that strong nation states in the age of 5G and digital currencies is a contradiction in terms. Yet, anxieties over global supremacy in security terms, and the enticing reality and prospect of economic interdependence remain the source of global tensions and schizophrenia, exacerbated by Trump's

political desperation to remain in the *White House* until 2024.

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NOTES

1 See the paper here: https://claremontreviewofbooks.com/digital/the-flight-93-election/.
2 For more details, see https://www.amstrategy.org.

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Our Essential Workers Need Essential Care

NIKHIL SRIVASTAV, ADITI PRIYA, PAYAL HATHI

Through personal interviews of healthcare workers in India, the state of front-line workers in dealing with COVID-19 in the country is discussed. Lack of personal protective equipment and beds as well as the caste system that operates when it comes to doing cleaning work in the hospitals aggravates the already debilitating condition of healthcare personnel. Despite being the most important stakeholders of health in rural areas, the accredited social health activists are leading a life full of struggles.

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One of the biggest worries that epidemiologists, medical practitioners, and governments across the world have cited during the COVID-19 pandemic is running out of healthcare resources—hospital beds in wards and intensive care units (ICUs), and ventilators. But for anyone who has visited India's public hospitals even once in their life, this has been a harsh reality for decades. Having two patients on the bed and one on the floor is not an uncommon sight, even in the maternity wards that receive a larger share of funds under the Indian government's National Health Mission (NHM). India's public health system was already failing many of its citizens and staff. Now COVID-19 has emerged as the latest crisis and is worsening the delivery of health services.

In this article, we strive to attract attention to the existing gaps that are widening during the pandemic, and how they may be affecting everyone's health. In the first section, we discuss the lack of protective equipment for health workers. Second, we look at how overcrowding and inadequate staffing in hospitals is affecting care during the COVID-19 pandemic. In section three, we talk about how hierarchy in public health institutions makes infection control difficult; and section four explores issues that health workers working outside the hospitals are facing.

To reflect on how this current pandemic is interacting with a struggling healthcare system and the challenges it poses, we use learnings from interviews we have done during the pandemic, and before, with many different health workers—doctors, nurses, cleaners, accredited social health activists (ASHA), auxiliary nurse midwife (ANMs), ward boys and ward *aayas*—in North India.

In mid-March, when a resident doctor in King George Medical University in Lucknow contracted COVID-19, his colleagues demanded personal protective equipment (PPE), while citing growing community spread. Their demand was later turned down by the hospital administration. The letter from the administration said,

> According to ICMR/WHO guidelines N-95 mask and PPE are mandatory for Doctors and Staff who are treating Corona Virus Positive patients or involved in diagnosis of COVID-19 … For doctors and paramedics involved in OPD and emergency care of patients, 3 ply mask is sufficient.

The Lack of Protective Equipment

It is true that, during this pandemic, medical facilities across the globe are facing a dire shortage of PPEs, but the surprising part here is that when this letter came out, on 23 March, there were only about 500 reported COVID-19 cases across the country. Was the Lucknow medical school, so early in the pandemic, facing PPE shortages?

Moreover, making PPEs mandatory only for staff dealing with COVID-19 patients, as the letter cites the Indian Council of Medical Research/World Health Organization (ICMR/WHO) guidelines saying, does not mean that the staff dealing with non-COVID-19 patients should not be following infection control protocols. Outpatient departments (OPDs) and emergency rooms are the first point of contact with patients, and if the staff there is not being provided enough protective gear, hospitals are, in fact, putting the health of their staff and patients at risk.

A resident doctor in a medical college describing the current situation told us,

> In my OPD, if I ask for a COVID test done for—let us say—a hundred patients, about ten results are coming back as positive. We have a sustained community spread. Emergency rooms have a similar situation. COVID test results can take from 24 hours to up to 48 hours to come, so during this time patients are getting housed in what hospitals call an "holding area." This means that everyone—from potential COVID patients, to patients with other morbidities, doctors, paramedics, ward staff, and cleaners—all remain in

the same environment without appropriate protective gears.

He added, "Yesterday, I had a patient who was coughing in my face. Today, when we got his test results back, he is a confirmed COVID-19 patient."

Soon after the test results came, this patient was shifted from the "holding area" to the COVID-19 ward, however, we do not know if some staff or other patients who were around him contracted the infection while he waited for his test results. If another patient or staff person did contract the infection in the "holding area," they could become super spreaders of COVID-19. The lack of protective gears for non-medical and medical staff outside the COVID-19 wards and ICUs to be worrisome.

Overcrowding and Inadequate Staffing

Two of the authors of this article visited a large district hospital in Madhya Pradesh (MP) in 2016. What we saw in the hospital ward was startling. The general ward had a pile of waste—which included needles, intravenous bags, bloodied cloth, empty injection vials, and discarded food, biscuit wrappers, and plastic cups—right outside its door. The ward was housing far more patients than the number of beds it had. To accommodate the extra load of patients, the hospital administration had arranged some mattresses and sandwiched them in the spaces between beds.

Unhygienic conditions, like the one we saw in this hospital ward in MP, are risky because they could become hotbeds of infection. As we strolled around the ward, we kept on wondering: Why was this place so filthy? Like some other problems in the hospital, was this also due to negligence from the staff?

It is true that some hospital staff do not show up on time, and that some take long breaks during their shifts. However, if everything else remained the same and these workers, instead, were punctual and conscientious, would public hospitals be able to maintain more hygienic conditions and mitigate the risk of hospital acquired infections? Perhaps, the answer here is no.

According to the *National Health Profile 2019*, published by the Ministry of Health and Family Welfare, there are a little over seven lakh beds in public hospitals across India (Central Bureau of Health Intelligence 2019). As compared to Sri Lanka, which had about 360 hospital beds per one lakh population in 2012, this is equivalent to about 60 hospital beds per one lakh population. More densely populated states in the northern plains have an even more dismal ratio. In Uttar Pradesh (UP), for instance, there are about 38 beds per one lakh population, and Bihar only has about 11 hospital beds per one lakh population. This leads to overcrowding of hospitals, which is dangerous because it can lead to the spread of infection, and is particularly dangerous in times of COVID-19. Having more patients than a facility is designed to handle has some serious consequences for infection control, as the maintenance of 1 metre of distance between beds becomes impossible.

The severely inadequate availability of hospital beds in the population, which is the result of repeated government decisions to cut public expenditure on health, is only part of the problem of overcrowding (Sen and Dreze 2013). Another important consequence of meagre government spending on health is inadequate staffing, which leads to over-reliance on patients' attendants to provide patient care (Karan et al 2018).

Unlike in some societies, where patients who are admitted to hospitals are fully taken care of by health workers, patients in India are accompanied by several of their family members when admitted. Hospitals rely heavily on attendants to buy medicines from nearby pharmacies, and even perform the tasks of a trained paramedic, such as informing staff if the blood oxygen level in a patient goes below normal. Attendants, in many cases, also play an important role in advocating for better care for their patient. However, their constant presence further overcrowds hospitals, adding to the burden of the cleaning staff, and poses hurdles in the enforcement of infection control policies. This makes everybody—the patients, the attendants, and the hospital staff—vulnerable to infections. During COVID-19, public hospitals, for good reasons, are trying to keep attendants out of facilities. But they are not adequately staffed to provide all necessary care to their patients.

In an incident, which we learned about after talking to an ASHA, a hospital nurse, refused to offer delivery care to a pregnant woman because her COVID-19 status was unknown. According to the ASHA, this led to the death of the woman's unborn child. The ASHA told us, "We kept requesting her but she refused to touch the pregnant woman, who lost her first child in the hospital itself."

Hierarchy: Social and Institutional

A study by Newcastle University, published in the *Lancet* as a correspondence, analysed 1,000 tests carried out on workers at a hospital in England. It found that the number of health workers testing positive was no different from that of staff working in non-clinical roles like the cleaning staff, suggesting that staff across health facilities face similar occupational hazards. But sadly, in Indian health facilities, non-medical staff receive fewer trainings and protective equipment. Below, we will show that this difference in treatment is being driven by the caste system, a historical system of social classification.

An indicative estimate, based on the National Sample Survey Office's 68th round data, suggests

> that the share of Dalit workers in the occupations of the healthcare sector [medical professionals] is far below as compared to other social groups and is notably underrepresented as a proportion to their total population in both rural and urban India. (George 2015)

In stark contrast, however, when it comes to the cleaning staff in the hospitals, almost everyone is a Dalit.

A sanitation supervisor in a district hospital in Bihar, in 2017, told us that people from "non-sweeper castes" do not want to take up the cleaning jobs. He said, "No, they don't want [these jobs]. This is a hospital so of course there will be blood, wounds, tuberculosis, all kinds of other ailments. Many people find this disgusting."

Unless someone is a high-ranking doctor, nurse, or a pathologist, dealing with body fluids and excreta is considered polluting and dirty, according to the

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casteist rules of purity and pollution. And these high-ranking staff, too, when working closely with body fluids, limit their work to performing medical procedures. Cleaning the blood and mucus on surfaces after check-ups or procedures falls on cleaners. For example, when doctors and nurses help pregnant women deliver babies, even on a busy day, they never clean the delivery table. Many told us that if a sweeper is not available, "the dirtiness will stay." While it is acceptable and even expected for cleaners to help with other people's tasks, no one among the hospital staff is willing help with their work.

Because of their caste, cleaners in hospitals often face discrimination. "The rules are given. So, if someone is a sweeper, they can't come in this area, eating with them is not supposed to be done. This all has been going on for a long time, so one doesn't feel that there is anything wrong with it. This is why some distance is maintained," a nurse explained when we asked about the relationship between cleaners and the rest of the staff. In hospitals, even if a chair is vacant, it is expected that cleaners will not sit on it. They either sit on the ground or on a stool that is dedicated to them. Repeatedly, through these actions and justifications, cleaners are shown their place in the "institutional hierarchy."

The low status of cleaners in the social and institutional hierarchy and the outright discrimination from staff in higher-ranking occupations means that cleaners lack the agency to even demand their legal rights, like asking for protective equipment (Hathi and Srivastav 2020). In an interview with *Firstpost*, a cleaning staff person at Gandhi Hospital, Hyderabad, said

> It is my job to clean up the ward after any surgeries or operations. I have neither been given a mask, nor gloves or any proper medical kit. I use a mask that I buy myself. Otherwise, I just wrap a dupatta over my face.

Hygiene and infection control at hospitals requires a combined and orchestrated effort from all its staff. But, given that cleaning staff rarely receive any support from their colleagues or patients' attendants, the burden of keeping the facilities clean falls squarely on their

shoulders. Now, in this highly contagious environment of COVID-19, it is all the more important to do away with our caste prejudices, recognise their work, and provide them with infection control training and protective gear.

Health Workers Outside the Hospitals

Many of the problems that we have discussed so far have focused on the healthcare facilities, but, with the sustained community spread of COVID-19 that the country is now witnessing, rural health workers like ASHAs are facing several challenges as well.

ASHAs are honorary volunteers, so they do not receive any salary or honorarium, and their monthly remuneration depends on the type of work they do in a month. According to the National Rural Health Mission (NRHM) guidelines, they have been assigned 43 different functions—from raising awareness on health and nutrition, to providing primary medical care, to promoting toilet construction, taking pregnant woman to hospital for deliveries, and bringing children and pregnant women to immunisation sites. Now, during COVID-19, about a million ASHAs have been assigned the work of conducting door-to-door surveys, educating people about the pandemic and necessary precautions, and tracking and ensuring that returning migrant workers are placed in a 14-day quarantine. They have been asked to do this on top of the work they were already doing.

The workload for ASHAs has increased manifold during COVID-19, increasing the hardships they face in their work. An ASHA in UP whom we spoke with in early July told us that, since March, neither she nor her colleagues have received any payments for their work of facilitating institutional deliveries. The only money they have received in the name of "corona duty" since the lockdown began was ₹2,000. In Bihar, some ASHAs told us that they are still waiting to receive any money for their COVID-19-related work, even though they have been going out and doing door-to-door work. Unfortunately, this is not a rare occasion when ASHAs are struggling to get their entitled incentives.[1]

Although ASHAs have been given critically important tasks during COVID-19, such as visiting households to identify likely COVID-19 patients, and even managing block-level quarantine facilities, they face other hardships in addition to not being paid on time. For example, none of the ASHAs we talked to have received proper training on COVID-19, its symptoms, or the do's and don'ts of wearing a face covering. Moreover, since the start of their COVID-19-related fieldwork, several said that they have received a mask from the government only once, and that too of poor quality.

On 29 March, under the Pradhan Mantri Garib Kalyan Yojana, the Finance Minister, Nirmala Sitharaman announced an insurance cover of ₹50 lakh for 90 days to workers performing COVID-19-related work. The insurance scheme covers the loss of life due to COVID-19, and accidental death on account of COVID-19-related duty. However, the insurance scheme does not cover the cost of medical expenses in case of illness, leaving low-paid workers like ASHAs, or cleaning staff, vulnerable in the case of a long COVID-19 illness. In addition, the 90-day period of coverage has lapsed, and it is unclear if it has been extended. Moreover, the ASHAs are unclear if the insurance scheme even applies to them. The ASHAs we spoke with were confused because they have not received an official word about the scheme. Instead, all that they know about it is from news stories, family WhatsApp groups, and neighbours.

An ASHA in Bihar described her hardships and disappointment of the government's appreciation and support as,

> Almost every day it used to feel like I would die working in the field. No shops were open to buy food, there was no transport available to travel, and all we got from the government was Rs 1000 for a month.

The ASHAs in the past have been instrumental in improving the rates of immunisation and institutional deliveries, and there is no doubt that they can help in check-ups and contact tracing as the pandemic unfolds in rural India. But by not paying them on time, not providing them protective equipment and the necessary training, we are demotivating them. If governments continue to not

care about these front-line workers, we will not only hurt them but also the rest of the citizens.

Conclusions

It has now been over three months since the WHO, on 11 March, declared COVID-19 a pandemic. So far, over 5 lakh people worldwide and over 20,000 in India have been reported to have lost their lives. Experts believe that the worst is yet to come. Countries, including India, are all at different stages of the pandemic. However, they all are still facing the first wave of infections. We know neither how far the end date of the pandemic is, nor do we know how countries will face a second wave of infections, even if they successfully manage the first. How effectively India is able to "flatten the curve" and how well it can help in the recovery of those who will suffer from the disease, depends a lot on our health workers. We should care for all of them all the time, but now, in the COVID-19 pandemic, it is extremely important to offer gratitude, protection, and compensation to the cleaners, ASHAs, and the trained medical staff on whose efforts much of the healthcare delivered in India depends.

NOTE

1   A study sponsored by the State Innovation in Family Planning Services Project Agency (SIFPSA) of UP claimed that 73% of ASHAs in UP reported not receiving full payment for their work because they were forced to resort to bribery.

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COVID-19
Mental Healthcare without Social Justice?

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Mental health is not just about absence of mental illness. It is critical that the government takes long-term economic and mental health policy measures to ensure employment, basic amenities and public health, without which mental healthcare cannot address the debilitating effects of ongoing structural violence on a majority of citizens.

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The general view of professionals within mainstream psychiatry and medicine as well as social media-dependent masses is that a pandemic, such as COVID-19, creates trauma-triggering mental disorders, of which post-traumatic stress disorder (PTSD)[1] is the predominant one (Taylor 2020). This conception is based on the premise that it is primarily the traumatic event (for example, the outbreak of a life-threatening pandemic) rather than the adverse sociopolitical conditions preceding and succeeding (poverty and migration of labourers) that inflicts the mental health of the person. Is one of the worst affected sections during the pandemic—migrant labourers, whose life, health or mental health has always been at risk (Yadav 2018) even before this pandemic—really concerned about diagnosis and treatment for PTSD or other disorders? No, they are not. In most of the developing societies of the world, the less privileged have feelings of being further dehumanised when exposed to political violence or other massive traumatic events like COVID-19, irrespective of developing PTSD[2] following the traumatic events. For them, the causes for concern and distress are the questions of survival by finding employment or resuming one's work, safeguarding social identity and individual voice that are under threat, and ensuring education for their children (Bracken et al 1995; Priya 2015, 2018; Summerfield 1999; Viswambharan and Priya 2016; Weiss et al 2003).

As Summerfield (1999) has pointed out, even the psychosocial intervention towards mental health does not appear meaningful to them if the structurally induced injustice is not acknowledged by the interventionist. Given that, in today's world marked by neo-liberal push towards decreasing allocation of funds for health and education by the government, insecure employment and commodification of labour or human capital—all of which propagate denial of equity and equality, thereby creating injustice for the less-privileged—how can one imagine mental healthcare without social justice? More specifically, we would analyse how the unjust neo-liberal context may threaten mental health and related care for citizens during this pandemic.

In the pre-COVID-19 society of the past few decades, people—in most of the countries of the world, whether developed or developing—in everyday life might not have had a clear awareness about living in a neo-liberal world order. According to Kannan (2020), Prashad (2020) and Sakpal (2020), the arrival of the the current

pandemic has made its presence felt by threatening any sense of "secure" livelihood and future aspirations that suddenly look vulnerable through layoffs, pay cuts and unemployment, particularly among 161 million casual or contract workers of formal or informal sector during the lockdown as well as the gradual reopening of the economy.

Profit Motivation

These labourers directly or indirectly cater to the profit of the capitalists without any provision of employment (or even a minimum daily wage) guarantee and health insurance. No doubt, such threats to employment, health and livelihood are there for other employees (with more than three year job contract) too, but the miseries of the contract or casual labourers are way too high to be compared, as these authors have elaborated. Thus, the miseries of the pandemic are the making of neo-liberalism where "the state has been utterly compromised. Social life has been atomised and private capital has driven the service sector so that it is most efficient in production of profit rather than in the delivery of social services." People, particularly the less-privileged, have to fend for themselves. Migrant labourers engaging in mostly casual labour who have become jobless in the informal sector and are now forced to reverse-migrate are the worst affected (Dandekar and Ghai 2020; Mander 2020a). Also, smaller retail-based businesses that were affected by the online corporate giants, such as Amazon, Flipkart, Walmart, and Alibaba, are now in much graver danger of being completely abrogated.

Although the government is promising to provide its services to the people with short-term relief measures, the basic structure of the economy in the pre- and post-COVID-19 times continues to remain in favour of the profit-driven capitalist few. Along with their diminished hopes for fulfilling personal aspirations or dreams due to facing or perceiving imminent unemployment, pay cuts or layoffs, people may also get affected by what Prashad (2020) terms a

> zombie-like situation: The death of the ideal hope on the one hand and at the same time the existence of a callous hope that is crafted

around hatred; a toxic hatred drawn from the old lineages of conservatism and tradition and which sharpens its toxicity against women, foreigners, minorities, and against anyone seen as the undeserving outsider. (¶ 14)

We have already witnessed politicisation of virus spread on religious grounds (Ellis-Petersen and Rahman 2020a). There is stigma against not only COVID-19 patients, but also the potential carriers of virus, such as migrant labourers who are returning home or even the doctors and medical staff (Ellis-Petersen and Rahman 2020a, 2020b). Domestic violence cases are also on the rise (EPW Engage 2020). Another structurally created problem is inadequate residential space for home quarantine (as per the guidelines of the World Health Organization [WHO]) and the unavailability of in-house water facility for drinking and other household chores (so that one avoids community visits for the same) for adequate social distancing, and this has become a hazard distressing a majority of people (Khan and Abraham 2020). Within this context of structurally shaped inequality and injustice, let us look at the issue of mental healthcare for people affected in the pandemic.

Mental Healthcare

The WHO definition of mental health focuses not only on the absence of mental illness; it rather defines mental health as "a state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community" (¶ 1). In India, the Mental Healthcare Act, 2017 has been an improvement over earlier acts in terms of provisions for safeguarding human dignity of the patients (Math et al 2019). More importantly, as Jacob (2016) points out, it also puts the responsibility on the state for "promotion of mental health, training mental health professionals, and provision of care" (p 23). A critical issue, however, as he accentuates is that

> the political economy of health, deeply rooted in capitalistic economic systems, undergirds many medical and psychiatric formulations … Medicine is politics writ large and the health sector is a powerful player in national economies. (p 23)

Given the neo-liberal or capitalist economic system that continues to guide mental healthcare primarily through biomedical perspective, it is not difficult to fathom that the crucial "social determinants of mental health (for example, poverty, gender, literacy, employment, social exclusion, etc)" may continue to be ignored (p 22). However, the gravity of this pandemic situation demands quick and careful attention to this perpetual ignorance of social exclusion and injustice causing threat to survivors' well-being.

Online Counselling

In the scenario of disasters or pandemics, such as COVID-19, even if the worst affected persons, including migrant labourers, unemployed, overworked doctors, victims of domestic violence, are diagnosed with a mental disorder, hospital-based care might not be practically possible because of the sheer number of patients. Online counselling, yoga and suicide prevention have been the major way to effectively address mental health concerns. Initiatives by National Institute of Mental Health and Neurosciences (NIMHANS), associations of mental health professionals (including psychiatrists and psychologists) and non-governmental organisations (NGOs) have been some sigh of relief for people. However, such people largely constitute about 400 million middle class who are able to take care of their survival and health, besides social distancing (Menzes 2020). The rest of the country faces the greater brunt of neo-liberal economy in the post-COVID-19 society.

Already exploited in the pre-COVID-19 period, the workers in the informal sector face further assault on their dignity. According to Kannan (2020), out of 418 million workers in the informal sector, even before the COVID-19 outbreak, about 67% (278 million) of them were not getting "₹375 daily wage [or earnings in the case of self-employed individuals] recommended as the national minimum wage necessary to meet their household basic needs at 2017–18 prices" (¶ 4). In the post-COVID-19 lockdown period, as Sakpal (2020) points out, despite central government's advisory to the employers or establishment for not terminating or

doing pay cuts to any worker (including contract or temporary), it will be extremely difficult to get legal justice against any termination or pay cuts for about 161 million workers because a "worker," in legal terms, needs to have at least a three-year contract with the employer.

The relief package announced by the government for the informal sector is a welcome step, but Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) workers (work discontinued due to the pandemic) and millions of migrant workers without ration cards were excluded from this relief (Khera and Somanchi 2020). Although some state governments have launched e-coupon facility for those who do not possess a ration card, the beneficiaries are not aware about it. The sudden creation of such facilities for people who are struggling to understand the online working of it does not contribute to meaningful relief. These authors also elaborate on the need to replace Aadhaar-based biometric authentication (ABBA) used for ration distribution with offline procedures as the Aadhaar and ABBA systems are exclusionary.

Due to uncertainty associated with the extension of lockdown and inadequate relief (lack of ration cards) and worries about the family, migrant workers are reverse-migrating to their villages. Dandekar and Ghai (2020) have noted that "roughly more than 120 to 140 million are, at the moment, either walking back or are stranded in various camps" due to the effects of the lockdown. Sixteen of these physically and mentally fatigued reverse-migrating labourers were run over by a goods train in Aurangabad, Maharashtra, on 8 May 2020 in the morning hours. They were oblivious of any information about the timings of the trains during lockdown, and to avoid police who were monitoring road route to their destination, slept on those railway tracks the previous night. Agarwal (2020) reports that at least 89 such deaths have occurred due to reverse migration since lockdown. Those who were able to return to their villages face exclusion due to the stigma of "virus spreaders," with some of them made to live on the trees (*Hindu* 2020). If this is not living in a forced dehumanised condition (due to structural violence) that shatters any sense of well-being, what else is? Where is human dignity for such a section that constitutes about one-third of our country's population? What about their well-being that is intricately tied to their family members' well-being and children's education? Do we wait for the diagnosis of psychiatric disorder to take care of their well-being?

More than two decades ago, Summerfield (1999) illustrated how disaster survivors could face revictimisation if mental healthcare could begin only after they were diagnosed with a psychiatric disorder like PTSD. He accentuated that "some *victims would not be believed* if they could not secure the diagnosis" (p 1450, emphasis added).

Medicalising Dehumanisation

The grand narrative of PTSD and its treatment, however, continues to dominate mental health care during this pandemic the world over. For example, Taylor (2020), on the basis of his research on SARS (severe acute respiratory syndrome) 2003 outbreak in China and a survey in the United States and Canada after the COVID-19 outbreak, has estimated roughly 10% of the population affected by it may develop depression, anxiety disorder or PTSD. Also, more than 40% of patients of the infection may develop with PTSD. While it is agreed upon by psychiatrists and social scientists that PTSD could be a mental health outcome of massive traumatic events, such as, this pandemic, and appropriate chemotherapy, psychotherapy and community rehabilitation are needed to address that, it is also strongly advocated that such mental disorders may not be the only mental health problems or threats to well-being (Kinezler 2008; Priya 2018; Weiss et al 2003). As noted above, in the case of the massive exodus of migrant labourers undergoing reverse migration with no certainty about income, health or future, their dehumanisation speaks of the structurally induced threats to well-being, irrespective of a diagnosis of a psychiatric disorder. With no appropriate economic and healthcare policy, and professionals or institutions to take care of their debilitating mental health may face a real danger of being camouflaged or silenced in the grand narrative of PTSD or psychiatric disorders. It forecloses care for the deprived. One also cannot ignore the danger that if the digital technology (currently being used to get information about the location of infected or uninfected cases) is also used for surveillance purposes establishing a mentally "ill-healthy" categorisation among people that also risks stigma or discrimination based on their social identity.

Exclusion and Re-traumatisation

The fear of COVID-19 infection and facing oppression, social exclusion or hazardous living conditions at the same time may be re-traumatising for people. To the population of migrant labourers mentioned above, if we also add the list of vulnerable groups in post-COVID-19 scenario, which are victims of domestic violence that is reportedly on a rise, religious groups, doctors, and medical staff facing stigma of being "virus spreaders," and slum dwellers, chawl dwellers with hazardous living conditions, the impact of the structural violence owing to neoliberal policies on their mental health appears daunting. Recalling Prashad's (2020), structurally shaped exclusion or re-traumatisation in this pandemic is intricately linked with neo-liberalism that through its false hopes for a dream future (without a care for employment and health by the government) has led to frustration among people. Their displaced frustration (further fuelled by patriarchy and local politics) has often resulted in hatred for and the exclusion of some vulnerable groups, whose mental health also needs our attention.

Gender-based exclusion and denial of voice has intensified as post-COVID-19 cases of domestic violence have increased (*EPW Engage* 2020). Although helplines are available, the calling device (landline or mobile phone) and the safe space (away from the gaze of oppressing in-laws or family members) to call the helpline are not available to the victims. Dalit women who are the sole earners of livelihood for their families working as domestic labour may face potential double exclusion: from their families for being "unproductive," and at the workplace

for being "super-spreaders" (Dixit and Chavan 2020).

Ellis-Petersen and Rahman (2020a) and Mander (2020b) have explicated how Muslims are being discriminated against for congregating in mosques with dangers of potential spread of the virus; such activities amounting to a similar violation of social distancing by other religious groups have been ignored. It is critical to note that this amounts to an assault on their social identity as Ellis-Petersen and Rahman (2020a) have reported:

> While they Muslims have now seen their businesses across India boycotted, volunteers distributing rations called "coronavirus terrorists," and others accused of spitting in food and infecting water supplies with the virus. Posters have appeared barring Muslims from entering certain neighbourhoods in states as far apart as Delhi, Karnataka, Telangana and Madhya Pradesh. (¶ 5)

In another context of exclusion and stigma, various doctors and medical staff have been facing exclusion literally within the hospital premises (sleeping in the bathrooms or on the floor) and in the community (barred from entering the rented house or even the community) because of the fear of virus spread (Ellis-Petersen and Rahman 2020b). About one nurse who was evicted from her rented house by the landlord due to the fear of being a virus spreader, the authors pointed out her miseries,

> The nurse said she and her children had been forced to move in with her mother, who lives in a single-room house in a slum. "Five of us have to huddle in that 10ft by 10ft room now," she said. "I am working on 12-hour shifts in my hospital. It's all extremely exhausting. And now I have to find a new place to live—but if people know that I work as a nurse in a big city hospital no one will be willing to rent out an apartment to me." (¶ 10)

Besides these stigma- and identity-based exclusion and social injustice, a majority of people are not privileged to have enough space within their house to follow WHO recommended home quarantine for potentially infected persons. Since they have to rely on community water and latrine facilities, it becomes hazardous for social distancing. As Khan and Abraham (2020) have analysed, their sense of marginalisation enhanced by the fear of infection, owing to hazardous living conditions, can be guessed with the facts that (i) Sixty percent of Indian households has less than a room per capita, making home quarantine difficult, (ii) Forty percent urban and 75% rural houses do not have in-house or within-residential-areas water facility for household purposes to avoid community visits and maintain social distancing, (iii) Thirty three percent of Indian households do not have drinking water facility within the house or residential areas, out of which 73% households send women to fetch drinking water, risking infection, and (iv) Eight percent of Indians use community bathrooms and latrines, and 25% do not have any such facility within or outside their houses.

Unacknowledged

Laurence J Kirmayer (2012) reiterated the need within mental health profession for "cultural safety," that is, to take up the "responsibility to work to make the clinical encounter safe by acknowledging and addressing structural violence and inequality" faced by the sufferer (p 251). Despite having the Disaster Management Act, 2005 and the Mental Healthcare Act, 2017, a majority of citizens are compelled to undergo experiences of either dehumanisation (migrant labourers fending for their survival amidst the fear of viral infection, stigma of being "virus spreaders," and facing life-threatening reverse migration), denial of voice and double exclusion (gender-based violence and discrimination, especially for Dalit women), assault on religious identity through stigma (Muslims), marginalisation enhanced by hazardous living conditions (a majority of citizens living especially in rural area and urban slums or chawls), or literal exclusion at workplace and from residential areas due to stigma (doctors and medical staff). These are serious threats to the well-being of our citizens as the canvas of neo-liberalism has overshadowed the social services and induced social injustice through structural violence. The rest of the country may forget this violence gradually and it may remain unacknowledged forever until another pandemic or traumatic event arrives!

All the stakeholders—professionals engaging in disaster management, mental health care, NGOs working for public health, besides community members—need to work together for: (i) building trust among the survivors of structural violence (dehumanisation and exclusion) that can be initiated only with the acknowledgement of inequality and injustice, and (ii) advocating long-term policies for social justice- and equity-based policies for economic development as well as public health. Only through these long-term policies ensuring provision for employment or income guarantee, basic amenities for survival (safe and hygienic housing, food and water), and public health measures, mental healthcare could be realistically achieved. On the possibility for intervention through Mental Healthcare Act, we also share Jacob's (2016) hope that the capitalist or neo-liberal economy (exposed in this pandemic for initiating and medicalising the structurally induced distress) that may silence sufferers' voices can be explicitly and meaningfully addressed with "people with mental health conditions, caregivers, activists, and judges on its central and state decision-making bodies and on review commissions" of the act (p 23).

While such long-term policy changes, hopefully, may take time to get formalised and implemented, the grand narratives of medicine and psychiatry may continue to medicalise debilitating effects of structural violence. As a characteristic feature of neo-liberal policies, these grand narratives that commodify mental healthcare have often silenced citizens' experiences of dehumanisation, exclusion and re-traumatisation as elaborated above. Particularly, the workers in the informal sector and temporary workers of the formal sector (418 million, constituting about one-third of Indian citizens) continue to bear the severest brunt of structural violence; COVID-19 outbreak has only partly foregrounded such violence to public glare. For Taylor (2020), 10% of the population exposed to the COVID-19 pandemic may develop psychiatric disorders. But, the dehumanisation faced by a reverse-migrating labourer might remain buried in their heart as these might only be comprehended through compassion rather than a checklist of symptoms of psychiatric disorders. Very

often, compassion reaches too late in the day for them to have trust on the listener (care-provider), and they cry singing to themselves (their feelings of shattered dreams, deep sorrow, consoling themselves until death) or to destiny something similar to this song titled, "Ik bagal me chand hoga" (On one hand, there is the moon) by Piyush Mishra, a renowned theatre artiste, musician, writer and poet:

Ik bagal mein chaand hoga, ik bagal mein rotiyaan,
Ik bagal neend hogi, ik bagal mein loriyaan,
Hum chaand pe roti ki chaadar daalkar so jayenge,
Aur neend se keh denge lori kal sunaane aayenge

[On one hand, there is moon (aspirations or desires); on the other, food (survival),

On one hand, there is sleep (tranquillity); on the other, lullabies (aesthetics),

We will (have to) go for survival keeping aside aspirations or desires,

And, we do not see soon a possibility of tranquillity through aesthetic engagements.]

Ik bagal mein khankhanati sipiyaan ho jayengi,
Ik bagal mein kuch rulaati siskiyaan ho jayengi
Hum seepiyon mein bhar ke saare taare chun ke aayenge
Aur siskiyon ko gudgudi kar kar ke yun behlayenge

[on one hand, there are clinking oyster shells (fond memories of playful, spontaneous and exciting younger days,)

On the other, grief and sorrow that makes me cry,

We will gather all the stars and fill them in the oyster shells (all exiting dreams and playfulness of youthful past),

And, through these playful exciting dreams and memories, we will caress our sorrow.]

Amma teri siskiyon pe koi rone aayega, koi rone aayega

Gham na kar jo aayega wo fir kabhi na jayega,
Yaad rakh par koi anhoni nahi tu laayegi,
laayegi to fir kahani aur kuch ho jayegi

[(Mother being comforted and cautioned by her child)

Mother, someone will visit us who will sympathise with your sorrow.

Do not feel sad as the visitor will not abandon you again.

But, you make sure that you do not create any crisis (disharmony to your life).

If you create disharmony, it will be a different story (mental peace will be lost).]

Honi aur anhoni ki parvaah kise hai meri jaan
Hadd se jyada ye hi hoga ki yahin mar jayenge
Hum maut ko sapna batakar uth khade honge yahin
Aur honi ko thenga dikhakar khilkhilakate jayenge

[(Mother telling her child)
Who cares about destiny or disharmony, dear!
The worst would be that I shall die here only.

We will think of death as a dream (long sleep) in which we are alive (which makes us embark on a new journey).
And, thus, mocking at our destiny and giggling, we will move on (towards the new journey)!]

NOTES

1 Other lesser prevalent psychiatric disorders resulting from exposure to traumatic events are depression and anxiety disorders.

2 Bracken et al (1995) and Summerfield (1999) have illustrated that for the survivors of political violence or other traumatic events, the diagnosis of PTSD does not necessarily get reflected in experience of dysfunction or psychopathology. Similarly, as these authors point out, absence of symptoms of PTSD or other disorders does not necessarily rule out intense experience of distress. Such intense distress could include demoralisation due to inability to adhere to the culturally valued norms, denial of voice due to hierarchies of gender, race, class, religion or ethnicity, and disaggregation of valued relationships (Priya 2018).

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Social Distancing and Sex Workers in India

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The deplorable condition of sex workers in India amidst the COVID-19 lockdown is discussed. Prostitution, now called sex work, has been a historical reality with cultural connotations. However, a significant amount of shame and stigma is attached to the profession wherein it is not even seen as work. Social distancing and the lockdown have left sex workers across the country in poverty and hunger. There is a need to address the issues of this section of the society from a human rights' perspective.

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With an intention to break the chain of the novel coronavirus spread in India, Prime Minister Narendra Modi announced the "Janata Curfew" on 22 March 2020, coupled with a complete nationwide lockdown from 24 March 2020. Even though the nation is in the unlocking phase now, the lockdown in India has disproportionately affected various sections/classes of the society.

While the comparatively rich and privileged class can afford to be locked down, it is primarily the poor and the vulnerable that have been driven by the distress of survival. Diseases and disasters may not differentiate much while infecting human bodies, but the uneven social structures do render non-uniformity of pandemic impacts upon people, and this has already been witnessed in the recent past during epidemics across developing nations, like the crises of Human Immunodeficiency Virus (HIV) in 1999, Severe Acute Respiratory Syndrome (SARS) in 2003, the Ebola outbreak in 2014, the major spread of Zika in 2016, and others. The present pandemic of COVID-19, particularly in India, allows a revisiting of those grim realities where the poor and the marginalised sections suffered, being denied of their rights and entitlements amidst a crisis.

During this COVID-19 pandemic, one becomes a witness to how social distancing has intensified the already-existing class inequalities, wherein there is a larger section of people desperate to sustain their livelihoods. Amidst the practice of "social distancing," and "self-quarantine" becoming an important phrase in our vocabulary and practice, there are various measures taken by the government for virus prevention. However, at the grassroots level, they do not appear to be very inclusive of the marginalised sections in terms of their strategies of pandemic management. To identify the effect of this COVID-19 pandemic, the government identifies Indian states as red, orange and green zones. They are channelised and extensively advertised by the government and non-government agencies for mass awareness and virus prevention, but in between the stakes of these coloured zones, the trailed existence of the red-light areas is ghettoed and ignored from the socially insensitive narratives of the COVID-19 crisis. The case in discussion here is of the sex workers who reside in these red-light areas and their profession is considered as "a contact job" (Hurst et al 2020). The ravenous and derailed condition of the sex workers in every corner of India during the lockdown period reinforces these questions of uneven social foundations, and again, their missing link in the government's relief packages compels one to wonder if the sex workers have been denied their human rights.

Several reports across the world indicate that whether it is a developing or developed country, sex workers are at the cliff, holding on to life with the bare minimum. A recent report by the International Committee on the Rights of Sex Workers in Europe (ICRSWE) highlights the discriminatory and exclusive nature of government's pandemic-recovery schemes across continents (Wheeler 2020). Officially, over six lakh sex workers[1] are there in India, while the unofficial numbers may be higher. Many of them continue their profession from the narrow, dingy lanes of the urban metropolises like Delhi's GB Road, Mumbai's Kamathipura, Kolkata's Sonagachi, Varanasi's Shivdaspur, Pune's Budhwar Peth, etc, and more than 1,100 red-light areas are here in India, falling within the range of plausible hotspots of the ongoing pandemic (Parthsarathi 2020). These areas under complete lockdown have been shunned from any income.

Irony of 'Social Distancing'

The entire concept of "sex work," particularly in India, is at the relative juncture of the economic, social, and cultural engagement. Although, Indian history witnessed the categorically esteemed institution of sex work within the brief accounts of Vedas, Puranas, Mahabharata, Buddhist literature, Kautilya's *Arthashastra*, etc,

but under the colonial hegemony of moral politics, sex workers were relegated to the margins. Our society continues to use their professional services but casts them out publicly under the garb of a gentlemanly outlook playing upon the politics of "shame." One iconic text that can be noted here is George Bernard Shaw's *Mrs Warren's Profession* (1893), which had immense reflection of Shaw's discussion with sex workers, of course to no avail as far as the change of the mindset towards the profession is concerned. Sex work became a derogatory *dhanda* for them, making them *dhandewalis*.[2] The COVID-19 pandemic may now add "social distancing" in sex workers' existing vocabulary, but each one of them has already felt and imbibed the nuanced distance that society maintains with them. In "normal" or the pre-COVID-19 days, this distancing may not be of much concern to them, but since the virus tightened its grip over India and the government announced the safeguard of "social distancing," the distance between sex workers and mainstream society widened the gap, making them swoon over the double edge of crisis. Most of them work from the brothels; while some as call girls provide services in places of demand, but due to the lockdown, the majority of them are stuck in their residential red-light areas.

Considering their places of residence as "home," the entire sacrosanct ethos of the tag line "Stay Home, Stay Safe" promoted by state agencies and social media raises a big question mark in the context of the sex workers' plight. Their places of stay are located mostly in the jam-packed lanes of red-light areas where practising social distance is close to impossible. In Delhi's GB Road, over 3,000 sex workers share 80 small brothels. Similar types of congested residences are there in Kolkata's Sonagachi, from where more than 10,000 sex workers continue their living. As many as 15–20 people share one bathroom with limited water supply, therefore, "hand sanitisation," "self-quarantine" and overall hygiene are altogether too heavy phrases to follow up. The recent joint report of the Global Network of Sex Workers Project and the Joint United Nations

Programme on HIV/AIDS (UNAIDS) has already sounded the grave threats that the COVID-19 pandemic will cast upon sex workers due to the combined effect of patriarchy, poverty, and social discrimination. Being "excluded from COVID-19 social protection responses, sex workers are faced with putting their safety, their health, and their lives at increased risk just to survive" (UNAIDS 2020a). The lockdown has put them in the midst of the worst reality ever. Even as they respond to the government's call by deciding to stay indoors at their residences with no work, the "Laxman Rekha" between private and public spaces drawn by India's Prime Minister in his nationwide lockdown announcement hardly guarantees the safety of these sex workers both from disease and hunger.

Futility of Laws and Codes

The socially and economically precarious position of sex workers that this pandemic crisis only exacerbates is duly rooted in their ambiguous position in Indian laws and codes. Most of the anti-sex work policies and policing practices do cause hurdles in accessing their rights to earn from rendering their sexual-activity contingent services. The entire industry of commercialised sex was criminalised soon after India's independence in 1956 under the Suppression of Immoral Traffic Act (SITA). Under the pressure of constitutional challenges regarding the right to the profession, this act was amended in 1986 as the Immoral Traffic (Prevention) Act (ITPA), and it partially decriminalised sex as a profession for adults, putting sex workers across India in a legally vague position. The activities needed for sex work like keeping a brothel, "soliciting in public places," "living off the earnings of prostitutes," "seduction of persons in custody," etc, are all under criminal provisions (Reddy 2004).

The Union Cabinet of the Government of India's recently approved Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018 is also not clear and comprehensive about sex workers' rights, since the bill is coupled with the ITPA 1986 with extensive emphasis on the strategies of raids and rescue that hardly pay heed to the consenting sex between

adults resulting in "human rights violations" (Pai et al 2018). Although the Supreme Court of India recommends entitlement rights of sex workers and as per the norms of Article 21 of the Constitution, which urges states to provide willing sex workers a conducive situation to continue their profession, there are several instances under which sex workers often face harassment and are abused by police, agents, clients, goons and whoever sees them at work. Even a decade ago, a Supreme Court panel did recommend the central government and Election Commission to issue sex workers voter ID cards relaxing verification and appealed to states and local institutions to promote ration cards to them.[3] Under stigma, till date, sex workers are often denied the basic entitlements of ration cards, health cards, and if they ask, they are routinely silenced at the end of legal questions. Apart from prostitution policies, this lack of documentation provides grounds to exclude them in broader forms of social and economic sectors and increases the level of vulnerabilities amidst this COVID-19 pandemic.

Economic Fallout

Sex work in India is one of the unrecognised economic sectors where most of the work is informal and unprotected (Agarwala 2013). Under dominant discourses of the developing nations, sex workers are either "exploited victims" or "fallen women" and are rarely in the broader spectrum counted as workers. Although, in recent times, by valorising the term "sex worker" other than "prostitute," efforts are being shown towards their inclusion in the labour markets of India, and, for financial inclusion, the need of linking their profession with formal banking systems has already been highlighted by various scholarly insights, yet the results are still not satisfactory (Chakrabarty and Sharma 2018). Still, their profession is away from the loop of standard labour-protection measures, and thereby, both in the long- and short-term, their work is the most "informal" among India's informal economy where the ongoing pandemic crisis hits hard, and overnight, they are left with no income. India's quick imposition of

lockdown as a precaution as well as a preventive measure for the deadly COVID-19 pandemic receives international appreciation. In reality, it costs the country's economic growth, and each section has to undergo its cascading impact more or less. However, it is the daily wage earners working in the unorganised sectors who are instantly bearing the brunt of the crisis. The lack of a far-sighted plan during the lockdown became visible with the plight of migrant workers in their desperate attempts to reach home.

Lucknow had witnessed an accident of a migrant worker's family in their desperate attempt to go back home over 750 km on a cycle (Pandey 2020). Recently, 16 migrant workers were run over by a freight train near Aurangabad, who were also walking back towards home (Banerjee and Mahale 2020). These incidents make visible the real disparity between the decision of an unforeseen lockdown and hunger in the country, which is reflected on social media, with the picture of pieces of bread scattered over that railway track. The irony of discourse is that while the public exhibits its concerns for migrant labourers over social media, there is rarely any concern shown over the troubles of sex workers amidst the lockdown, although their condition is grimmer than other wage earners. Quite a few attempts have been made by some non-governmental organisations at the local scale to distribute foods and other necessary items temporarily to the sex workers in red-light areas, such as by the Kat-Katha in Delhi, Durbar Mahila Samanwaya Committee in Kolkata, Kranti in Mumbai, etc. While such initiatives are highly commendable, they are barely enough for the sustenance of the entire sex workers' community amidst this extended time this pandemic crisis continues.

Finance Minister of India Nirmala Sitharaman, in response to the pandemic lockdown, announced relief packages for the benefit of people in informal sectors. In brief, these include doubling of ration entitlements free of cost to the beneficiaries under the National Food Security Act, giving ₹500 per month directly to the "Jan Dhan Yojana" bank accounts of female customers, disbursing a pension amount of ₹1,000 for the coming three months to the widows, old persons, and persons with disabilities. The government has also announced free liquefied petroleum gas cylinders for three months to the beneficiaries of "Ujjwala Yojana."

However, nowhere is it clearly mentioned as to how much these relief packages are going to benefit the socio-economically excluded groups like sex workers. To avail the benefits of these government's relief packages, the Aadhaar number has been made mandatory, which most of the sex workers lack, and so is the issue with having a bank account, since they sustain mostly on liquid cash due to the highly informal nature of their profession. Their clientele mostly includes truck drivers, migrant workers, and others who are also facing an economic challenge amidst lockdown that has decreased their footfalls at a noticeable rate in red-light areas. Since sex workers often have no savings and the lockdown has blocked their source of income, they are unable to pay their residential rents and are left at the stake of hunger and anxiety. Even if the lockdown gets entirely lifted soon, it is a matter of debate as to how much they will be allowed to

continue the profession, for "social distancing" has become the new normal.

Conclusions

The trajectory of the COVID-19 crisis in India and its intersection with political decisions setting up new sociocultural norms have placed sex workers of India at the receiving end of apprehensions. Over and again, it puts their human rights in question, although the executive director of UNAIDS, Winnie Byanyima (24 April 2020), continuously reminded the countries to be inclusive of sex workers in their pandemic management schemes, since human rights are universal, inalienable and interdependent. The roots and layers of sex workers' problems attuned to the broader spectrum of the social, economic, political, and legislative contexts of India are densely exclusionary in that inventing its fixed antidote may even be more challenging than discovering the vaccine for COVID-19. Should not some immediate infrastructure be arranged for this marginal section of women, at least to sustain them amidst this pandemic? At a point when imagining an agency for

the marginalised in this kind of a state of crisis is quite utopian, it surely points towards an opportunity to rethink the existing norms and practices collectively.

NOTES

1 As per the UNAIDS survey in 2016, there are 6,57,800 sex workers present in India.
2 *Dhandewali* is a native Hindi word for sex workers which is considered to be derogatory.
3 In 2011, the Supreme Court of India, in its interim order, urged rehabilitation of sex workers. For further details, see: http://indialawyers.wordpress.com/2011/09/16/sex-workers-rehabilitation-case.

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Intellectual Property as Collateral

ABHISHEK KUMAR

The scope of using intellectual property as collateral is discussed. Through examples, it is shown here that, owing to its volatile and dynamic nature, IP is not a reliable collateral. There is a pressing need for proper methods of valuation and registration so that confidence in IP as collateral is enhanced.

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The question of whether intellectual property (hereafter IP) could be used as collateral for a bank loan is a recent and a controversial one. Cash-strapped entrepreneurs may have the idea, yet at the same time, could lack the money to condense it into reality. To bridge this gap, it would be worth considering whether and under what circumstances—their very idea itself should be deemed sufficient for successfully securing a loan.

While such a situation would be ideal for entrepreneurs, when this question is considered from the perspective of a bank; a natural apprehension that comes to mind, pertaining to the use of IP as collateral for a loan, has to do with the fundamental nature of IP itself—in that it is intangible, might not retain its value

unlike gold or real estate, and would therefore pose a high amount of risk to any bank accepting it as a valid collateral for a loan.

However, the World Intellectual Property Organization (WIPO) has observed that there is an emerging trend regarding the collateralisation and securitisation of IP, especially in internet start-ups, the music industry and in high technology sectors (WIPO 2018). Hence, the emerging importance of studying the mainstreaming of IP collateralisation cannot be understated.

Among some insightful works delving into this question—Kenan Patrick Jarboe and Ian Ellis (2010) have, in their paper titled "Intangible Assets: Innovative Financing for Innovation" examined the usage of IP backed financing as well as the reasons why lenders and investors feel uncomfortable with regard to IP. Among other reasons for this aversion to IP—they observe that IP is highly erratic showing no set pattern regarding its market behaviour, a characteristic absent in other assets.

In "Secured Financing of Intellectual Property Assets and the Reform of English Personal Property Security Law," Iwan Davies (2006) too considers the inherent difficulties associated with using IP as economic assets.

In India, the National Intellectual Property Rights (IPR) Policy, released in 2016 proposed the securitisation and collateralisation of IPR (Chitravanshi 2015). In the Indian context, however, there remains a dearth of literature exploring this question.

Against this backdrop, this article will seek to examine the following: (i) the nature of IP vis-à-vis the regular array of properties pledged as collateral to banks, (ii) instances wherein IP has been pledged as collateral for a loan, and (iii) the viability of and hurdles to collateralising IP in India.

Routine Forms of Collateral

One need only look as far as acquisition drives to realise that intangible assets, such as customer relations and brand loyalty, are increasingly viewed as an integral aspect of a company's value. In other words, a company's skill and intellectual capital may in fact be the driving force behind its acquisition (King 2005).

Despite the increasing importance of IP, it remains underutilised as collateral. The primary reason behind the prevailing aversion to IP as collateral is because IP tends to be highly erratic, showing no set pattern regarding its market behaviour—much unlike tangible assets (Jarboe and Ellis 2010).

Additionally, the prevailing perception is that intangible assets are "unsuitable," especially due to their suspect valuation and the accompanying risk involved. The suitability of an asset as collateral depends on various different factors: valuation, asset recognition, transferability, risk and liquidity (Jarboe and Ellis 2010). Financial markets require that an asset be capable of having its behaviour calculable, that is, it should be discernible how that asset acts over time in the market. Certain predictable patterns of performance need to emerge over time in order for an asset to be perceived as a secure and dependable security. The

asset ideally must be capable of replicating its past performance as markets need a degree of predictability in order to be able to valuate an asset.

The perceptions of risk associated with intangible assets have also posed a major hurdle towards the use of intangible assets such as IPR in capital markets. The pre-existing thinness of the market and the accompanying paucity of information contribute towards increasing uncertainty and feeding the perception of higher risk (Jarboe and Ellis 2010). Investors and lenders therefore tend to overestimate the risk of default on securities (Jarboe and Ellis 2010).

Some of these perceptions pose a real risk. In fact, it is estimated that in cases of loan default, it may take twice as long to liquidate IP. "Toys R Us"—an American toy retail chain which went insolvent, is a prime example of this (Ellis 2009).

Accounting for this high level of risk, bankers tend to offer such loans with high interest rates. However, such an approach undervalues potential cash flows (Patrick and Ellis 2010). IP with only future implied value tends to be placed at a 10% loan to value ratio as opposed to IP with a positive cash flow, which tends to be placed at a 40% loan to value ratio. This signifies that IP with only future value is treated very cautiously as collateral.

Another important aspect which must be considered here is liquidity. Assets that can easily be liquefied are preferred by lenders. Markets for the sale and lease of IP, although up and running, need to be regularised and brought into the mainstream still (Jarboe and Ellis 2010).

Given the high interest rates and low loan to value ratios, currently, even if loans backed by IP are allowed—they remain highly prohibitive in nature as a result of the high cost for borrowers. Since the estimated recapture rates of IP assets are usually low (ranging from 10% to 40%) (Jarboe and Ellis 2010), they appeal to only risk tolerant investors. Moreover, IP, even in the rare instances where it is accepted as collateral by lenders, these instances are one-off, individualised events where different methods have to be employed in order to reach a valuation of the IP assets. This in

turn contributes towards increased transaction costs (Jarboe and Ellis 2010).

While lenders at present rarely rely on IP-based collateral, in ignoring the same, they altogether exclude a valuable asset from being called upon in the case of a default—owing to their own inability to understand or valuate the intangible asset. However, there have been instances wherein lenders have relied on IP as collateral, which need to be engaged with.

Real-world Instances

Despite the manifold problems associated with furnishing IP as collateral, there are real-world instances involving its usage (albeit not always successful). One of the earliest examples is that of Lewis Waterman, founder of the famed Waterman pens company, who started his business after borrowing a sum of $5,000 backed by his iconic fountain pen patent.

More recently, "Toys R Us"—an American toy retail chain, had secured a loan on the basis of its IP and had some debt backed by real estate as collateral. As it went insolvent, its debt backed by real estate was estimated to be 70% to 90% recoverable while its debt backed by IP was listed as less than 10% recoverable (Ellis 2009)! Incidents like these only serve to reinforce the perception that the use of intangible assets as collateral comes at a high risk.

An innovative use of IP as an asset was witnessed in the 1990s when David Bowie along with his financial manager Bill Zysblat, and banker David Pullman issued "Bowie bonds" in order to collect cash from Bowie's extensive body of work. These "Bowie bonds" essentially bestowed upon investors a share in Bowie's future royalties for a period of 10 years.

They were purchased by Prudential Financial, an insurance company based in the United States, at a price of $55 m (Espiner 2016). However, while the arrangement was lucrative for Bowie, the same could not be said for the investors. Moody's, a prominent rating agency, eventually had to downgrade its rating of the "Bowie bond" from the investment grade rating that it had originally assigned (subject to a low risk of default) to just one level above "junk status" (Chen 2020). This was principally due to

the advent of Napster and the rise of online music sharing services, and as the industry witnessed a paradigm shift, the investment soured as a consequence (Boulden 2016).

Tranlin Paper, an eco-friendly paper manufacturer based in Shandong, China, in 2014 borrowed over $1 billion from the China Development Bank, providing its IP portfolio as collateral. In 2018, however, around 21 suits were filed against the company as it defaulted on its repayments on a separate grant. As of now, Tranlin's financial health appears weak and observers are so far unconvinced that the China Development Bank will be able to successfully recoup the loan amount from the IP it received as collateral (Schindler 2018).

In India, Vijay Mallya's trademark "Kingfisher" airline brand was offered as collateral in 2009, in a first, to State Bank of India for a loan amounting to over ₹2,000 crore (Dasgupta and Vyas 2016). However, when the trademark was sought to be auctioned by the bank, it was unsuccessful—as by that time the brand had suffered a huge hit. It no longer commanded a stellar goodwill, although still possessed a significant "brand recall" value.

While these instances show that IP has in the past and continues to be used as collateral, the fact that lenders are unable to recover their loan through such IP collateral is discomforting to say the least. A major problem remains one of valuation of IP, especially given its volatile and dynamic nature.

Indian Scenario and Drawbacks

The Indian Patents Act, 1970 and the Designs Act, 2000 both allow for the creation of mortgage or other security interests on patents and registered designs by means of executing an agreement in writing between the parties seeking the same.

Similarly, the Trade Marks Act, 1999 and the Copyright Act, 1957 each allow for a trademark and a copyright respectively, to be assigned by the owner through the execution of an assignment agreement in writing. A security on a trademark can also be created through the execution of a deed of hypothecation.

In *Canara Bank v N G Subbaraya Setty and Anr,* the assignment of the trademark "EENADU" for the manufacture of incense sticks was held to be impermissible in light of the Banking Regulation Act, as it was not a part of the agreement when taking up the debt. The Supreme Court held, reading Sections 6(1)(f) and (g) of the Banking Regulation Act, 1949, which permit the sale of goods under trademark, and earning a royalty from a sub-assignment respectively, that a trademark could not be assigned to a bank by a borrower, after the borrower had defaulted on the loan.

This was unlike the Kingfisher scenario discussed previously, where the trademark had been offered at the time of agreement and therefore did form a part of the security under Section 6 of the Banking Regulation Act.

The Court went on to observe that the bank could not be permitted to sell incense sticks and collect a royalty from a trademark by way of a third party, given that banks are prohibited from moving beyond the banking business. At most it could sell goods in order to realise the security with it.

Notably, Section 2(1)(t) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) defines "property" to include even intangible assets such as trademark, copyright, licence or franchise.

In addition, Section 2(1)(zf) of the act defines "security interest" as a right, title or interest of any kind upon property created in favour of secured creditor and includes such right title or interest in intangible assets. Additionally, Section 2(zd) mentions that the bank which is accepting the assignment of a trademark as the security for such an outstanding loan would become the secured creditor. Therefore, the bank would possess a security interest over the trademark and would be permitted to further sell or assign the trademark for a royalty and recover the defaulted loan.

It follows that the aforesaid decision needs to be reviewed in light of the SARFAESI Act, in order to facilitate the usage of IP as collateral even if not a part of the initial agreement, as a set-off (Umarji 2018).

Again, the nature of the IP in question is also of importance, given that each type of IP, that is, patents, copyrights, trademarks, trade secrets—all prop up new hurdles when it comes to valuation. In the case of a copyright, if someone were to offer a copyrighted work as collateral, given that in India there is no requirement of registering a copyright, this would pose a roadblock towards determining whether or not there already existed conflicting copies of the work in question, which in turn may result in a future lawsuit for copyright infringement. If such a lawsuit were to turn out

to be successful for the plaintiff, the value of the item pledged as collateral would fall to naught, as there would no longer be vested in it an IP right.

Patents too pose a high risk, given that they might not retain their value in the future. Hence, if securitised, a concern would be to exploit the patent and extract the maximum possible from it within a given period of time. Trade secrets on the other hand, owing to their very nature are unlikely to be disclosed in the first place.

There are considerable drawbacks when we look at trademarks as well. Trademarks are closely associated with the value of the brand in question. Therefore, should the goodwill of the company or the brand take a hit in the future, it is likely that the trademark too would lose its value as a consequence, as was the case with Kingfisher.

Conclusions

Much more needs to be done to promote the usage of IP as collateral in India. Recently, an entire marketplace dedicated towards IP assets and their auctions was established by Internet Content Adaptation Protocol Ocean Tomo. The emergence of such web-based marketplaces can greatly bolster the transfer of technology and aid businesses that seek to sell or licence their IP; upfront cash can be generated by company by means of it selling or auctioning its IP, licensing on the other hand leads to the creation of a future revenue stream (Jarboe and Ellis 2010). India, in its recent National IPR Policy, explores what may be done to promote the commercialisation of IPR and mentions this as a potential option as well, as there is a need for a platform to connect inventors with potential users and buyers.

An impediment that needs to be rectified is the decision of the Supreme Court in *Canara Bank v N G Subbaraya Setty and Anr,* which is problematic to say the least. It needs to be revised with reference to the SARFAESI Act, in order to facilitate lending against IP.

Given the high interest rates and low loan to value ratios, currently, even if loans backed by IP are allowed, they remain highly prohibitive in nature as a result of the high cost for borrowers. Since the estimated recapture rates of IP assets are usually low—they attract only risk tolerant investors. These risks, however, tend to be overestimated on account of the small market and general lack of information.

While the concept of IP as collateral or security is legally permitted, it is yet to pick up in practice. IP is very difficult to valuate owing to its volatility and dynamic nature, which in turn renders it an unattractive back-up for banks and lenders. The need of the hour remains the introduction of an appropriate method for valuation and registration which would boost confidence in IP as collateral.

The National IPR Policy, recognising this drawback, seeks to alleviate it by prescribing appropriate methodologies and guidelines for valuation. It further seeks to facilitate the securitisation and collateralisation of IPR by pushing for a conducive administrative, legislative and market framework. The policy, however, remains silent on how it will go about the same.

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Corrigendum

Deutsche Bank AG – India Branches

Notes forming part of the financial statements of the India Branches for the year ended 31 March 2020 published in the edition 27 June–4 July 2020.

In Notes to financial statements, page 280 of the said issue:

1. Schedule 4 m. ii. AS 17-Segment Reporting: Segment Assets (Commercial Banking), the amount of Rupees "660,533,357" thousand may be read as Rupees "497,143,350" thousand.

2. Schedule 4 m. ii. AS 17-Segment Reporting: Segment Assets (Retail Banking), the amount of Rupees "61,384,475" thousand may be read as Rupees "224,774,482" thousand.

Secularism, the State and Muslim Personal Law

NANDAGOPAL R MENON

Studies on secularism have burgeoned in the recent past. Moving away from understanding it as the principle of separation between state and religion, influential scholarship has proffered a twofold analytical differentiation between political secularism and the secular. Political secularism denotes the modern nation state's sovereign power to reconfigure religion in particular forms, with religion itself being modelled on Protestant Christianity privileging the concept of belief (Asad 1993, 2003). The secular is a "particular configuration of the human sensorium" (Hirschkind 2011: 633) that produces a secular society and is presupposed by the doctrine of political secularism.

History as an inquiry into the "positivity of events" (Mahmood 2016: 206), for example, has become indispensable for verifying and interpreting religious truths. In fact, it is important to underscore that the contemporary surge in thinking on secularism has its roots in a particular historical and political conjuncture in postcolonial India in the 1990s, often termed the "crisis of secularism" (Needham and Rajan 2007). The threat posed by an aggressive, xenophobic and Islamophobic Hindu nationalism required urgent and detailed reassessment of secularism.

Debates about secularism's goals, subjects and agents, colonial roots, distinctiveness from or isomorphism between comparable categories in other national contexts, suitability or necessity—all these have and continue to shape the contours of debates in popular and academic discourses in contemporary India (Bhargava 1998). However, despite these origins, scholarship on secularism often works with an implicit binary that pits general, abstract theorising on the topic (secularism) against specific examples from countries, including India (secularisms). Putting the condition of postcoloniality back at the centre of the thinking

about secularism necessitates acknowledging the continued disparity in power between the West and the non-West, that secularism is intimately entangled with these inequalities and its effects. All of this undermines assumptions that the study of secularism in a non-Western place like India has nothing to contribute to theoretical thinking on secularism as a historical phenomenon (Agrama 2013a).

The two books under review are important interventions because they bring together the two broad themes outlined above. They think about personal law—Muslim personal law to be precise—in India by drawing on and contributing to accounts of secularism that stress its disciplinary, boundary-defining/undermining powers. Based on different disciplinary approaches, history and anthropology, there are nevertheless points where they converge. Both stress the centrality of the colonial and postcolonial Indian state to secularism—important continuities and discontinuities between the two forms of governance are evident when the two volumes are read together—but hasten to add that non-state actors are equally involved in this project.

As Katherine Lemons observes, the focus in the anthropological research on secularism has been on the secularisms of Egypt and France, which are primarily "project[s] designed and carried out by a rigorously centralised state" (p 24). It is in highlighting, to cite Julia Stephens, the "dynamic tension" between state and non-state legalities in India and how

they produce "religion as a distinct field" (pp 13–14) that the two volumes provide insightful commentaries on secularism.

Colonial Origins and Development

Stephens' is an archive-driven approach to investigate the origins and development of Muslim personal law in colonial India. She elaborates on how the British colonial state, in its two avatars as rule by the East India Company and subsequent direct rule by the Crown, through protracted and interrelated legal reforms repeatedly marked and made illegible the divide between religion, family and the economy. In Chapter 1, Stephens brings out the constellation of ideas that paved the way for the evolution of personal law in colonial India. She notes how territoriality, historicism and evangelical Christianity enabled this process.

These ideas, which assume an inequality between the colonisers and the colonised on multiple registers, enabled the British to govern not despite but through ambiguities. Hence, while territoriality stipulated "jurisdictional monopoly [of the state] within a bounded geographical space" (p 34) and encouraged the company rulers to initiate legal reforms (ban *sati*, for example) in the early 19th century, historicism, which emphasised the organic links between law and *volksgeist* (national spirit), exercised a restraining influence in preventing the colonisers from going the whole hog and in imposing British law on Indian subjects.

The "civilisational immaturity" of the colonised meant that subjects needed a "premodern form" (especially those who followed Indian religions) like personal law (p 37), which was completely distinct from the rational and universal British law. So as economic activity came to be governed by rational, universal and secular law, there was an equation among religion, family and irrationality (the domain of personal law). Incidentally,

as the Crown institutionalised religious personal law in post-1857 India, in Britain, domestic matters such as marriage and divorce were moved out of the religious domain and brought under secular law. But, as Stephens shows, this differentiation of spheres was hardly ever accomplished; instead it repeatedly threw up questions about the boundaries between them. These "deep currents of instability" "infused secular legal governance" (p 56).

Stephens traces the impact of this governance through indeterminacy by looking at case law in a host of matters—marital property, customs, Islamic ritual, relations among Hindus and Muslims, and Islamic finance. Chapter 2 on marital property traverses the realms of colonial law courts and *fatawa* (sing. fatawa, legal advice) production in Deoband's Dar-ul-Uloom to reveal how, even as there were differences in the interpretation of the Islamic tradition regarding details of marriage and divorce, the two forums converged in continuously defining and redefining the boundaries between the secular and the religious.

Marital property is a particularly tricky issue because it conjoins a private, religious matter (marriage/divorce) with a public, secular concern (property). Stephens also shows how Muslim personal law was far from a static entity, though it was sought to be presented as such, as it was constantly contested within and outside the judiciary. Consider how the restitution of the husband's conjugal rights was interpreted by various levels of the judiciary and in Deoband fatawa.

In a major precedent-setting 1867 judgment analysed by Stephens, the Privy Council endorsed the restitution of the conjugal rights of an estranged Muslim husband by drawing mainly from English legal precedents and civil law, and only marginally engaged with the Islamic tradition's views on this matter (pp 62–64). Even as the Privy Council acknowledged that marriage was a domestic matter to be governed by Muslim personal law, what was applied was colonial civil law. In the same decision, the Privy Council also ruled on the husband's right to his wife's property; in this matter, however, the Privy Council rejected Muslim law and concluded that the property belonged

to the wife because she was a woman observing *pardah* and thereby "vulnerable to economic exploitation" (p 65).

Stephens underscores the disparity in the situations between the metropole and the colony and the underlying Orientalist ideas. While British women gained property rights only a decade or more after the 1867 judgment, the Privy Council was to deal with the anomaly that Muslim women had rights that their British counterparts did not. Stephens observes that the Privy Council solved this dilemma by arguing that though women in pardah had the right to own property, "their actual capacity to manage this property was still inferior to that of a mature male" (p 66). Turning to another case, involving the question of *mahr* (an obligatory payment made by a Muslim husband to his wife, which is incorporated in the marriage contract or *nikahnama*), an Indian Muslim judge ruled in 1886 that once the marriage was consummated, the wife did not have the right to leave her husband even if the mahr was not paid. Syed Mahmood, the Indian judge and the son of the famous Muslim thinker and reformed Sayyid Ahmad Khan, drew extensively on Hanafi *fiqh* (jurisprudence), but clinched his decision by relying on the Indian Contract Act, which supposedly applied exclusively in economic and, hence, secular matters (pp 70–72).

In contrast, Deobandi *alim* (Islamic scholar) Aziz-ul-Rahman Usmani issued *fatawa* noting that if a husband failed to pay the mahr or financially support his wife, the latter was well within her rights to leave his house (p 79). Stephens clearly brings out the complex interactions between these diverse domains and their deep intertextuality, despite pronouncements to the contrary. Moreover, despite differences in reasoning and decisions arrived at, both the state and non-state actors "increasingly emphasised the particular importance of religious laws in adjudicating domestic matters" (p 85).

Ambiguous Differentiations

In Chapters 4 and 5, Stephens shifts her focus to explore how secular governance exacerbated intra-religious and inter-religious conflicts through its ambiguous

differentiations between state and community, and reason and religious belief. I will focus on the *Rangila Rasul* controversy, related to a scurrilous pamphlet about the Prophet, which brings the story to the 1920s and, in a way, is a prelude to several debates about secularism in contemporary India. Stephens writes that the British treated religious communities as a category rather than a unit of governance (pp 107–08). Unlike in the Mughal period, communities no longer, at least in theory, had the rights to their own means of legal regulation and enforcement.

Instead, the British administered personal laws, included religion as a census category and implemented separate electorates for religious communities. Indian religious laws, particularly its Muslim version, were neither rational nor universally applicable, were distinct from the rational codes of the Raj and had to be neutrally administered by the colonial courts themselves rather than be left to the respective communities. Stephens points out a noteworthy feature of the *Rangila Rasul* controversy—Muslim protests against the pamphlet and its Hindu author reached its peak not immediately after its publication in 1924, but following his acquittal by a colonial court in 1927 from charges of promoting enmity and hatred among religious communities (p 141).

Hence, the Muslim sentiments were not visceral or natural (and therefore irrational) but intertwined with and produced by how the colonial state responded to the injury caused by the pamphlet. The Hindu reaction to Muslim protests is especially relevant to understand the eventual development of secularism in postcolonial India. Following the Muslim dissatisfaction with the 1927 verdict, the colonial government amended the Indian Penal Code to include a new Section 295A that criminalised expressions made with "deliberate and malicious intentions of outraging the religious feelings of any class" (p 147). Hindu politicians took to the press and the podium to condemn "Muslim fanaticism."

Lala Lajpat Rai was perhaps one of the earliest nationalist politicians to use the word secularism in opposition to and a solution to what he termed "religionism,"

which he identified as a distinctly "Muslim problem" (pp 149–50). Stephens writes that Rai's thoughts points to the "intimate relationship between calls for secularism and a majoritarian discourse of Hindu nationalism that demonised Islam" (p 150). Even as the law recognised that religious feelings ought to be protected, the nascent discourse of secularism did not see all religious sentiments (especially Muslim) as equal.

The Current Conjuncture

But, is the demonisation of Muslims and Islam a feature peculiar to Indian secularism? Lemons argues otherwise in her book. She writes that "like minorities in other modern states, Indian Muslims must perform both their difference from the majority and their loyalty to it" (p 37). The situation of Indian Muslims is an example of the "constitutive bind" faced by religious minorities in a secular state, Lemons writes (p 64) citing the anthropologist Mayanthi Fernando's work on French Muslims. Indian Muslim women bear the bulk of this dynamic's burden with "their inequality [being taken] as a sign of the pathology of Muslim kinship and consequently of the community's failure to be fully modern and fully Indian" (p 37).

In Chapter 2, Lemons lays out this argument through the analysis of the 2016 Supreme Court judgment outlawing triple talaq (*talaq ul-ba'in*) and the work of a Muslim woman's arbitration centre called mahila panchayat in Delhi. The 2016 judgment was hailed as a victory for Muslim women in their battle for equality, though, as Lemons notes, instant/irrevocable divorce, or triple talaq, had already become legally untenable in practice (p 41). The Muslim Women (Protection of Rights on Marriage) Act, 2019 passed by Parliament, following the court's directive in the 2016 judgment, criminalised triple talaq.

The point about the judgment and the law that Lemons highlights is important—while both stress the need for gender equality and equality between Muslim and non-Muslim women, the solution for that is to rectify defective kinship practices among Muslims based on a correct interpretation of Islamic law. The

non-state body of the mahila panchayat is, in theory, committed to the secular idea of a similarity in economic precarity of women across religions and often draws on secular legislation against domestic violence in adjudicating marital disputes mainly aimed at reconciling feuding couples (p 57). But Muslim women and families were marked out as particularly religious, and the mahila panchayat the author studied in a Muslim-dominated neighbourhood in Delhi also occasionally relied on Islamic precepts in their adjudication practice (pp 60–64). Lemons concludes that for both state and non-state bodies, "religion is the instrument for regulating the family" (p 64). Hence, secularism produces Muslims, particularly Muslim women, as religious and peg their emancipation to freedom from their religious tradition.

Lemons' ethnography moves on to study other Islamic fora where marriage and divorce matters are adjudicated. In the second part of the book, she looks closely at the activities of the Dar ul-Qaza (inappropriately translated as *shari'a* courts) presided over by a *qazi* (judge) at the All India Muslim Personal Law Board offices in Delhi and its intersections with state courts. Dar ul-Qazas participate in the secularism project in two ways.

The division between the family and economy allegedly fixed by secularism is repeatedly called into question in divorce proceedings at the Dar ul-Qaza. Divorce is granted by a qazi when he is convinced that a marriage failed to "replace relations of exchange and distribution with relations of care and shelter" (p 78). In adjudicating such matters by relying on Islamic principles, the Dar ul-Qaza not only marks out the family as distinct from the economy, but also underscores that it is to be governed by religious norms (p 97). Engaging with a 2017 Supreme Court judgment on the legality of Dar ul-Qazas, which termed them as "Alternate Dispute Resolution mechanism" (p 100), Lemons argues that they, in practice, "intersect with, rather than run parallel to, the state courts" (p 101).

By implementing the same laws as the state, Dar ul-Qazas, despite operating beyond the purview of the state, "enforces and produces the very construction of

the private sphere of the family [also the domain of religion], that the state itself is invested in maintaining" (p 107). The last section of the book turns to the work of a *mufti* (jurist) who, through his fatawa and spiritual healing, engage in adjudicating *talaq ul-ba'in* and marital problems. In Chapter 5, Lemons writes that the contradictory approaches of fatawa and state courts to talaq ul-ba'in—one mostly authorising it, while the other seldom endorsing though still sustaining it (p 152)—nevertheless works to reproduce secularism.

The contradiction in the interpretation should not obscure the fact that the mufti works within the domain of personal law and the courts concern themselves mainly with the economics of divorce. Both, importantly, do not see a space for Muslim women beyond family. The penultimate chapter turns to healing practices such as amulets (*ta'wiz*) or ingestion of Qur'anic verses to solve marital difficulties. This is quite a distinct adjudication method unlike any other encountered in the book so far. One reason for this is that spiritual healing is not a directive like a fatawa or a court judgment because the former "transform[s] both people and the broader cosmological relationships that afflict them and produce their problems" (p 190).

Hence, certain Qur'anic verses are considered to be particularly effective in combating black magic (pp 179–80). Varying assumptions about what language is or can do underlie these different forms of directives. However, Lemons underscores that because its practitioners (like the mufti), its critics (certain currents of reformist Islam) and those who are indifferent to it (courts, for example) see it as a religious matter, spiritual healing "captures the secular work of co-constituting religion and secularism" (p 172).

State–Society Disjunct

There is plenty of food for thought in these two important volumes, though I will reflect only on a few morsels here. As pointed out at the outset, it is necessary for empirical studies of secularism from places like India to engage in a dialogue with path-breaking theoretical

interventions in the subject. And that is something that both these volumes do. Agrama (2013b) has observed that secularism is a "*questioning power … a form of power crucially involved in questioning the norms it establishes*" (p 33, emphasis in the original). Secularism simultaneously defines and challenges the boundaries that separate religion from other spheres of social life. Stephens and Lemons show how across its history Muslim personal law has been used to constitute and reconstitute religion along with domains, such as family (private), while distinguishing it from others, such as economy and politics (public).

Stephens, in particular, shows the divergences in the evolution of personal law in the metropole and the colony; moves that were undergirded by Orientalist ideas about the irrationality and inferiority of the colonised masses. The legacy of colonial rule, which saw the beginnings of the problematisation of Muslims and Islam, has become the norm in postcolonial India.

Lemons, on the other hand, underscores that the "constitutive bind" of religious minority is a structural effect of secularism rather than something peculiar to Indian secularism. The simultaneous and incessant demanding/troubling of religious minorities' belonging to the nation is integral to the operation of secularism. But where the authors depart or add to literature like that of Agrama (2013b) and Asad (2003) is when they stress the role of non-state actors in the project of secularism.

Secularism in India, according to Lemons, is thus "particular but not exceptional" (p 28), which can help nuance arguments like that of Bhargava's (2007), which overstress the "distinctiveness of Indian secularism." Drawing on Foucault's idea of governmentality, Stephens writes about "rubber-band-like control" of the colonial state, which allowed them to govern religion that was "simultaneously wide in scope, and flexible and fragmented in application" (p 14). In a way, these books can also be read against and with scholars who have identified a vicious circle—the lack of fit between the statist secular project and a traditional Indian society leads to pathologies of communal violence, which is then battled by the state in the name of defending secular and nationalist ideals (Nandy 1998; Madan 1998).

Conclusions

One question which I was left wondering as I read through the books, especially Lemons, was how the authors underscore the difference between the state and the non-state to advance their core argument of secularism as a project jointly advanced by state and non-state actors. This differentiation has been troubled by scholars to ask how the "state effect" is produced, or the ability of the state to appear "as an apparatus that stands apart from the rest of the world" (Mitchell 2006: 180). In fact, Sharma and Gupta (2006) argue that we ought to

> conceptualise "the state" *within* (and not automatically distinct from) other institutional forms through which social relations are lived, such as the family, civil society, and the economy [and, if I may add, religious life]. (p 9, emphasis in the original)

If these scholars' reflections about the modern state are endorsed, does the proposed difference between Indian secularism and those in France, Egypt or Turkey, which are state-centric projects, stand up to scrutiny? Maybe one way to read Lemons and Stephens is that, since fora like the Dar ul-Qaza work within and reproduce the Indian state's conceptualisation of what counts essentially as religious and the latter's scope in social life, these fora instantiate the state's ultimate authority in this matter.

Then we are close to Agrama's (2013b) observation that the "active principle of secularism [of deciding the role of religion in social life] is a principle of *sovereign* state power" (p 97, emphasis in the original). In other words, the centrality of the state to secularism. Seen from a different angle—that of effects, or the kind of subjects produced by state and non-state actors—both the state and practices like *fatawa* (notwithstanding differences between them) occupy the same secular space and confine Indian Muslims to the space of religion and render precarious their belonging to the nation.

Hence, it is not really clear what and how the distinction between the state and the non-state contributes to the debate on secularism, or how it can advance a comparative study of secularisms across national contexts. Perhaps, there is another question to pose. If Mitchell (2006) and Sharma and Gupta (2006) are observations on the modern state, what does the adjective secular add to it? How do we understand secular power if, inter alia, it is produced through the "state effect," or the apparent distinction between state and non-state?

Another striking feature that requires commentary is the totalising character of secularism in the two books. That secularism generates and operates through indeterminacies is something proved beyond dispute in both Stephens and Lemons. But they are sceptical about the existence of a space beyond the state or law, as is assumed by Madan and Nandy, that can solve the pathologies incessantly generated by secularism.

One cannot transcend the secular and secularism as they are defining elements of the condition of our modern being, and they also shape our thought, its forms and its modes of production (Agrama 2013a). Both the works under review are acknowledgements of these

fundamental realities. Yet, Stephens especially is not dismissive of the law as an instrument to engage with secularism's failings. She rejects the "deep pessimism" of Agrama (2013b) who seeks "possibilities outside of secular, liberal law to foster alternative 'cultural and ethical sensibilities' or methods of 'care of the self'" (p 18). There is no freedom or escape from these constraining and enabling powers of secular law, but Stephens cites Judith Butler who advocates strategies "to work with the trap that one is inevitably in" (p 18).

One such instance is found by her in the *Rangila Rasul* controversy. Rajpal, the publisher of the pamphlet, was murdered by a man called Ilmuddin, who was subsequently executed. Defending Ilmuddin in court, Muhammad Ali Jinnah, even while not condoning the murder, pleaded for mercy because it stemmed from feelings of anger at the person who ridiculed a religious figure the accused venerated. Stephens adds that the courtroom turned out to be "a potent space for fusing feelings of injury and calls for mercy with protests against injustice" (p 151). That is, though Jinnah could not save Ilmuddin, colonial law that rendered religious (particularly Muslim) sentiments irrational nonetheless provided the space to articulate affects that could not be easily grasped by it in the first place.

Lemons is not persuaded by Agrama's (2013b) identification of the "asecular" (p 187) practices and spaces that are indifferent to or disentangled from the central question of secularism to draw the line between religion and other realms of life. Agrama (2013b) writes that fatawa issued by the Fatawa Council of Egypt's Al-Azhar does not partake in the labour of secularism and is a "practice by which a self, in the multiplicity of its affairs, is connected to and advanced as part of the Islamic tradition" (p 184). Lemons, however, states that positing the "asecular" requires the acceptance of the secular premise of differentiation. First, one has to assume that "divorce and reconciliation are private matters that can be separated from the state's interest in family," and second, one has to accept that since "the *fatawa* council does

not explicitly debate questions of public order and the family, it can be neatly separated from the political work of delineating the relation between religion and law/politics" (p 151). Both of these claims do not hold in the Indian case and fatawa are "touched by, and help to make, the secular present" (p 152). They are "a matter of public debate" and their primary subject (talaq ul-ba'in) is "the object of even more vociferous debate" (p 152).

It is worth noting that Agrama (2013b) who posits the "asecular" is cautious to distinguish it from the non-secular (often equated with religious) and the post-secular (a temporal marker for that which comes after secularism) and stresses that an "asecular" practice like *fatawa* or the fatawa council exist within and are produced by secular power (p 187). The asecular is "like a bubble within a bubble, produced by it but no longer of it, bouncing around within its confines yet otherwise largely indifferent to it" (p 187). Temporally nor spatially, it is neither outside or comes after secular power.

Agrama's (2013b) thought opens the possibility to think about forces and processes that enable subjects to be other than what they are or should be. It is not insignificant that scholars who have made influential contributions to theorising secularism, whose work frames the outlook of Lemons and Stephens, have turned to other beings (ghosts and the post-human) and modalities (enigma, the uncanny) to trouble the "human-centric foundations of secularity" (Fernando 2017; Fernando 2020; Agrama 2018). Lemons writes about the "excess" produced by "spiritual healing's powerful speech," which is "anathema to secularism" (p 172), for it has "the capacity to bring together spirit and matter, mind and body" (p 187).

The treatments are not meant only for the body or the person, but meant to transform the entire sphere of relationships within which they are embedded, which includes other beings like jinn. Maybe Stephens "politics of grieving" (p 150) manifest during the well-attended funerals of Rajpal and Ilmuddin, in which both communities mourned their losses and subsequently strengthened the calls for inter-religious amity, could

also be read as to how the law simultaneously creates inter-religious discord and enables unanticipated forms of becoming otherwise (Povinelli 2011). If we take the "excess" of the secular condition seriously, there might be possibilities for other forms of beings and relations to emerge, some of which include non-human and non-natural beings like jinns.

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ECONOMIC & POLITICAL WEEKLY

(De)Valuing Dignity
Three Risks of Dignity Inflation in the Indian Supreme Court's Reasoning

PRITAM BARUAH

ECONOMIC & POLITICAL WEEKLY

The Supreme Court of India holds dignity to be a foundational constitutional value. Judicial enthusiasm about dignity must, however, be sensitive to the risk of devaluing it in the absence of close legal analysis. Three such risks are identified here. First, the constitutional status of dignity is unclear. Is it a right under Article 21 or a value underlying fundamental rights? The choice has significant interpretive implications. Second, does dignity guarantee a minimum standard of life, or does it refer to human flourishing entailing extensive state obligations? Third, can dignity be understood as a source of limiting rights as held in the Aadhaar decision?

Human dignity is beyond definition. It may at times defy description. To some, it may seem to be in the world of abstraction and some may even perversely treat it as an attribute of egotism or accentuated eccentricity ... Dignity speaks, it has its sound, it is natural and human. It is a combination of thought and feeling.

— Justice Dipak Misra, *Common Cause (A Regd Society) v Union of India and Anr* (2018: para 156)

Former Chief Justice of India (CJI) Dipak Misra's words illustrate judicial irony about dignity. Judges hold it to be a foundational constitutional justification despite its admittedly indeterminate nature. It is ironical that metaphors, instead of law and logic, figure prominently in applying the concept. Indeterminacy ordinarily invites scepticism in judicial decision-making, as judicial decisions are expected to "justify" their conclusions when litigants disagree. As Ludwig Wittgenstein pointed out, justifications arise from firmer ground than the reasons for which people disagree (Wittgenstein 1969: 97, 99, 104). The indeterminacy of dignity thus makes it shakier, rather than it being firm grounds for justification. Despite its indeterminacy, dignity is almost ubiquitous in the Indian constitutional law. Recent decisions on the right to privacy, euthanasia, criminalisation of consensual homosexual practices, rights of transgender persons, and Aadhaar uninhibitedly invoke human dignity. This follows an established tradition of the Supreme Court of India where it draws upon the concept of dignity in cases involving fundamental rights.

This essay argues that judicial enthusiasm about dignity is not misplaced, but the concept must be used cautiously. Courts should avoid casual application of the value, which would devalue its justificatory potential; instead, they should construct a careful judicial doctrine of human dignity. I identify three reasons for why the widespread application of dignity in Indian constitutional discourse runs the risk of devaluing it. First, the constitutional status of dignity is unclear. Is it a right under Article 21 (right to life and personal liberty), or a value that provides meaning to Article 21, or a value that underlies all fundamental rights? Each of these choices has significant constitutional implications. Second, the scope of dignity is unclear. Does it guarantee a minimum standard of life, or instead, is it necessary for human flourishing that entails extensive state obligations? Third, dignity has the potential to limit rights pursuant to the logic of community dignity in the Aadhaar decision (*K S Puttaswamy [Retd] v Union of India* 2018), which portrays dignity as a reason to favour collective goals at the expense of individual rights.

What unites these reasons is the scant attention that the content of dignity has received in judicial decisions and its casual invocation by courts. Motivated by this, I conclude that India's judicial experience with dignity provides reasons to rethink the functional legitimacy of constitutional courts.

A Double-edged Sword

Controversies over dignity abound outside India. Two European examples highlight the rights-limiting potential of dignity. In the German Peep Show case (German Federal Administrative Court 1981), the Federal Administrative Court in Germany banned peep shows stating that they violated the dignity of female performers. In peep shows, individuals could watch erotic performances by women through peepholes in private cabins on payment of money, creating a sense of voyeurism. Applying Kant's famous object formula, the Federal Administrative Court found that the practice reduces performers to mere objects, despite the contending morality of the performing women that it was their chosen means of livelihood (Botha 2009). Similarly, in France, dwarf throwing was banned on the grounds that it violated the dignity of dwarves.[1] Manuel Wackenheim, a dwarf who chose

to participate in the activity, challenged the ban, arguing that it was his choice as an autonomous human being to earn his living by dwarf throwing. His challenge was unsuccessful all the way up to the United Nations Human Rights Committee, defeated by what courts understood to be the dignity of dwarves (*Manuel Wackenheim v France* 2002).

Even if we agreed with the courts' decisions in these cases, they illustrate that dignity is employed by opposing parties in a disagreement to arrive at conflicting conclusions. Consequently, the rationale for choosing dignity as a justification for either of the conclusions should be strong. India's experience has been to the contrary, and the text of the Constitution is a suitable place to begin this account.

Dignity in the Constitution

The word "dignity" is mentioned thrice in the Constitution: in the preamble, the directive principles of state policy,[2] and the fundamental duties.[3] Unlike the constitutions of South Africa and Germany, dignity finds no mention in the chapter on fundamental rights in India. The Court has unshackled itself from this textual limitation by reading the preamble as an integral part of the Constitution (*Kesavananda Bharati and Ors v State of Kerala and Anr* 1973), containing the ideals and aspirations of the Constitution (Subbarao J in *I C Golaknath and Ors v State of Punjab and Anrs* 1967).

In the preamble, dignity, along with the unity and integrity of the nation, is assured by fraternity. Each of these values, including "unity and integrity" are moral ideas and not territorial facts (Baruah 2019). As Upendra Baxi proposes, the two values point towards an empowering idea of dignity due to the development of "fraternity-dignity values" by the Court (Baxi 2014: 239–40). What this term precisely denotes remains to be fleshed out, but Baxi interprets this to mean that dignity is rights-apt, while fraternity is duty-apt. This line of thinking vindicates the rights-generating tradition of dignity and invites reflection on the potential of fraternity. However, there is a prior question of content that must be settled. It is the content of dignity that would determine which rights it supports and what its relation is with

fraternity. In fact, the textual inspiration for dignity being included in the preamble is the Irish Constitution of 1937. Arguably, if we were to trace the content of dignity through its textual roots, then it is a conservative, catholic conception that would face us (McCrudden 2008: 658–59). A focus on context would avoid this awkwardness. Much like the German, Costa Rican, South African, and other constitutions, the Indian one evolved in the context of not only the independence movement, but an international push for universal human rights that culminated in the Universal Declaration of Human Rights (UDHR) in 1948. Scholarship on the UDHR points towards an inherent/intrinsic worth concept of dignity that was accepted by the framers (Morsink 2009: Ch 8). It is this Kantian, individualistic view of dignity rooted in Enlightenment values that has found favour with the Court.

How this individualistic concept of dignity bears upon the fraternity–dignity relationship is yet to receive judicial attention. For example, Article 51A in the fundamental duties invokes dignity in the context of derogatory practices related to women within a subclause about brotherhood among the people of India. Dignity's connection with fraternity therefore resonates in this provision. Since dignity in the fundamental duties has not witnessed adjudicative action, it remains to be seen how the fraternity–dignity relationship would develop.

The directive principles of state policy, despite their non-justiciability, have been used to interpret the right to life with dignity. Courts have held directive principles and fundamental rights to be complementary and supplementary to each other (*Chandra Bhavan Boarding and Lodging v State of Mysore and Anr* 1969). The balance and harmony between the two is a basic feature of the Constitution (*Minerva Mills Ltd and Ors v Union of India and Ors* 1980).

Despite the high status accorded to it by courts, textual references to dignity in the Indian Constitution pale in comparison to those in other constitutions. Compared to Germany, where dignity has absolute and overriding status, in India, dignity is one among the several values listed in the preamble.[4] Compared

to South Africa, Canada, and Germany, dignity does not find any mention in the fundamental rights provisions in India. Despite this textual absence, the Supreme Court has primarily applied the concept in adjudicating fundamental rights, sometimes holding it to be the source of all fundamental rights. This bears out the generosity and flexibility with which the Court has approached the concept. This, however, is no guarantee for rigour. For example, if there was any textual clarity about dignity, it was the fact that the Constitution spoke of dignity of the individual. However, after Justice Sikri's articulation of "community dignity" in the Aadhaar case, the text is drained even of this clarity. The confusion about dignity, however, emerges much before.

Dignity as Source of Rights

Dignity has been employed by the Court as the source of several unenumerated rights. Dignity has been used to justify the creation of new rights. For dignity to be an effective source of justification, the Court must explain how dignity is related to the rights that it generates. Unfortunately, there is scant explanation for how dignity is related to specific rights, which demands more justification than stating that dignity is so related.

A good example is the right to education. The constitutional entrenchment of the right by the 86th amendment was preceded by constitutional litigation that pronounced the right to be a fundamental right. The Court did so by reading the right to life along with the directive principles of state policy. Education was pronounced to be essential for a dignified life:

> The dignity of man is inviolable. It is the duty of the State to respect and protect the same. It is primarily the (sic) education which brings forth the dignity of a man … An individual cannot be assured of human dignity unless his personality is developed and the only way to do that is to educate him … Although a citizen cannot enforce the directive principles contained in Chapter IV of the Constitution but these were not intended to be mere pious declarations. (*Mohini Jain v State of Karnataka and Ors* 1992: para 8)

At first sight, this appears to be a harmless, generalist application of dignity. However, a close reading of the passage is disconcerting. The Court establishes

the duty of the state to protect the dignity of the individual by establishing a peculiar relationship between education and dignity: dignity is assured only if an individual is educated. This raises the question whether uneducated people have less dignity than educated ones? Or is it that education increases the dignity of human beings? If so, then the idea that all human beings have equal dignity becomes suspect, as with increasing education, more dignity is realised. Perhaps, the Court implies that dignity requires that every person should have the opportunity to be educated. But on what reading of dignity do we arrive at such an interpretation? These questions become pertinent since, in the same case, the Court holds that the right to education flows from the right to life (*Mohini Jain v State of Karnataka and Ors* 1992: para 12). But is dignity the best concept through which to establish this relationship? It is perhaps possible to justify the intrinsic relationship between education and life by appealing to other values in the preamble. For instance, in the Indian context, a burden to provide education arguably lies on the Indian state as part of its duty to achieve social and economic justice; or to ensure equality of opportunity; or to facilitate the liberty of thought and expression. These valuable ideals find explicit mention in the Constitution and provide more specificity as to why the state is obligated to provide education. In contrast, an easy and vague recourse to dignity has pushed the Court to hazy conclusions. Another such conclusion is that it is education that makes a person conscious of their dignity:

> The fundamental rights … cannot be appreciated and fully enjoyed unless a citizen is educated and is conscious of his individualistic dignity. (*Mohini Jain v State of Karnataka and Ors* 1992: para 13)

Such observations strike at the very heart of the common intuition about human beings having equal dignity despite all differentiations, including educational levels. Theoretically, it may be argued that, on some performance-based understandings of dignity, it is a virtue that must be achieved through the actions of individuals. Such views are at variance with the Kantian idea of dignity as the equal intrinsic worth of humans. As I argue below, in the application of the concept by the Court in other cases, it is the Kantian idea that emerges (*C Masilamani Mudaliar and Ors v Idol of Sri Swaminathaswami Thirukoil and Ors* 1996).

Flourishing or Bare Necessities?

In employing dignity as a source of unenumerated rights, the Court at times reads dignity as guaranteeing the bare minimum necessities of life, and at others as mandating human flourishing. Cases involving the right to food bring out this contradiction with clarity.

In *People's Union Of Civil Liberties and Anr v Union Of India and Anr* (2014), the Court in a single breath articulated a life with dignity in terms of both of the minimum standards for dignified existence and the maximalist standards that would make a person's life meaningful and worth living:

> In *C E S C Ltd v Subhash Chandra Bose* … this Court held that right to social and economic justice is a fundamental right … Therefore, right to life enshrined in Article 21 means something more than mere survival of animal existence. The right to live with human dignity with minimum sustenance and shelter and all those rights and aspects of life which would go to make a man's life complete and worth living, would form part of the right to life. Enjoyment of life and its attainment—social, cultural and intellectual—without which life cannot be meaningful, would embrace the protection and preservation of life guaranteed by Article 21. (para 4)

This line of reasoning fits judicial decisions on the right to education, where education was held to be a component of a life with dignity, however debatable this may be. However, the present extract leaves the meaning of dignity contingent on what meaning the Court gives to a complete life that is worth living, on the one hand, and the minimum standards that would guarantee it, on the other. It could imply that all socio-economic rights are included in the right to life with dignity. Simultaneously, it could mean that only those rights that ensure the minimum standards for a dignified life are included. For example, in *Kapila Hingorani v State of Bihar* (2003), the Court limits the meaning of dignity to some valuable aspects of human life and also indicates restrictions on them when it favourably quotes the following from a scholarly source:

> The Right to Food in the context of Human Rights doesn't mean that the state is a super-entrepreneur determining and carrying out economic activities according to its own wisdom. It means the Right to Feed Oneself, which emphasises dignity and self-reliance, very different from command economics of big government. (para 50)

Again, in *P G Gupta v State of Gujarat and Ors* (1995: para 8):

> To the poor, settlement with a fixed abode and right to residence guaranteed by Article 19(1)(e) remain more a teasing illusion unless the State provides them the means to have food, clothing and shelter so as to make their life meaningful and worth-living with dignity.

These excerpts imagine a life with dignity as limited to the bare necessities of life as opposed to the broad interpretation given in *People's Union of Civil Liberties and Anr v Union of India and Anr*. It also contrasts with the expansive ambit of dignity described in *Chameli Singh v State of Uttar Pradesh* (1996: para 8):

> The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. Want of decent residence, therefore, frustrates the very object of the Constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself.

In fact, in *C Masilamani Mudaliar and Ors v Idol of Sri Swaminathaswami Thirukoil and Ors*, the court held that the right to equality and dignity formed the basis of the preamble, the fundamental rights, and the directive principles.

There are numerous other cases where dignity has been employed as a source for rights. The point I want to draw attention to is that existing decisions can justify both a maximalist and a minimalist understanding of dignity, especially in the context of socio-economic rights. Such ambiguity surely has a very low normative potential to guide the discretion of judges in future cases.

Status of Dignity Limited

Judicial decisions employing dignity as a source of rights speak of dignity both as a right and a value that justifies rights. This has legal implications for the status of dignity within the Constitution. If dignity

is a specific right, then must it not be located within a constitutional provision? The agreed place for dignity is Article 21. In that case, dignity is not an absolute value as is ordinarily understood, but limitable by law.

In *Francis Coralie Mullin v Administrator, Union Territory of Delhi and Ors* (1981), one of the early cases that brought dignity into focus in Indian jurisprudence, the Court unequivocally stated that any deprivation of human dignity would constitute a violation of the right to life. As such, it would have to be in accordance with reasonable, fair, and just procedure established by law. This implies that an individual's dignity is not absolute, and can be deprived by a fair, just, and reasonable law. Due process can thus limit dignity claims. Indeed, the court went on to say that "the magnitude and content of the right (to life with human dignity) depends on the extent of economic development of the country," but must include the right to basic necessities, and "the right to carry on such functions and activities as constitute the bare minimum expression of the human self" (para 8). What is of greater significance is that the Court went on to state in paragraph 11 that the right to live with human dignity is a part of personal liberty. The implication is that judicial decisions that speak of dignity as a source of rights, especially socio-economic rights, are also related to personal liberty under Article 21 in some sense.

To be fair, in the Francis Coralie Mullin case, the Court does say in paragraph 6 of the judgment that the dignity of the individual, and the worth of the human person, requires that the provisions in question be interpreted in a wide manner. However, despite the licence for wide interpretation, the textual implication of dignity being a part of the right to life remains in that it can be subject to the limitations of the due process of law.

In contrast, in *Maneka Gandhi v Union of India* (1978: para 4), the Court ascribes an absolute, non-negotiable nature to dignity, where all rights according to the Court exist to protect the dignity of the individual and that "since Vedic times, dignity weaves a pattern of guarantees on the basic structure of human rights." This reasoning is reflected in *K S Puttaswamy (Retd) and Anr v Union of India and Ors* (2017), where while articulating the relationship between dignity, privacy, and liberty, the Court employed terms such as "inalienable" (paras 45, 101, and 169), "natural right" (Part G), and the core of fundamental rights. This might lead one to believe that dignity is an absolute value in India just as it is in Germany. In decisions on Aadhaar, euthanasia, and the rights of transgender persons, the Court employs a similar concept of dignity where dignity is the source of all fundamental rights and even above the text of the Constitution itself.

Given these distinct articulations of dignity, at least three possibilities emerge in thinking about the status of dignity. First, that as a part of Article 21, there is a specific right to life with dignity that can be limited by a just, fair, and reasonable law. Second, that dignity is a constitutional value that justifies all fundamental rights but can be limited whenever some rights can be limited based on other considerations. And third, that dignity is an absolute constitutional value that underlies all fundamental rights and is inalienable. Despite these possibilities, it would be safe to conclude that most decisions take dignity to be absolute. This reading gains support from other decisions that articulate dignity in terms of the intrinsic and inalienable worth of the individual.

Inherent Worth of Individual

There are several decisions of the Court that employ a natural rights justification for fundamental rights, where dignity is taken to be a basic feature of the Constitution. For example, in *M Nagaraj and Others v Union of India and Others* (2006), referring to Justice H R Khanna's dissent in the habeas corpus case (ADM *Jabalpur v Shivkant Shukla* 1976), the Court held that fundamental rights in general were not privileges given to a citizen by the state. Dignity as a principle signifies the inherent value of every human being, and rights embodying dignity therefore placed limitations on state power. Dignity was akin to principles, such as reasonableness, fairness, and social justice that inform and connect various fundamental rights, particularly Articles 14, 19, and 21. Due to the nature of these principles, they are beyond the reach of the state. Despite recognising the indeterminacy of human dignity, the Court held that the concept was illimitable by state action.

Similarly, in *Mehmood Nayyar Azam v State of Chhattisgarh and Ors* (2012), the Court held that the right to life with dignity includes within itself the right against torture, especially by the police and other public authorities. Though other fundamental rights can be restricted, this right can never be stripped away as there is a loss of meaning to life when it is not fully recognised. Again, *In Re Inhuman Conditions In 1382 Prisons* (2016), the Court held that prisoner's rights under Article 21 continue to exist despite being detained. Though there could be restrictions on movement and behaviour, human dignity guaranteed under Article 21 could not be taken away.

These cases on custodial rights unambiguously hold dignity to be an absolute value. Perhaps, it is the severe implications of the abuse of detenus by coercive state powers that motivates the Court to protect rights in an absolute manner. In protecting these traditional civil and political rights, the Court finds an ally in dignity as intrinsic worth as it operates through the basic humanity of individuals that even the taboo of criminal conviction cannot eclipse. An appeal to inalienable natural rights as the basis of fundamental rights has been the Court's chosen philosophical aide in articulating this position. Interestingly, a similar trend can be seen in cases that involve egregious violations of socio-economic rights, not only by the state but also by other individuals. For example, in *State of Punjab and Ors v Jagjit Singh and Ors* (2017), the Court held that an individual being paid lesser for the same amount of work as another violates the individual's right to life with dignity. Another example is *People's Union for Democratic Rights and Ors v Union of India and Ors* (1982), where the Court held that the rights protected by Articles 17, 23, and 24 protect the individual's right to life with human dignity that cannot be violated even under the garb of a "voluntary" contract.

These cases show that in cases involving both civil–political and socio-economic rights, it is the concept of dignity as an

intrinsic and absolute value that has guided the courts. This conclusion maps well with two similarities emerging from the application of dignity across jurisdictions pointed out by McCrudden (2008: 679):

> (a) the limited-state claim: that the state exists for the individual and not vice-versa; (b) the relational claim: that dignity requires that others recognise the intrinsic worth of human beings and not violate rights that protect dignity.

Perfectionism, Rights and Dignity

The intrinsic worth account of dignity has now been firmly established in Indian constitutional law by the right to privacy decision. A nine-judge bench of the Court held that "Dignity is the core which unites the fundamental rights because the fundamental rights seek to achieve for each individual the dignity of existence" (*K S Puttaswamy [Retd] and Anr v Union of India and Ors* 2017: para 107). In reaching this conclusion, the Court for the first time devoted an entire section to the meaning of human dignity. This is a welcome trend in terms of focus, but there is still much to be desired in terms of rigour. For instance, the Court expresses contrasting views in the right to privacy and Aadhaar decisions. In the privacy case, the Supreme Court, through Justice D Y Chandrachud's opinion, clearly indicated that the idea of dignity in the Constitution was that of individual dignity (*K S Puttaswamy [Retd] and Anr v Union of India and Ors* 2017). Indeed, the preamble too speaks of the dignity of the individual. However, in the Aadhaar case, Justice A K Sikri added the idea of community dignity as a core aspect of dignity, which could then serve as a reason to limit individual rights (*K S Puttaswamy [Retd] v Union of India* 2018).

As I have argued elsewhere, the Court's application of dignity even in the privacy decision is very general, leading to potentially confusing conclusions (Baruah and Deva 2019). Uninhibited theorising, unanchored in rigorous disciplinary literature, has its fair share of disadvantages. However, a sympathetic reading of the privacy decision shows that dignity is protected as an inalienable value, and privacy is instrumental in realising dignity. Dignity was a reason for protecting individual rights and not for restricting them.

Disconcertingly, the trend of uninhibited theorising resulted in a contradictory conclusion about dignity in the Aadhaar case: that dignity had a communitarian aspect which meant that collective goals could limit individual rights.

After privacy was declared a fundamental right, there was speculation that the material provisions of the Aadhaar Act would be held unconstitutional. To the contrary, the Court upheld the validity of most provisions of the act. In doing so, Justice Sikri's majority opinion extensively relied on dignity to advance a novel proposition: that dignity has individualistic and communitarian aspects that require balancing through the test of proportionality. At the heart of his reasoning were two propositions that I think are mistaken:

> (i) That previous judicial decisions recognising the positive obligations of the state under Article 21 implied that the right had a communitarian aspect, where community goals postulating a good life assumed an important role in understanding the right.
> (ii) The communitarian aspect of dignity allowed the collective goals of the community to limit rights.

In arriving at these conclusions, Justice Sikri's opinion surveys vast philosophical materials to reconcile individualism and communitarianism—a task that has eluded philosophers for centuries. Deciphering the wisdom of the Court in all its breadth is a daunting task. I shall therefore focus on what it specifically says about community dignity. Referring to Ronald Dworkin's views on dignity, and incorporating Upendra Baxi's views, the Court characterises dignity in these terms:

> (i) respect for one's capacity as an agent to make one's own free choices;
> (ii) respect for the choices so made; and
> (iii) respect for one's need to have a context and conditions in which one can operate as a source of free and informed choice. (*K S Puttaswamy [Retd] v Union of India* 2018: para 107)

It then proceeds to articulate the idea of community dignity in terms of collective goals:

> Dignity as a community value, therefore, emphasises the role of the state and community in establishing collective goals and restrictions on individual freedoms and rights on behalf of a certain idea of the good life. (para 116)

In arriving at this conclusion, reliance is placed on the NALSA decision (on rights of transgender persons) (*National Legal Services Authority v Union of India and Ors* 2014) to conclude that the positive obligations of the state entail a communitarian aspect to the right to life with dignity. It is unclear as to how Justice Sikri arrives at this conclusion. The paragraphs quoted from the NALSA decision clearly spell out that the right to life with dignity is to be understood as the right to human development aimed at securing "basic essentials designed to flower the citizen's personality to its fullest" (*K S Puttaswamy [Retd] v Union of India* 2018: para 109). This is staple dignity language in terms of individual flourishing. Its motivating logic is that the state must provide essential goods that guarantee human dignity to the individual. There is no indication of how this involves collective goals that can limit rights, or how that is implied by the concept of dignity.

At first sight, Justice Sikri's conclusions argue for a "perfectionist" state: a position in political theory that holds that the state can determine what is a good life for the individual. Whether the Indian state should be perfectionist or not is a philosophical question not ordinarily adjudicated by courts, especially so when there is agreement that the people through the Constitution, and not the state, set out the values of the republic. The state can surely set new goals, but only within constitutional limits. That is why the question before courts is whether a goal/objective set by law is legitimate, and not whether the state can set goals for individuals.

Courts adjudicate the limits of state action based on the Constitution. They also articulate the content of constitutional provisions, including rights and obligations. For a court to hold that a constitutional concept like dignity limits rights, it must demonstrate how that concept figures in the provisions that limit rights; for example, the reasonable restrictions on fundamental rights. The court's opinion in Aadhaar does not discharge this burden. Instead, it takes easy recourse to not only dignity, but takes a contested position in political theory about perfectionism to read it as a new source of restrictions on fundamental rights. This is troubling as the decision is silent on how a perfectionist state is entailed

by the idea of positive obligations and how perfectionism is related to dignity.

The idea of community dignity in the Aadhaar decision does not find support in Kantian arguments either. In explaining what dignity is, Kant does not invoke the role of the state or the community. His focus is on the individual in that others should respect the dignity of the individual by not treating them as a mere means to an end. When Kant speaks of individual autonomy as the grounds for dignity, he appeals purely to reason as a source of moral obligation, which in turn requires that an individual be treated with dignity (Kant 1998: 4:435). In Kant's Kingdom of Ends (where dignity reigns supreme), the individual is an autonomous lawgiver as a member of that kingdom: someone who only obeyed the universal law that they give onto themselves. Someone could be sovereign there, for example, the state, the community, or some individual, only if they had a godlike character: someone who was "a completely independent being, without needs, and with unlimited resources" (Kant 1998: 4:434). It is implausible that the Aadhaar decision ascribes that character to the state.

To understand dignity in terms of achieving collective goals implies that the individual is a mere instrument in cases where the state and the community postulate the idea of a good life for individuals and restrict their rights towards that end. The individual then is not autonomous, and thus, such an idea of dignity goes against the very grain of Kantian dignity.

Be that as it may, Justice Sikri's invocation of the idea of community dignity has made it an integral part of Indian dignity jurisprudence. He makes this clear when he states that the core values of human dignity are "intrinsic value, autonomy and community value" (Sikri J in *K S Puttaswamy [Retd] v Union of India* 2018: para 109). It would not be off the mark to say that community value is the odd one out here unless it is understood in terms of some other constitutional value such as fraternity.

In Conclusion

The problems with the application of dignity pointed out in this essay demand reflection on how courts could provide a more rigorous constitutional doctrine of dignity. Of course, a realist argument would yield that the personal inclinations of judges might explain divergences in understanding dignity. That might be true, but the argument cannot be a normative guide in how judges should apply the concept. I think that, at heart, the problem is epistemological: there is a legitimate question about how we acquire knowledge about vague moral values such as dignity. In thinking about courts, the epistemological question can be partially avoided, and pragmatic questions can be put: What materials should judges rely on in employing values such as dignity? What training or individual expertise do judges have in applying moral values as the foundational reasons for our fundamental rights? These are pertinent questions in countries where constitutional judges mostly have legal expertise.

In India, constitutional judges are appointed by promotion from the lower judiciary and by elevating advocates. Though such persons have expertise over areas of law, it is unlikely for them to have cognitive expertise over values like dignity for two reasons. First, there is limited legal material on dignity that lawyers can claim expertise over. Second, most of the literature on these concepts is found in other disciplines, such as philosophy, even if some legal philosophers mistakenly argue that law is the proper starting point for discussions on dignity (Waldron and Dan-Cohen 2012: 13–14). Philosophy has long-standing traditions on dignity in at least Kantian, Catholic, Greek, and Chinese philosophy. For these reasons, constitutional values like dignity deserve careful attention by both lawyers and scholars across disciplines.

NOTES

1 Dwarf throwing is an act where participants compete in the sport of throwing dwarves to the farthest distance possible.
2 "Article 39 (f). ..that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity."
3 "Article 51A: It shall be the duty of every citizen of India—… (*e*) … to renounce practices derogatory to the dignity of women."
4 Articles 1 and 2 of the German Constitution.

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Migrant Workers and the Politics of Mental Health

SUDARSHAN R KOTTAI

The roping in of tertiary care mental health institutes by the government in providing individualised (tele) counselling services to migrant workers needs to be viewed with caution. Instead of acting as a catalyst in upholding the dignity and human rights of migrant daily wage workers who were left high and dry, mental health practice, shaped by political and institutional influences, provided "counselling" to lakhs of people who bore the brunt of governmental apathy during the pandemic crisis.

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The nation may be great, but our lives are miserable.
The wicked disease struck us and wrecked our lives.
What life is this, what life is this?
A wretched life, a pathetic life, an abject life, a broken life.
Is there a disease worse than poverty?
Is there a solace greater than being with one's family?
   —Aadesh Ravi[1] on the migrant workers' crisis

The COVID-19 pandemic unwrapped the social stratification entrenched in Indian society as the marginalised sections became a target of violence and state dispossession. The obsession with caste/race superiority, communal/ class consciousness and xenophobic tendencies came to light as Dalits, minority religious groups, people from the northeastern states and migrant daily wage labourers across India faced discrimination and exclusion. The spread of the pandemic aggravated the segregation that lower caste groups were facing (Venkataraman 2020). The Yanadi community of Andhra Pradesh that has been forced to engage in "filthy" jobs, such as waste picking and drain cleaning for centuries were barred from venturing outside by the dominant caste groups after the pandemic outbreak (Sur 2020).

A Dalit family in Haryana was attacked for not adhering to Prime Minister's call to turn off lights (Ekta 2020; *Scroll.in* 2020). Reports about racial discrimination against citizens from the northeastern parts of the country resurfaced during the pandemic (Bordoloi 2020; Offbeat CCU 2020). The abrupt stoppage of public transport left migrant workers completely helpless since they had lost their daily wage jobs during this period. The crisis worsened as governments failed to provide food, shelter or means of transport to those who could not afford to pay rent. Then began the long march on foot, cycles and trucks to their homes thousands of kilometres away killing many en-route.[2] Ramachandra Guha observed that this was the greatest human-made tragedy since independence and which could have been easily averted (*Hindu* 2020). While the policy framework of the union government was oblivious of the lifeworld of the migrant workers, it was at the forefront in responding to the privileged class stranded in COVID-19 affected countries, including China.

The reason for the untold sufferings of these migrant workers[3] and the very poor is clear: the state failed to chart out a plan concerning daily wage labourers across the country, denying them "cognitive justice" (Visvanathan 1997).

Politics of Psychiatry

Psychiatry has often been employed as a political tool to support destructive regimes and reinforce social control. Several psychiatrists have employed bogus diagnoses to punish enemies of the state exposing the dark side of psychiatry (Lifton 1986; Luty 2014). Metzl (2011) narrates the compelling story of the politics of psychiatric diagnosis; how racism was written into the diagnostic language; and the processes through which American society equates race with insanity. Medical journals describe a condition called dysaesthesia aethiopis as a form of madness manifested by "rascality" and "disrespect for the master's property" that was believed to be cured by extensive whipping.

Psychiatry under the Influence: Institutional Corruption, Social Injury, and Prescriptions for Reform showcases psychiatry as a case of institutional corruption given the political and economic influences in its theory and praxis (Whitaker and Lisa 2015). *Cracked: Why Psychiatry Is Doing More Harm Than Good* by Davies James (2013) is a compilation of evidence against psychiatry's claim to be an objective science that is value-neutral and apolitical. Cultural contexts and political struggles are left in the dark in this pursuit of techno-psychiatry resulting in an imbalance in knowledge. Aware of this,

Lewis (2006) proposes post psychiatry, an alternative vision bringing the two sides together.

The heinous murder of George Floyd in the United States in May 2020 led to the Black Psychiatrists of America, issuing a press statement urging the government to declare racism as a public health problem. The press statement ends with the evolution and purpose of this organisation.

> Fifty-one years ago, the Black Psychiatrists of America was founded in response to the failed response from the European model psychiatric system in America, to fight against racism, marginalization and other forms of racial discrimination against Black people. We will continue to fight for an end to these acts of racism that threaten the health of our community and all other areas of life for Blacks in America. (Howard 2020)

The book *Institutional Racism in Psychiatry and Clinical Psychology: Race Matters in Mental Health* calls for a model shift in both theory and practice of clinical psychology and psychiatry infected with deep racism (Fernando 2017). Mainstream psychiatry and a majority of psychiatrists equate the mind with the brain and invent fake diagnoses, theories and cures resulting in the indiscriminate prescription of psychotropic medicines. Such dehumanising conduct of psychiatric "science" has led to a situation where it is the only medical discipline against which user-survivor movements are in place (The Cape Town Declaration 2011).

There have been similar profound critiques of the practice of modern psychiatry in India in recent times. In her moving ethnography on suicide among transgender people, Rao (2012) showed how premier mental health institutions depoliticise suicide with substantial political, economic and gendered ramifications addressing it as just a mental health problem. "It [psychiatry] thus 'depoliticises' suicide by situating it within the realm of medical and psychiatric science, controls it through regulating access to substances and space" (Rao 2012: 10). Central to an ethnographic study of psychiatric practice in north India is how kinship aberrations of love, marriage and divorce are probed by psychiatrists with clinical attention to women. Emotions related to marriage and the scrutiny of moral boundaries of relationships become the ground for psychiatrists' clinical efforts to "locate biological truth" (paranoia, schizophrenia) and assess illness, thereby reinstating patriarchal norms producing distress (Pinto 2011). Saiba Varma (2016) highlighted the contradictions within the National Mental Health Programme where psychiatrists support the generation of the specialist professional workforce through transforming mental hospitals into "centres of excellence" so that psychiatry is shored up as a modern, scientific discipline. Still, they opposed the other policy objective of de-professionalisation and task-shifting of psychiatric practice to non-specialists by questioning their ability to diagnose and treat mental disorders correctly, which, according to them is not easy even for psychiatrists with years of experience.

> Although the [mental health] reforms were intended to address human rights and humanitarian concerns around asylums, these concerns were occluded by the desire to build specialized psychiatric manpower. (Varma 2016: 13)

The coalition of the state and psychiatry in framing non-heteronormative people as mentally ill is one of the most recent and much-criticised instances of mainstream psy disciplines acting as a political agent of the state (Kottai and Ranganathan 2019).

A whistle-blower government doctor in Andhra Pradesh who spoke openly about the shortage of personal protection equipment (PPEs) to treat COVID-19 patients was suspended and later committed to a mental health centre by the police when neither he nor his mother wished to be treated for an alleged mental disorder (Assuncao 2020). The visuals of the half-naked doctor being taken into custody with his hands tied with rope are symbolic of political abuse of psychiatry. There is a larger room for malpractice and manoeuvre in psychiatry as it lacks any objective laboratory test or clinical investigations for diagnosis. Keeping this in mind, when the inability to access psychiatric care itself is dubbed as human rights violation by popular (biomedical) discourse, grave psychiatric violations by dominant technocratic biopsychiatry are rarely brought to light. The knee-jerk response of mental health systems that provided "counselling" to the hunger-stricken migrants is yet another story of violence perpetuated by mainstream psy disciplines.[4]

Sugarcoating Suffering

The central government called upon centrally run mental health institutions to assist state governments in providing counselling to stranded migrant workers (Agarwal 2020; Dutta and Chandna 2020). These mental health institutions opened helpline numbers to address "mental health concerns." The website[5] of a central mental health institution read, "Wish to share any mental health concerns during this crisis of COVID-19 pandemic? Feel free to call our helpline…." (www.lgbrimh.org). Such notifications that keep flashing on the websites of the mental health institutions flag the reductionist approach to mental health as they remain silent about the grave human rights crisis that the vulnerable communities are facing. Mental health concerns are not to be resolved through counselling over telephone or distributing pills when people are being discriminated, physically assaulted, humiliated, denied food and shelter and left to die on the highways for mental health and human rights are co-constructed.

Concerns about hunger, concern to be with near and dear ones at home, pain of being not acknowledged as an equal citizen, violation of fundamental rights, the feeling that "We are not part of this country" also constitute mental health concerns that need be resolved through concrete political, community and systemic response. Addressing these issues of survival through pills and teletherapies almost always exhort the individual to adjust to an unjust system as the site of intervention remains the suffering person. Mental health professionals understate sociopolitical factors that cause mental health issues seldom speaking about it loudly and clearly. This paves the way to loosely execute armchair therapies without inviting the wrath of the power structures.

Writing in *Nature* on the mainstream global mental health response to COVID-19, including that of the World Health

Organization guidelines, Rochelle Burgess presses the point that these individual-centric recommendations miss out on social realities and systemic vulnerabilities like poverty and inequality that contribute to poor mental health. "A woman who has lost her job and cannot feed her family will find little relief from a meditation app … Are mental-health campaigns arguing for better social protections so that unemployed people don't fear death from starvation during lockdown?" (Burgess 2020). Scheper-Hughes's (1992) research in drought-stricken villages of Brazil showed how hunger became so normalised that medicines began to replace food for the starving poor. A report by the United Nations special rapporteur on right to health presented evidence showing that social justice and quality of social relationships are the main determinants of mental health (UNHROHR 2019). Experiences of multiple discrimination put people at higher risk for mental health problems. Stefan Priebe, a psychiatrist, maintains that lack of political involvement has been a significant failure for the profession of psychiatry. He succinctly states that "political engagement appears a moral imperative for a credible profession with coherent values" (Priebe 2015).

My experience at two central government-run mental health institutions first as a trainee and later, as a clinical psychologist revealed the intense power play among the various stakeholders. These included psychologists, psychiatric social workers, psychiatric nurses and psychiatrists and the mental health professionals and "other" supporting staff and patients. The display of hierarchy was so intense that the greetings extended by the Class IV workers were not reciprocated by most of the clinicians even though they met each other at the workplace every day. This shows the lack of acknowledgement of the "other" based on one's superior social status; a vivid case of erasure and violation of natural justice. This mimics what Harsh Mander (2015) refers to as "looking away" at both the state and individual levels. Lack of acknowledgement denies the existential rights of the staff and is a painful feeling that affects mental health. Are

mental health professionals who maintain such an emotional (cultural) distance from their immediate "social" in their real lives equipped to tap the phenomenology of people living in different planes of consciousness, forget the migrant workers? The emphasis of mental health institutions on technobureaucracy over values, rights and political consciousness reflected in their curriculum, clinical training and practice boils down to offer a very narrow world view of persons as patients, distress as disorders and power imbalances as chemical imbalances.

I remember my clinical training days when I was eager to learn family therapy that was popularly the domain of the department of psychiatric social work. When I expressed my eagerness to my clinical psychology faculty, I was not allowed to reach out to them. My friends from psychiatric social work were denied permission to learn to conduct IQ (intelligence quotient) tests and the much-hyped Rorschach tests by the clinical psychology department. Some modules of the workshops were reserved to students of the hosting department so that other department students do not get the "secrets" of their popular therapies. While four of us were block-posted at a mental health institution, the reply to the request to clinical psychology faculty to allow us to sit for classes on psychotherapy was spontaneous but shocking: "Psychotherapy classes are only for our students."

Sheer insularity among mainstream mental health institutions in opening up towards even their own fraternity is monumental evidence of parochialism towards "others" constricting a broader world view about the mind, mental health and different ways of being in the world. We also see a dearth of mainstream mental health professionals, including clinical psychologists and psychiatric social workers speaking about sociopolitical sufferings from a rights-based perspective even though a lot of prominent social scientists and activists have fervidly expressed concerns about the denial of natural justice to lakhs of migrant daily wage workers (Bhargava 2020a, 2020b; Baruah 2020;

Nair 2020; Mander 2020; Stranded Worker's Action Network 2020).

In contrast, mental health institutions and professionals have charitably gifted mental health helplines and free treatment to the migrant workers when children and pregnant women look forward to food and water, are thrashed by baton-wielding police personnel when they try to walk home and are humiliated in public by spraying disinfectants (*Times of India* 2020). Offering a corrective, Miraj Desai presses for a paradigm shift away from insularity towards travel and movement to the world outside the clinic that radically has an impact on the public mental health

> to allow clinical psychology to better understand people's lives in their communities, to more deeply perceive social structures, to help challenge the field's theoretical and cultural presuppositions, to better engage diverse viewpoints, voices and practices that often get marginalised, and to more directly partner with those groups fighting for social change. (Desai 2018: 4)

Johnstone (2000) remarks that in the course of professional training of psychiatrists, common sense attempts to make sense of people and their distress are ignored as evidence-based medicine precludes such efforts. Limited or no exposure to social sciences and humanities and psychiatry's shift towards the "neuro"—neuroanatomy, neurophysiology, neuropathology, neuropharmacology and genetics—makes the situation worse. In the age of "many psychiatries" where psychiatry is divided along various perspectives, ontologies and epistemological standpoints, a majority of mental health professionals who get trained in mainstream psychiatry largely appropriate the biomedical "ways of knowing" as a part of their strategy to stay within the prestigious camp of medicine (Rose 2018).

Mental Health Institutions

Mental health policy rhetoric of biopsychosocial model and intersectoral approach seldom gets translated into praxis. For a recent example, mental health institutions have failed to uphold its constitutional duty (primarily a moral obligation) to adhere to the Supreme Court's order asking state parties to disseminate its landmark 2018 judgment on decriminalisation of

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same-sex love to create awareness on sexual diversities amongst the public. Mental health systems in India have not been able to come out with a single awareness campaign on lesbian, gay, bisexual, transgender, queer, inter-sexed and ally community (LGBTQIA+) issues when news of suicides on account of non-heteronormative sexual orientations keep coming in. A bisexual student's suicide (in Kerala) exposed yet another instance of notorious conversion therapies practised by mental health professionals to "treat" non-heteronormative sexualities (Desai 2020; Sharma 2020). The Analysis of the websites of three central mental health (academic) institutions (www.lgbrimh.gov.in, www.cipranchi.nic.in, www.nimhans.ac.in) suffices to signify how medicalised they are in their approach to mental health. Even the legislative provisions of various mental health-related affirmative laws (for example, the Mental Health Care Act, 2017, the Rights of Persons with Disabilities Act, 2016) and copies of judgments of the apex court which have immense social justice repercussions are not available for public dissemination on any one of these websites.

Mental health is thus transformed into an individual medical problem to be rectified by helpline numbers and psychopharmacological interventions divorcing them from oppressed people's traumatic contexts. The National Institute of Mental Health and NeuroSciences (NIMHANS) guidance manual on mental health in the times of COVID-19 has comfortably transmogrified every aspect of COVID-19 beginning from quarantine to post-COVID-19 phase as a mental health crisis that needs to be rectified through individual counselling, and psychopharmaceuticals eclipsing the exterior aspects of human lives lived on the margins of the social (NIMHANS 2020). This narrow outlook overstates vulnerability in the vulnerability-stress model and reinforces the idea that adverse contexts are consequences and not causes (Boyle 2011, 2015). Scholars have expressed concerns at the increasing prescription of psychiatric drugs during COVID-19 for sadness and anxiety, which are natural and "normal" reactions to an unprecedented situation

(McKinnell 2020; Serdarevic 2020). Researchers also contend that task-shifting has the danger of becoming merely *task dumping* of healthcare activities (Kohrt and Griffith 2015). Another reason why mental health is witnessing intense task-shifting may be attributed to the lack of objective medical investigations and struggle for explanatory power characteristic of psychiatric diagnostic categories. Research on task-shifting in Kerala has shown that it is a complex socio-politico-moral process that accelerates medicalisation and professionalisation of non-psychiatric professionals with fatal consequences for the most marginalised population (Kottai and Ranganathan 2020).

Avoiding Social Context

NIMHANS conveyed to the court that it provided "counselling" to 21,000 migrant workers in Karnataka (Chauhan 2020; Plumber 2020). This is a demonstration that intervention is being "done" by the state, which is quickly and easily materialised through knee-jerk tele-counselling to the most vulnerable and weak citizens. Will counselling restore/improve "mental health" when life itself is on the verge of total collapse? As Boyle poignantly puts it, such strategies to avoid social context "are actually ways of obscuring the operation of power and of protecting relatively powerful groups from scrutiny" (Boyle 2011: 39). This fear of social context, widespread among all mainstream psy disciplines, including psychiatric nursing, clinical psychology and psychiatric social work, is dangerous, for it does more harm than good for the most vulnerable people. Focus on the individual "creates a kind of institutionalised ignorance about how our social and personal contexts relate to how we feel, think and act" (Boyle 2013) that fails to locate "mental and emotional distress as a social justice issue" (Rimke 2016). Writing about child mortality, Mehdi (2019) argues in her book that child mortality, which is perceived widely as a biomedical issue, and vaccination being projected as its solution, is primarily a problem of justice and that a justice-oriented approach is vital for affirmative policies to check child mortality. Similar

focus is essential in mental health systems to shape a humane discipline of psychiatry. Even though I do not deny the existence of extreme conditions where judicious interventions by sensitive mental health professionals may be helpful, it becomes imperative to respond systemically if the problem is systemic rather than "pathologising and treating everyday life" (Burstow et al 2014).

Should mental health professionals from tertiary care mental health institutions be roped in to provide "counselling" when we have a severe shortage of mental health professionals to take care of people with severe mental health issues? Criticisms were raised by NIMHANS alumni themselves against NIMHANS closing its door on patients for more than two months even after the lockdown was eased. Many poor patients had to rely on private hospitals for treatment (Rao 2020) as priority of NIMHANS shifted to providing counselling to lockdown citizens and migrant workers (Urs 2020). There is a need to reflect on the paradox inherent in this overstated approach to mental health during COVID-19 pandemic. At such a juncture, framing of COVID-19 as a significant mental health problem in need of mental health assistance opens up critical questions.

First and foremost, can we label the very disturbance, distress and disability caused by the pandemic as mental health problem? Is it ethical to deflect attention of the already scarce mental health professionals from people with severe mental health issues to COVID-19, which has turned out to be a human rights disaster for the most vulnerable? In this context, regular expression of sadness for living in such harsh environments get reconfigured as symptoms of mental illness to be treated by the globally dominant biomedical model (Mills 2015). Scholars have emphasised on the need for understanding distress in marginalised populations outside the medical framework and addressing its social determinants by employing a rights-based approach (Gikonyo 2014; Tribe 2014). Nikolas Rose argues prolifically that increasing mental disorders projected as "burden" in the global South has to do with high prevalence of social determinants of

mental health related to neo-liberal capitalism. He asks prolifically:

> [D]o the figures on the prevalence of mental distress, however it is organised, reflect the personal consequences of the "organisation of misery" that characterises the political management of so many societies in our contemporary world? (Rose 2018)

Roping in mental health institutions by the governments to provide "counselling" to migrant daily wage workers who have been the worst victims of state oppression illustrates the connivance of psychiatry and state in ignoring a human rights crisis. Both psychiatry and the state happen to be in a win-win situation; psychiatry's voice gets amplified, and the state's oppression gets reconfigured as individual psychological problems to be cured by the "expert" mental health professionals. The Indian Association of Clinical Psychologists' (IACP) Kerala chapter complained that school psychologists without an MPhil degree in clinical psychology and Rehabilitation Council of India (RCI) registration were providing psychosocial support for laypersons and people in quarantine. The state nodal officer of the mental health programme responded that it is the professional rivalry that instigates clinical psychologists to term government school counsellors with a postgraduate degree in psychology as unqualified to provide psychosocial support. The officer also clarified that as the programme is not intended for treatment of mental illness, it cannot be mandated to have clinical psychologists on board as hunger cannot be addressed by counselling. Psychosocial support is meant to identify those who require food, he explained (Manorama Lekhakan 2020). This exemplifies the urge of clinical psychologists who are in the lower hierarchy of mental health professionals to gain visibility and authority to "treat" everyday life hassles pitching a large tent of "patients" to be cured by their "expert" professional interventions.

Conclusions

The fundamental problem in the response of mental health systems to the COVID-19 pandemic crisis is the avoidance of the sociopolitical circumstance, which is at the core of suffering of the vulnerable sections. In this context, a more ecologically valid intervention is aggressively addressing the systemic failures other than framing the distress as "mental health concerns" in need of (tele) therapy and drugs. Either adjustment or maladjustment to injustice does not invalidate injustice. Maladjustment to injustice is a sign of resistance and agency. When the pandemic and an apathetic state combine to cause immense suffering to the most vulnerable citizens, psychiatry should not be allowed to distil that suffering into a simplistic psychiatric diagnostic category that is not as straightforward as a diagnosis of a broken bone.

The elitist mainstream mental health discourses have miserably failed to offer richness of rights-based language to account for the trauma suffered by the daily wage migrant workers. We did not see the flagship organisations of psychiatric social workers, psychologists, and psychiatrists voicing concerns or issuing a position statement over this human rights crisis when social scientists, lawyers and people across the spectrum of society converged to offer support to the workers demanding safe stay, food, accommodation and safe travel back home.[6] By "making [their] world go away" (Boyle 2011), psychology, psychiatric social work and psychiatry have benefited in front-staging a "mental health crisis" that would cease to exist once they are provided justice and human rights protection. The landmark book *Compound Solutions: Pharmaceutical Alternatives for Global Health* written in the context of tuberculosis argues that due to overwhelming population tuberculosis affects, pharmaceutical companies are not interested in developing better drugs for the deadly disease (Craddock 2017).

Taking this fast forward, avoiding social context and abstaining from political activism in the face of human suffering benefits the mental health industry in gaining visibility and market for "global monoculture of happiness" where people are urged to think that all social ills can be cured with pills and individualised psychological therapies (Ecks 2014). The inhibition to diagnose an unkind system is indicative of failure of "embodied interaffectivity" and "intercorporeality" (Fuchs 2017) and deficiency of political empathy; "empathy that joins with the individual and group based on social location and oppression" (Burstow 2003: 1310). A human science that does not address oppressive political structures while seeking to improve personal experiences amounts to extraordinary failure.

I invoke Gandhi's Talisman (Tripathi 2020) to take a hard look at experience-distant mental health practices, for it is a call to bring the ethics question back into our mental health systems: Have counselling and psychopharmaceuticals helped the poorest of the poor, the starving daily wage workers? Until and unless mental health systems recognise the fact that mental health is not only about disordered individual minds and brains but also about disordered societies, they tend to put the psychological at the heart of the psychological. It is high time all of us urged the mental health systems to put the "political at the heart of the psychological and the psychological at the heart of the political" too (Good et al 2008: 2). It would go a long way in resisting the gravitational pull of psychiatry in defining and redefining political economy of hunger, homelessness and increasing inequalities to the extent of losing its sheer meaning (Mander 2012).

When diverse understandings of a complex human rights issue are replaced with a single story of mental health problem, it is vital to resist the psychiatric politics that executes psychiatric responses to systemic problems. Such a much-needed shift away from psychiatric forms of truth-telling and knowledge making about social suffering would also help us in ensuring facilities and medical care to those who are really in need of psychiatric services. Ultimately, human rights need to be invoked as an essential tool in the practice of mental health to enable reconstruction of people's sufferings, which would pave the way in bridging the vast gulf between academia and activism.

NOTES

1 The full song titled "The Long March of the Locked-down Migrants" can be accessed at

People's Archive of Rural India YouTube channel, https://www.youtube.com/watch?v=qQ5 ZrakzmIQ.

2 The state of Kerala is an exception as its response to the pandemic has been caring and inclusive of their guest workers. See *Week* (2020) and Jacob (2020).

3 I use "migrant workers" as employed in majoritarian public discourse. I prefer to refer to them as guest workers, a term coined by the Government of Kerala. See Bose (2020).

4 Psy disciplines including psychiatry are heterogeneous entities divided along various perspectives, ontologies and epistemological standpoints.

5 The exclusive tendency of these websites can be gauged by the fact that no information is given that caters to people with disabilities, for example, sign language.

6 On 9 June 2020, the Supreme Court instructed the governments to send migrants home within a span of 15 days and to drop cases filed against them for violating lockdown regulations under the Disaster Management Act, 2005. See Vaidyanathan and Varma (2020) and Talwar (2020).

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The Popular Aesthetics of Social Mobility

AKSHAYA KUMAR

Reflecting on the aesthetic trajectory of the idea of social mobility in Hindi cinema and situating such film texts within the long history of the optical relation between cinema and the city, this article argues that the film *Gully Boy*'s (2019) quest is anchored within neo-liberal freedoms, albeit topped with a laudable linguistic experiment. In comparison with the social mobility films of the last three decades, the film is marked by certain key departures and new blind spots, which occasion a rethinking of popular culture, particularly due to its increasing over-reliance on the attention economy of social media.

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Social mobility as a thematic axis around which various "pleasures" could be mounted, has been a long-standing kernel of Hindi cinema, particularly of the relatively big-budget star vehicles aimed towards attracting a mass audience. One could distinctly recall the films of 1970s–1980s featuring Amitabh Bachchan, for the manner in which they showcased a cross section of the city while narrating a tale of the protagonist's rapid ascent. In the years to follow, numerous films would deploy the social-mobility text to profile the city as a stack of identifiable tiers, segmented by infrastructural barriers and communal bonds of solidarity.

Indeed, rapid social mobility was nearly always projected as driven by an inner evil that would be duly punished via a self-confessional account—one of the last instances of which was witnessed in *Raju Ban Gaya Gentleman* (1992). In the last three decades, however, such narratives have undergone a rapid decline. It may be a good idea to investigate the popular aesthetics of social mobility, which have shifted from the mainstream of film-going habitus to the margins of the cinema-city organism, for which the promise of social mobility constitutes its inner vitality.

The Cinema-city Organism

The idea of social mobility, in all possible valences, has held much sway over cinema for at least three reasons. First, the destiny of cinema in India has been deeply tied to large-scale migration to cities. This includes both the working classes and the salaried middle class. The promise of social mobility has provided the definitive overlap between the aspirational profile of the audience as well as that of an outsider-protagonist, who intervenes, interferes and interrogates via satire, action, public shaming or by self-incrimination. It allows popular cinema, in general, to make formal crossovers and aggregate a variety of pleasures. Second, the social-mobility text also carries the legacy of film history and its maturation in the furnace of postcolonial nation-building. Particularly in the figure of Raj Kapoor, Hindi cinema found its peculiar formal and scalar stability by foregrounding cinema's self-confessional affiliation to nation-building. Providing social mobility was key to the basis of national citizenship segmented by class, caste, language and region-specific boundaries. It offered a cumulative affordance to amplify the role of cinema.

Third, the blend of social mobility narratives with the epic sweep of melodramas allowed cinema to index the city in terms of classes and saturate the frames and narratives with fascinating contradictions and diversity. The ode to the city, imagined in terms of conflictual image-making—frames

within frames, play with foregrounds and backgrounds, verticality and horizontality, style and squalor—which have constituted the mainstay of "artistic" optics of journalistic, anthropological and creative knowledge economy, comes alive in cinema when the verbal enterprise is allowed to mount the optics of cinema and the city. In such an imaginary, cinema and the city are implicated in each other as complementary optical systems constituting a singular organism that feeds insatiably on capital.

In a sense, then, cinema has a privileged point of "view" to investigate and delineate the city, making it both complex and legible. But, of course, by the same token, it may prefer covering up for the city by way of "distractions," since it is hardly in the best interests of popular cinema to reveal the environment in which it germinates. In fact, social-mobility texts repurpose the cinema-city organism to open up the "enormous semiotic playground of the city's signage" with the help of the media production toolkit. This process of repurposing is not unlike the Las Vegas films of Hollywood that deploy the "neon signage clustered against the night sky" to navigate the alleys of compulsive overconsumption as the kernel of American identity (Goggin 2015: 252).

This cinema-city organism allows the films to mount a demographic and psychographic cross section of "the social," so as to illustrate and amplify the class-based indexing of neighbourhood communities, individual aspirations and the attendant frictions between them. Indeed, much of Hindi cinema in the 20th century was shaped by the overlapping architectonics of the cinema-city organism and the aesthetics of social mobility. The city of Mumbai was the unchallenged representational territory of Hindi cinema. However, this presumed singularity now stands challenged since the spread of what I have termed the provincialising imperative upon the media industry (Kumar 2013).

The rise of competing units from within the media economy (television, mobile phone and the worldwide web in particular) has also destabilised the pre-eminence of the cinema-city organism, since other narrative platforms have their own optical relation to the city, as well as its rival constellations. The emergence of new media platforms has introduced us to competing optical regimes, which often privilege a raw, "unmediated" access to reality itself, over the narrative of social mobility rendered over time. Particularly notable among the contemporary media forms would be reality television and its many allied forms—interviews, podcasts, talk shows, news debates, pre- and post-match shows of all sorts and current affairs satire television shows. All these forms offer an alternative composition of immediacy and hypermediacy—two integral tendencies that constitute the essence of remediation (Bolter and Grusin 1999).

Social mobility, as a key narrative axis to consolidate heterogeneous themes, is relatively discarded while remediation across media platforms, along with the attendant battle for an appropriate dressing/dwelling of intimate reality, has taken centre stage. This is partly due to the fact that the contrasting class profiles, which anchored popular cinema's

moral compass, have been increasingly set aside in favour of a genre-oriented packaging of the cinema-city organism. If the idea of social mobility brought cinema and the city together to offer a new postcolonial, imaginary, Hindi cinema in the 21st century largely offers most of the activity on genre-specific optics. In effect, the cinema-city organism has gradually shifted its focus to complex subjectivities suspended in between polarities at best, even as its optical self-definition is increasingly tethered to the provincial or historical counterpoint, as in so-called small-town films or period dramas. In this paper, I will discuss the neo-liberal revisitation of the cinema-city organism in *Gully Boy* vis-à-vis some recent films, particularly *Oye Lucky! Lucky Oye!* (2008) (hereafter referred to as *Oye Lucky*).

Social Mobility in Recent Films

Oye Lucky is set in a rapidly transforming New Delhi, increasingly constituted by a multiplicity of flows, caught between the provincial and global inflections. I have discussed at length the friction between these inflections in my earlier work on the provincialising imperative, which is marked by two key features that determine the shape of our urban everyday: architectural indifference and time warfare (Kumar 2013). *Oye Lucky* features a charming burglar as a protagonist who grew up in a West Delhi suburb. Lucky is irrationally and insatiably drawn towards affluent neighbourhoods and objects of wealth. He is in a perpetual hurry not to get somewhere but to leave behind his lower middle-class upbringing. *Kanglon ke ghar paida ho gaya hun main* (I seem to have taken birth in a family of paupers), he declares once, on the edge of a city rapidly accumulating wealth. Via Lucky, the film presents a biography of rapid wealth accumulation in the National Capital Region. While Lucky, the suburban boy, might be grabbing objects for pleasure in posh neighbourhoods, the city itself was plundering "provincial" wealth by expanding into lands bought at throwaway prices for farmhouses and suchlike.

At one point in the film, Gogi, a small-time performer and racketeer, abuses his manager, complaining about accepting a show on a highway farmhouse, while the crowd is going wild on account of the delay in the appearance of a female dancer. The dancer belongs to a lower middle-class family from a northern suburb, speaks broken English with a thick accent, and ends up marrying a non-resident Indian to immigrate to Canada. Lucky also shows off his driving skills on a half-built highway in the outskirts of the city. His love for automobiles, which runs through the film, is also symbolic of the heady cocktail of infrastructure, mobility, capital and real estate. *Oye Lucky* stages the intended or unintended processes by which the city expands way beyond its municipal territory, and unleashes a variety of means without an identifiable end, of which one is the trajectory that Lucky takes. Events, properties, automobiles and business transactions are all multiplying around him, and Lucky is too skilled to remain a mute bystander.

Another film that revisits the social-mobility text from the classical side would be *Raees* (2017). A period film about

prohibition set in the 1960s–1990s Gujarat, *Raees* is caught in an over-stylised delirium between the smuggler–gangsters of the 1970s and the relatively outdoorsy and gritty gangster cinema of the 1990s. The text is borrowed from the former period and the formal expanse from the latter, but the film is deeply overshadowed by the imperatives of star iconography of an actor terribly out of step in an action film. Rehabilitated from the dated romantic melodramas of upper-class Punjabi non-resident Indians into the urban slums, the struggling erstwhile star refashioned himself into a working-class hero to use the narrative ladder of social mobility to rise through the ranks, as it were.

To lend more credence to the pursuit, *Raees* foregrounds its communal harmony politics baked in the mercantilist rationality of "free" trade. In this case, the city is a haphazard blend of bazaar and festive spaces that the protagonist cuts across, animatedly gesticulating and ventriloquising over mundane affairs, broadly constituted by two attributes I have termed "animated visuality" and "sovereignty effect" (Kumar 2017). The landscape of a social-mobility text is therefore repurposed for the caricatured and messianic agency of a star without much star power. The social-mobility text is more a vehicle of the star's own aspirations at the time of his rapidly waning power over the market, and less an actual attempt at reframing the navigation of class and community barriers.

Contrary to the spectacular, loud and restless narrative style of *Raees* and *Gully Boy* (2019) sincerely deliberates over existing class conflict, while also gradually bringing that broad conflict down to the individual desire for social mobility. For a curious parallel, one may recall the rape-revenge films of the 1980s, in which rape was the price professionally successful female characters had to pay in order to take over as violent protagonists who could avenge themselves (Gopalan 1997). Similarly, in *Gully Boy*, the submission to a reality-television aesthetic is the price the political aesthetic must pay to appear briefly in the foreground before retreating. Just as rape-revenge films threatened to destroy female bodies' self-worth before regenerating them in an identifiably "masculine" mould, Murad's televisual regeneration from a now-defunct aesthetic of the working-class claim for social mobility is of contemporary provenance. It is drawn from the fascination with attention metrics of social media, as if it offered a radical popular affordance—pure, immediate and unblemished by the constitutive optical manipulation of cinema.

The film features a slum-dwelling Muslim neighbourhood where subjects live amidst soul-crushing contrasts of upbringing, access and desires. The subjects breathe in the toxic air of inequality while mockingly positioning themselves on the map of their metropolis. They are not mere victims of a political arena, but deeply aware of the undercurrents that shape their lived reality. To that extent, their view of the city and the world is neither innocent, like Yasmin's in *Dhobi Ghat* (2010), nor cynical as in *Oye Lucky*, nor is it saturated in the juvenile overenthusiasm of *Raees*. An acute

self-awareness of the political cartography of the contemporary city marks *Gully Boy,* which finds in rap music an avenue by which everyday political contrasts precipitate in the aesthetics of protest.

However, the film simultaneously reassembles the non-linearity of class conflict into a linear narrative of social mobility. In the final act, ironing out the complexities, the triumph of an individual over his inherited condition is rehabilitated from its political dwelling. As a result, even as the film celebrates the triumph of Murad—the *Gully Boy*—the glittering makeover of his life underscores the only cinematic destination such a politics can be allowed in popular cinema. We rejoice in Murad's success in exiting a world that we exit with him. We are overwhelmed by the thunderous applause his affected voice is rewarded with, and overlook how this appropriates the rage and agony he feels on behalf of his social condition. The problem remains the neo-liberal deface-ment of the film's political orientation, by which I mean the film's subsumption to the doctrine that David Harvey (2007) identifies in terms of the unquestionable ethical value of market exchange as the radar for all human action.

The Neo-liberal Mobility of *Gully Boy*

Living on the borders of legality, morality and aspiration, the film's characters are shaped by the politics of the permissible, whether in terms of class conditioning, gendered mobility or livelihood choices. Through their melancholic and enthusiastic overtures, we grow increasingly aware of the politics of urban settlements, sexual unfreedom, joblessness and class-based ceilings. For example, one could think of the sequence in which Murad makes sense of his growing intimacy with an upper-class Indian American girl, Sky. He makes sense of her lifeworld on his first visit to her apartment—the flawless tidiness of objects, the expanse, and the multiplicative reflections. Gradually, he comes to recognise Sky as not just a person, but also the representative of a class, with which he shares no common ground. The delicate tone of wonder, amusement and pathos with which he registers, *Acchha upar bhi hai*! (Oh, there is more upstairs!), is one of the most enduring triumphs of the film.

Such a reconciliation is triggered by Murad's moment of reckoning for Safeena, his long-time girlfriend from a middle-class Muslim family. Most remarkably, he retreats from a tender moment between him and Sky declaring that living without Safeena, for him, would be like having grown up without a childhood. This profound rendering of the depth of his relationship not only establishes their bond as the pre-eminent anchor of his life, but also acknowledges that they share more than an interpersonal bond. The relatively contiguous corridors through which they walk may be divided by their class-specific upbringing, but they remain connected by the shared ethos of a conservative upbringing. Both Murad and Safeena walk in and out of this ethos, tentatively stepping into the "free" world of glitter and glamour, only to take cognisance of their place in that world and to promise to return with a firmer resolve.

This in-between subjectivity, suspended between polarities and struggling with its submissive in-transit docility, is best symbolised at Murad's father's second wedding ceremony, where the soundtrack switches between the rhythms of rap music playing on his earphones and the *shehnai* playing as the sound of a sacral ritual, or in the fact that Murad writes in Urdu in the Roman script. Safeena is also adept at using her hijab to step outside the world of desire and freedom. On multiple occasions, she switches between an aggressive and assertive individual and an obedient woman from a Muslim family, by wrapping the hijab around. Both of them live on the fringes, scratching the boundaries they identify and wish to break out of. Safeena is confident of her bright future, while Murad is partly resigned to his fate, and only eventually comes to acknowledge his talent, which he self-identifies as a *tohfa* (gift). Their romantic track, however, sits orthogonal to this narrative of social mobility, intercutting as it recalibrates their individual positions vis-à-vis their place in the social hierarchy.

The key site to which the romantic track returns occasionally is a bridge from where their paths depart every day. The bridge is built over what might have earlier been a nullah but is now a sludge filled with dry waste, mainly plastic. This gulf of trash that separates the protagonists' neighbourhoods and ends their day of togetherness is, after all, not dissimilar to how it begins—in the public transport bus where they claim their romantic intimacy in the midst of an unforgiving and wasteful grind that marks life in the metropolis. The city is represented here in its flows and horizons, intimacies intended or unintended, and the mountains of waste engulfed in light or darkness. Mounted on such bridges and buses that promise social mobility, we witness Murad's discomfort with the abusive world he is trapped in. It is to this discomfort that rap music renders a voice. But, of course, the trajectory of his aspiration is contested on account of its precarious character.

While Murad is gradually convinced of his worth as a performer, both his parents try to admonish him against such "momentary" distractions, which would not alter the fundamental truths of life as they see them. Murad challenges this belief in their truth, which looms large over their agonising lives, by pointing to the joy his music offers to him and his followers. *Iska kuchh matlab hai*! (There is some meaning in this!)—he says—in a scene starkly reminiscent of Marlon Brando's "I coulda been somebody" in *On the Waterfront* (1954). Brando's character, Terry, is forced to lose a fight he could win, but Murad is asked to quit fighting altogether, it appears. The agonising struggle to articulate the pride and meaning one searches for, in a life pushed to the margins of respectability, is what brings *Gully Boy* together with one of the finest films on class conflict, refracted via an icon sitting on the edge shared between the individual and the community.

While both the sporting bout of a boxing match and rap music are "spectator sports" that symbolise a higher battle for self-worth in trying circumstances, they are also separated by their ultimate horizon. In its final act, Murad is appropriated by the show business, just as the film itself is appropriated by the cross-promotional dynamics of reality television. Unlike Terry, who fights to reclaim his rightful workplace, Murad seeks the uncertain freedoms of the neo-liberal variety, hopelessly celebrated by numerous films, such as *Tamasha* (2015) and *Ae Dil Hai Mushkil* (2016). The kernel of this triumph is established in a false binary between the desk job and relentless self-promotion towards "fractal celebrity" (Beller 2016; Kumar 2018). The false binary allows the film to create a false value in neo-liberal freedoms, which become the barometer of social mobility the film celebrates.

Deviance, Risks and Suffering in Neo-liberalism

What do such neo-liberal freedoms mean? The freedom *from* work, instead of the freedom *to* work, is a sign of our peculiar aesthetic morphology of livelihoods. The freedom to be unsure, tentative and confused is celebrated in numerous film texts as a prerequisite to commitment—as if to "fool around" is the necessary condition for settling down. Freedoms of the neo-liberal world, therefore, try to wed the moralism of traditional "choiceless" commitments with the excesses of modern capitalism. The idea is to reach the same conservative destination, but without "missing out" on the pleasures of excess. To the extent that the star is a morphological construct saturated with the fantasies of capital, their eventual submission to a conservative, moralist thesis must take the long-winded route so as to sufficiently celebrate the freedom to "deviate." In this neo-liberal imaginary, deviance is proportional to risk-taking, which, in the language of finance capitalism, translates to the debt-carrying capacity (Ascher 2016). A salaried desk job, quite obviously, does not ensure full participation in the neo-liberal freedoms to speculate and gamble on all sorts of valuations, most of all, one's own self-worth.

On the other hand, a parallel rise in the media economy has been that of the reality-television aesthetic. Reality television brought together the possibility to miniaturise, while intimately rendering a candid studio space with its own enthusiastic "mass audience." The aesthetic invigorated the very idea of television, which was thought to address a comparatively dull and distracted audience that could only glance, instead of possessing the gaze of the immobilised film audience in a darkened theatre (Ellis 1982). The emotionally "active" studio audience would therefore become an indexical representation of the anonymous masses, compensating for television's fundamental *lack* against cinema. The newfound relative parity made reality television commensurate with cinema, significantly enough for film stars to perform their prolonged promotional bids on various reality shows. Ever since 2004—approximately after the first season of the popular music show *Indian Idol*—cinema has drawn its cues for the mass audience from television, most notably in *Rang De Basanti* (2006) and *PK* (2014).

This revised kernel of projecting the star as a champion of the public cause or crowd-entertainment now has the television firmly stationed in the middle of the arena. To that extent, we must take another look at *Gully Boy* via what

Anna McCarthy (2007) calls the "neo-liberal theater of suffering" the key characteristic of reality television. Murad's journey from Dharavi to the rap music championship studio then becomes a mere backstory of suffering—the kind of quick summary montage that has become commonplace on Indian reality television, particularly in *Kaun Banega Crorepati* and *Satyamev Jayate* (Kumar 2014).

Seen this way, a sophisticated reflection on class- and community-based inequities is repurposed to add yet another chapter to the book of neo-liberal mobilities, akin to "financial inclusion" via "free basics" and ride-sharing apps. One would imagine Murad adding the Dharavi flavour to exoticising Mumbai in his rap when not singing the anthems of social mobility, such as *Apna time aayega* (My time will come). The issue is not so much of the choice of profession, but that of tethering one's self-worth to the metrics of raucous popularity. Having probed the social construction of the protagonist's self-worth for most of the duration, *Gully Boy* deceives us and undermines itself by eventually surrendering to an idea of the "neo-liberal popular" determined by the attention economy of subscribers, likes and shares (Kumar 2018).

The Language Question

On the whole, the true protagonist of *Gully Boy* is the linguistic community of Mumbai subalterns, whose rebellion against their political inexistence—"a case of unfreedom arising from a linguistic disorder" (Prasad 2014: 93)—is registered in not just rap music, but also how it is provincialised in *Mumbaiyya* swagger. The treatment of Mumbai slang in *Gully Boy* is worthy of highest appreciation since it is not merely deployed for garnishing and occasional grandstanding. Instead, the film displays sublime felicity with the slang even for the tender moments. Regardless of the film's other failures, therefore, its ability to cognise language as the pre-eminent basis of community is a substantial triumph.

Among the social-mobility film texts mentioned earlier, only *Oye Lucky* registers such a pre-eminence. While we have witnessed some extraordinarily sensitive linguistic nuances emerge in the last decade, very few have been able to stage the contradictions, discomforts and alienation embedded in the linguistic experience of a metropolis as vast and diverse as Mumbai. The interpenetration of Hindi, Urdu, Marathi and Deccani not only further nuances the urban-provincial sensibility once inaugurated by *Satya* (1998), it invites us to reimagine the city in terms of a spectrum of linguistic orientations. Murad's Urdu-inflected Deccani leaves a peculiar imprint on the film and summons us to attend to the distinction it claims from a generic slang.

Herein lies a key distinction between the classical social-mobility text and *Gully Boy*. Two films separated by almost four decades—*Shree 420* (1955) and *Raju Ban Gaya Gentleman*—are remarkably similar in their treatment of the subject. An "outsider" arrives in Mumbai to make a decent living, is poisoned and cursed by "dirty" ambition, leading to a public scam before coming clean in full public view, to redeem himself. The key overlap is at the end where both the protagonists

attempt to leave Mumbai, as if to declare that much of the blame for their own corruptibility lies in the immoral character of the city, before conceding that there may yet be pockets barricaded by a community-specific ethic to stay back for. What binds the community the protagonists finally choose is not just their modest means but their moral resolution. That is a window unavailable to Murad in *Gully Boy*. His parents are in a crushingly abusive relationship ratified by his grandmother who approves of the domestic violence. His friends deal in drugs, carjack and engage in numerous petty crimes. The walls that separate Dharavi from its employers are not made of moral steel, to say the least.

It is language and the performative solidarity of their collective consciousness that the invisible walls are built of. This is most evident where the film cuts between a training module at Murad's engineering firm and a rap session with his team of artists. One is an avenue for social mobility Murad resents and the other he aspires for. They are not merely separated by his choice, as the film nudges us to concede, but also by the linguistic community he *belongs* to. Unlike the Rajus in both *Shree 420* and *Raju Ban Gaya Gentleman*, Murad cannot simply walk in and out of enclosures and tiers on account of "native" accomplices. Linguistic felicity and enthusiasm in *Gully Boy* represent an entire sensibility, a state of being, beyond which there is acute discomfort and alienation that Murad perpetually struggles to reconcile with. It is an index of the warmth he shares with Safeena, Sher or his other friends, as also of the alienation he gradually learns to reconcile with through his music.

The language in *Gully Boy* is not merely the cache of social relations, but also an eminent source of nourishment. The triumph of the film is in highlighting how much the linguistic intimacy means to Murad in particular, and to the felicity that rap music essentially demands in general. Through most of the film, Murad cuts back and forth between alienation/ abuse and intimacy/empathy, the pre-eminent index of which are linguistic registers. His rap music is born out of these contradictions and emotional fatigue; it lets him avail of an in-between language, and through that, of an in-between performative subjectivity. While the subsumption to neo-liberal environs is quite evident, the film also invites us—against its own axis of narrative progression—to wonder if Murad's quest would really end with an early infatuation with the attention economy. In a key confrontation with his father who admonishes him against the same, Murad says, *Logon ko farq padta hai isse … Iska qadar hai, mera qadar hai*! (This matters to people … this has some value, I have some value.) But at the same time, there is enough evidence within the film for us to wonder if Murad would not realise, sooner or later, that popular investment in a media artefact is too fragile a thing to tether one's self-worth to.

Between Money and Capital

Among the films we have discussed, *Oye Lucky* best documents some of the key characteristics of the cinema-city organism prior to the neo-liberal takeover. Lucky deals in cash and cars;

he physically carries unwieldy objects of wealth, like the stereo system. The film also breaks new ground by mockingly accepting a whole variety of provincial globalisms that contemporary New Delhi is grappling with. The promise of social mobility the film stages is propelled as much by the unintended outcomes of wealth accumulation as by the intended ones. In *Gully Boy*, however, the divide between intended and unintended trajectories of urban redevelopment are differentially arranged. The underground rap sessions and above-ground rap championships are fundamentally distinct realms of activity. The contempt Murad's father, a car driver for an elite family, has for Murad's music videos is indicative of a deeper divide between the attention economy and its predecessors.

To qualify for neo-liberal cool, to cross the aspirational threshold, work must not look like actual work; it should instead appear in the stylised forms of "free choice." Most curiously, for example, we know that when Murad goes through a difficult time, he lives off carjacking while working in his friend Moeen's garage. Yet, the film treats the sequence like a footnote, rushing us through actual work with heavy, unwieldy objects of wage labour. In fact, Moeen is particularly hurt when Murad asks for work in the interim period before he could find something "adequate," promptly responding, *Kyun? Ye dhang ka nahi hai kya*? (Why? Is this not adequate?). While the scene gives us a jolt about the dignity of work, the film is unflinchingly propelled by a fascination for the celebrity aesthetics of the attention economy.

While the neo-liberal renderings of wage employment may not eliminate hard labour, they continue to try and quarantine it. The media, via the neo-liberal undergrowth within the cinema-city organism, has largely become an ally in that quarantining project that rushes over or drowns out the "boring bits" of labour's materiality. In a certain sense, Lucky, Raees or Murad could be thought of as period-specific and site-specific instances of the same character, however different the cinematic treatment meted out to each of them may be. Their journey to popularity—whether in terms of political power or merely to attest one's self-worth—is navigated through a host of tentative entrepreneurial moves.

Regardless of their aspirations, means and talents, what the cinema-city organism draws out of them is determined by the character of capital's contemporary toolkit. The mobility they are propelled by, however extraordinary it may be, is mandated to them by capital's contingent reconfigurations of the cinema-city organism. Both Lucky and Raees are, however, tragic characters who walk across the premises of freedom, somewhat unwittingly, and are then cut down to size. Murad's freedoms instead appear to be limitless in comparison, but therein lies *Gully Boy*'s false promise.

Going only by the evidence present within the film, Murad is able to enter the competition only because of his substantial partnership with Moeen's two-faced business—motor garage by the day and carjacking and drug-smuggling by the night. In projecting its false binary between a desk job and the freedom to discover one's true calling, *Gully Boy* may have

expertly hidden this interim toolkit as well as its unwieldy materiality. The carjacking montage does not only make it look too easy, it hides from us how the stolen vehicles were transacted further, what the material form of money received was, and how it was stored away. As we know from Lucky's story, there would be challenges in that segment that we can barely afford to submerge under the high-decibel anthem hailing the cinema-city organism.

To the extent that social mobility is tied to the material form of money, one way to unpack the aesthetics of social mobility is to engage with how they handle the spectre of actual money. The classic action films of the 1970s–1990s fetishised cash itself—in briefcases and trunks, apart from the gold biscuits—the social mobility they offered was fundamentally tethered to illicit means, outside the purview of market regulations. In one of the later instances, even the big-budget romance drama *Maine Pyar Kiya* (1989) stages the struggle of a millionaire's heir protagonist in handling cash to prove his self-worth. Even the safest of the industry vehicles for social reproduction capital therefore deploys the money form to avail of the genuine credentials of social mobility.

Conclusions

Over the last two decades, proving one's self-worth against the traditional wisdom and systems of evaluation is increasingly tethered to a more direct and immediate manifestation of popularity. Candle light vigils, mass protestations, and various "extra-curricular" performances variously render the arena of reality shows, where the optics of popularity keenly harvest manifest public feedback to index the popularity metrics of the box office. Such televisual affordances increasingly mandate that the popular aesthetics attest to the protagonists' valuations prior to the enunciation of the verdict. This is partly about the increasing interdependence of the film and television economies, and partly about media's increasing reliance on advertising capital, for which its claims to popularity must be based on a tangible promotional calculus (Kumar 2020).

Where do they leave the optics of the cinema-city organism? The classic texts of social mobility over the 20th century maintained the distinction between money and capital, which has now fallen through. Dick Bryan and Michael Rafferty (2005) argue that finance capitalism, particularly derivatives, has falsified the conventional distinction, leaving no separation between a "real" economy of values and epiphenomenal financial markets. The money form was key to the optics of cinema-city organism, whether in *Shree 420* or *Raju Ban Gaya Gentleman*, to illustrate what it feeds on and to slip a warning in the midst of an elaborately mounted and furious but deranged fetish.

In this century, however, even though capital has made the money form redundant, it expertly hides behind the noisy indices of popularity metrics, illustrating the *cashless* variants of value-productive transactions. As the pre-eminent component of the attention economy, in which attention could be reliably monetised, the cinema-city organism was always key to capital's ability to harvest attention (Beller 2006). In the age of computational capital (Beller 2016), however, digital wallets, online transfers, and a variety of metrics traded across the platform economy have aided capital's apparent algorithmic neutrality. *Gully Boy* leaves Murad at the doorsteps of computational capital, absorbed in the optics of attention but entirely unaware of the algorithmic governance of social media platforms. It therefore reveals the optical blind spot of the outdated cinema-city organism in the age of logistically compacted "smart" organisms of computational capital. Murad can barely prevail over the smart futures contract he has bought, without an inkling about its attendant risks.

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Harvard's Trolley Problem

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The most troublesome of questions, the relationship between intellectuals, truth and truthfulness is discussed. The site for the investigation is Harvard University, whose motto is *Veritas* (truth), and the case discussed is Harvard's long association with the disgraced billionaire Jeffrey Epstein, convicted for paedophilia but whose relationship with Harvard continued long after the conviction. Using the details described in the report of the internal committee, it is argued that a huge gulf exists between the intellectual's ideal of "speaking truth to power," the illusion, and the practice of complicity, falsehood and co-option by power, the reality. The analytical method advocated is the "trolley problem," which is used to highlight the difficulty of moral choices.

One of the most popular lecture series ever, counting both physical attendance and the millions who have tuned in on YouTube, is Michael J Sandel's "Justice: What's the Right Thing to Do?" His brilliance lies in his use of moral dilemmas to introduce complex issues of moral choice if we wish to build a fair and just society. Sandel's favourite example, with which he begins his series, is the trolley problem. Should we intervene and pull the lever on a runaway trolley, redirecting it onto a track and kill one, or abstain and allow it to continue on its existing path, and kill five? Sandel informs us of the moral costs of each option. What, then, is the right thing to do?

The 1 May 2020 report on the Jeffrey Edward Epstein case, by the vice president and general counsel of Harvard University, Diane E Lopez and her team, would present Sandel with an interesting trolley problem. Imagine that he is standing on an overbridge when he sees the trolley car carrying the *Report Concerning Jeffrey E Epstein's Connections to Harvard University* hurtling towards him. If he pulls the lever, the trolley will go towards his classroom made up of moral theorists, lawyers, analytical philosophers, management scholars; in sum the entire Harvard faculty, who would subject the report to withering critical scrutiny. By doing so, the "truth" would be safeguarded but Harvard's reputation as the social embodiment of *Veritas* would be seriously harmed. This is option one. Option two is for Sandel to let the trolley continue on its way and let Harvard's Epstein's problem die with the report's publication. All those concerned could then return to their normal life, treating the case as merely an unfortunate error of judgment and not the "Lord of the Flies" moment that it actually is. The options before Sandel are clear: Uphold the "truth," but by doing so, damage the university's standing, or compromise the "truth" and protect the university. What is the right thing to do?

A close reading of the report leaves one with the feeling that it conceals more than it reveals. Although the committee had access to the entire university e-archive of the case, such as the exchanges between faculty and administration, the email correspondence between members of faculty, minutes of official meetings; in short, all that was required to give a complete and detailed account of the case. What was instead published on 1 May 2020 was a tepid 27-page report. I had hoped, in this paper, to keep the level of polemics to the minimum, and discuss only the facts as presented in the report, but reading it, one gets the feeling that the report is intended to feed the illusion of being a rigorous Harvard investigation, the final word so to speak, after which nothing more needs to be said. This is not the case. The Epstein case raises important questions, and

therefore, this illusion of a rigorous investigation must be called out. Hence, the brief departure from my original intention not to be polemical. Veritas, Harvard's motto, has it seems gone AWOL.

I have introduced this question of "truth" early in this paper, because, I believe, the report raises issues that go beyond what was done, not done, should have been done, failed to have been done, and so on. I shall discuss these issues after I have presented the facts. My paper is concerned less with the infirmities of the report (which I shall nevertheless point out), and more about what it tells us about the internal working of eminent knowledge institutions, about the integrity of the intellectuals within them, and about the place of Truth (with a capital T) in public life. This, I have described as a "Lord of the Flies" moment for Harvard. This is because it is the leading knowledge institution in the world, involves some of the best minds on the planet who are admired for their achievements, is an institution that is resource abundant (it has an endowment of $40 billion in 2020), that these questions are important. We expect "Truth" at Harvard to be the bedrock on which everything stands or falls. Harvard is the gold standard of reason, evidence and judgment. We expect no less.

The Case

In what follows, I shall discuss the report in four sections: (i) the procedures adopted by the investigation; (ii) the findings presented in the subsections of the report; (iii) the recommendations for action; and (iv) the troubling aspects of Harvard's "Lord of the Flies" moment. I shall rely mostly on the facts presented in the report itself, and will, only occasionally, draw on data from outside.

Procedures adopted: To assess the thoroughness of the investigation, one needs to be informed of (i) the committee's terms of reference, (ii) the extent of its authority to access confidential documents in the university's archive, (iii) whether its scope would be limited to being just an internal affair or would it, if considered necessary, also extend to engaging with institutions and individuals from outside. For example, the report mentions false financial information given to the Templeton Foundation. Did the committee meet officials of the Templeton Foundation? Further, we also need to know (iv) what procedures the committee had set out for its task, and finally, (v) what was the timeline within which it had to submit its findings.

From President Lawrence Bacow's message to the Harvard community of 12 September 2019, till the submission of the report on 1 May 2020, it took approximately seven months for the committee to complete its investigation. None of the details mentioned in (i) to (v), deemed necessary for anyone to assess the thoroughness and impartiality of the report, is, however, available. Not even as annexures. The vice president and general counsel, in her covering letter to the president when submitting the report, states that the

> review addresses three principal areas of focus: (1) Epstein's donations to Harvard; (2) his appointment as a Visiting Fellow; and (3) his relationship with the Program on Evolutionary Dynamics, a program within Harvard's Faculty of Arts and Sciences that Epstein initially funded.

This is not a terms of reference (TOR) given by the president. We are not told what that TOR was. In the face of this lacuna, we have to assume that the investigation was quasi-formal and conducted in good faith. Since it was headed by the vice president and general counsel of the university, it had the necessary gravitas.

On page 2 of the report, it is mentioned that 40 persons were interviewed who were senior members of the administration, faculty, staff, and others. This list is not available. We cannot, therefore, assess why they were interviewed or wonder whether there were others who should have been invited to meet the committee. Some of the names of eminent Harvard professors are mentioned in an article in *The Verge* titled "Professors Rally behind MIT Media Lab Director after Epstein Funding Scandal" (Griggs 2019). We do not know if they were interviewed, even though they had taken a public position on the Epstein controversy. Further, we are informed that eight reports were submitted on the hotline, set up for the investigation, but these too are unavailable. Page 2 of the report informs us that 2,50,000 pages of documents were consulted, but no details are given on the documents used.

This silence is intriguing. Further, the report has no mention of the public controversy that accompanied the media exposure of Epstein's lavish lifestyle, of his sexual exploitation of minors for which he was convicted, and so on. It is written as if it exists in a social and political vacuum, while, in actual fact, a tornado of ethics was raging outside. The context seems to be deliberately missing in the report. We are only told of what Epstein did within the university (a bare-bones account), but not of his world that was so attractive to those within the university.

The report mentions that Epstein chose his associates and friends.

> He generally gave Professor Nowak the names of persons he wished to meet and either he or Professor Nowak invited them to meet with Epstein at PED's offices. (p 6)
> These meetings most often took place at weekends although some took place during the week. (p 6)

Were there minutes of these 40 meetings for us to assess the agenda for discussion since Epstein, "typically used the visits to meet with professors from Harvard and other institutions to hear about their work" (p 6). Who attended these meetings? Why were they so attractive? No information is available. This is particularly unfortunate since Massachusetts Institute of Technology (MIT), the big neighbour next door, was having its own Epstein trolley problem when 100-plus academicians from both MIT and Harvard signed an open letter (now no longer available online),[1] in support of Joichi Ito the former director of the MIT Media Lab, who resigned because he had solicited and received funds from Epstein.[2] The missing context, both in terms of the wider public debate around Epstein as a sexual predator and about receiving tainted money faced by a sister institution such as MIT, is what makes the report so feeble.

Findings

This excess of legal, ethical, and philosophical timidity, stands in sharp contrast with the public statement of Bacow who, in his message of 12 September 2019 to the Harvard community,

found Epstein's crimes "utterly abhorrent … repulsive and reprehensible." He regretted "Harvard's past association" with Epstein. What was the basis of Bacow's judgment? Was it the phone calls with his former colleagues at MIT or the widespread media coverage that made the case a global scandal? Bacow's moral outrage is, however, excised from the report. What we get instead is a story of administrative lapses, false statements intended to mislead, arbitrary decisions, violations of security procedures, a cavalier attitude by senior faculty towards ethical issues, selective amnesia, and, most galling of all, a craven attitude towards the financier. In what follows, let me mention only a few of these, clustering them into five groups: (i) bypassing of norms and rules; (ii) administrative lapses; (iii) financial fraud; (iv) reputational laundering; and (v) faculty support for Epstein even after he was convicted of sexual crimes.

Bypassing of norms and rules: I shall discuss two instances that highlight the ease with which senior faculty showed utter disregard for university norms and rules. The first took place in the psychology department in early September, 2005. Pages 5 to 8 of the report discussed Einstein's application and approval as a visiting fellow in the psychology department. It began by recording, without comment, Epstein's $2,00,000 gift to Harvard to support the work of Stephen M Kosslyn, then chair of the psychology department. It further noted that Epstein met none of the requirements of a visiting fellow, such as a PhD degree or at least some comparable research experience in the proposed area of study for him to be eligible for consideration. His application identified an area of work similar to that of Kosslyn, that is, "social prosthetics systems and their relationship to the environment." To research this problem, Epstein indicated that he will use, in addition to other techniques, "functional magnetic resonance imaging machines." Kosslyn admitted that Epstein did not meet the requirements or have the expertise to use MRI machines, but recommended his application anyway. "I wish I could have even a single student who asks such good questions or is capable of synthesizing material from such diverse sources" said Kosslyn in his recommendation. With "great enthusiasm," he recommends Epstein because he is "not just intelligent and well informed" but "creative, deep, extraordinarily analytic, and capable of working very hard" (p 7). There is no mention of his $2,00,000 gift for Kosslyn's research.

Epstein's application went to the administrator who deals with such cases. She advised the dean of the graduate school not to admit Epstein because he did not meet the requirements. The dean spoke to Kosslyn and overruled the administrator on the grounds that a "Visiting Fellow status" was a "status within a department." He would hence "defer to the wishes of the department chair" (p 7). Interestingly, the report mentions that neither the dean nor Kosslyn have any memory of this conversation. Epstein applied for the visiting fellowship on 1 September 2005. It was granted on 3 September 2005, within two days. He did little work during the year, even though in the first recommendation Kosslyn said he was "capable of

working very hard." After a year, he applied for a renewal of the fellowship on 14 February 2006. It was approved on 21 April 2006. The speed of granting the first approval and overlooking his lack of work by the second makes one ask why the chair and the dean disregarded the rules? The discrepancy between their memory of the case and that of the administrator is also very intriguing. Amnesia is a recurring defence in the report. Psychology departments understand amnesia. Is this genuine amnesia or is it a cavalier attitude towards rules by Harvard's eminent professors?

Strangely, the report mentions that Epstein appeared at the "registration accompanied by several women who appeared in their 20s" (p 8). A similar remark is made later where he was "routinely accompanied on these visits by young women, described to be in their 20s, who acted as his assistants" (p 18), but no comment is offered on these facts. The details from MIT of the women accompanying him on his visits says more. Signe Swenson, development associate and alumni coordinator of the MIT Media Lab, writes about one such Epstein visit. The women who accompanied him were

> models. Eastern European, definitely, … all of us women made it a point to be super nice to them. We literally had a conversation about how, on the off chance that they're not there by choice, we could maybe help them. (Farrow 2019)

The second case concerns the Program for Evolutionary Dynamics (PED) set up with Epstein's money. Here, I shall only discuss one aspect of the case. In 2017, Harvard created a tighter security system requiring that those entering a Harvard building have a Harvard identification card, if they entered unaccompanied. For those who were not from Harvard, the security informed the chief administrative officer (CAO) that temporary guest Harvard University numbers were available for a period from 10 days to 12 months. To get them, however, Nowak, the director of the PED and the biggest beneficiary of Epstein's largesse, or the CAO, would have to recommend the applicant who would have to be photographed. The CAO "circumvented" (a term used in the report) this requirement, by asking the security for several unassigned access cards, which were granted with the condition that records be kept of who they were assigned to (p 19). Two cards were sent by courier to Epstein, giving him, thereby, unfettered access to the PED facilities. The report mentions that Nowak and his CAO permitted Epstein unrestricted access to the PED building whenever he came to the campus. The security rules were knowingly "circumvented."

This may seem like a small matter, but it is an illustration of how the system bends to accommodate the powerful. No photograph of Epstein was given to the security, and hence, there were no alerts and no record of who accompanied him. Till 2018, Epstein had unfettered access to Harvard's PED offices and lab. So, if institutions are rules of the game (North 1990), how do we explain this culture of arbitrariness, collusion, and disregard for rules. Are some institutions impervious to transgression of their rules, and if so, what are the necessary and sufficient conditions for such imperviousness? Perhaps, observance of rules is for the ordinary members of a society

who, because they conform to these rules, keep the wheels of society moving. The wealthy and the powerful need not bind themselves by such rules. In fact, perhaps, it is because they are transgressors that society evolves. Is this a credible proposition? So, we have a two-tier theory of rules: abidingness by the ordinary member; and transgression by the powerful. However, Kara Swisher (2019), in an opinion piece in the *New York Times*, has a less ambivalent view:

> this story of looking-the-other-way morals should not be seen as an unusual cautionary tale of a few rogue players. These corner-cutting ethics have too often become part and parcel to the way business is done in the top echelons of tech, allowing those who violate clear rules and flout decent behavior to thrive and those who object to such behavior to endure exhausting pushback.

Administrative lapses: There are many instances of administrative lapses mentioned in the report, and whether these are deliberate or the product of incompetence is for the law school, business school, and school of government to determine. I shall, in this paper, discuss just two instances of administrative lapses to raise the suspicion that what is at work is not the standard explanation of inefficiency of personnel, but of the culture of power, which is so contemptuous of systems that regulate the lives of commoners. This is how the elite live and rule.

The first instance of a lapse comes from the office of then president Drew Gilpin Faust. The report mentions that she assumed office on 1 July 2007 and, certainly, by November 2008, had taken a decision, in consultation with vice president Tamara Rogers, that Harvard should "no longer accept gifts from Epstein" (p 10). This "decision was unequivocal" (p 10). Surprisingly, the decision was not recorded and nor was it formally conveyed to the faculty. The report notes that

> we have seen no documents indicating that Harvard formally informed either Epstein or the faculty members whose work Epstein had supported of President's Faust's decision. (p 10)

Although the report states that the decision of Faust was "unequivocal," Nowak thought that the "decision might be subject to reconsideration" (p 11). This ambiguity led other professors to ask the faculty of arts and sciences (FAS) development office to solicit more funds from Epstein in 2013. In a note to Michael D Smith, then dean of the FAS, a staff member of the FAS development office writes:

> Epstein is a convicted sex offender, who completed a 13 month prison term. His wealth was earned through his work in the financial sector. Both Professor Gross and Jeremy Bloxham, [Divisional] Dean of the Sciences, feel that the Math department should be permitted to solicit Epstein for additional funds. They feel that the good his support can do for Professor Nowak's research out-weighs the reputational risk of accepting further funds from him. (p 11)

Is this a trolley problem? To his credit (small mercy here), Dean Smith declined to place their request before the Gift Policy Committee.

The second episode comes from a lower level of administration, the development office. Since Faust had decided not to accept donations from Epstein, it is puzzling as to why "the development office invited Epstein to come to the campus to attend the kick-off of the University's Capital Campaign" (p 13). Is it illustrative of the ethical casualness that comes into play, even in a university such as Harvard, when it comes to soliciting large amounts of money? If Epstein could not give money, because of Faust's decision, this did not mean that he could not be asked for help in getting his friends to give money. Nowak and Church of the Harvard Medical School received money from Epstein's friends. The report acknowledges that, with Epstein's recommendations, the foundations associated with the black family (Epstein had been a trustee) gifted $7.5 million for the work of Nowak. The blacks had previously mainly donated to Harvard's Veteran's program. This is the first time they were giving money to Nowak (p 15). The report mentions that

> Epstein's staff, for example, took steps, at Professor Nowak's direction, to ensure that the letters accompanying Black's gifts earmarked those gifts specifically for Nowak's research. (p 15)

This is ingenious. Reflect on the reasoning. "I cannot take money from X, but I can take money from the friends X introduces me to. And please ask your office to get the donor to specifically mention that the donated money is for my use." How does one ethically and legally read this behaviour. Does moral judgment appear firm, when the case is existentially distant, that is, politicians, but is more accommodative when the case is existentially closer, that is, colleagues?

Financial fraud: Here, I shall discuss just one case. The report mentions that in 2014, Nowak applied to the Templeton Foundation for a grant of $3 million. Nowak was informed that since "the new grant related to work performed on a previous grant, Templeton would consider granting half of the money" (p 16). Further, it informed him that the Templeton charter required him to

> demonstrate that [he] had funds available to provide the other 50% of the money from another source and to obtain a letter from either another donor or Harvard attesting that the funds have been secured and will be applied to the proposed project. (p 16)

Nowak got Epstein to send a letter from one of his foundations, Enhanced Education, that such funds had been allotted to the PED. The report acknowledges that this was a false statement in two respects:

> First Enhanced Education had never provided support to Nowak's program and, second, the funds that Epstein had provided had long been spent. (p 16)

When it came to giving a project completion certificate to Templeton Foundation in 2018, the CAO of PED deceived Templeton further, by writing that

> We used a gift from Enhanced Education to Harvard University fund 3,47,150 for the Program for Evolutionary Dynamics.

The report states that "this statement was also false" (p 17). The contrast with George Floyd case could not be more glaring. He was arrested and killed by the police for allegedly passing off a counterfeit $20 bill when buying cigarettes, whereas Templeton Foundation is defrauded of $1.5 million, and all that happens is that Nowak is placed on paid administrative leave.

Reputational laundering: While Epstein gave funding to Nowak, and secured funding from his friends for George Church at Harvard Medical School, these were not the only beneficiaries of his largesse. Footnote 6 of the report mentions that his foundations

> made donations in 2016 of $50,000 to the Hasty Pudding Institute of 1770 (a student social club) and $110,000 to Verse Video Education (a non-profit whose president, Elisa New, is a professor at Harvard).

Elisa New is the spouse of former Harvard President Larry Summers. The report suggests that since these were not gifts to Harvard, "the review did not examine the circumstances surrounding these gifts." If the information did not have a bearing on the Epstein case, why was it mentioned? If it was relevant, why did the review not offer a comment on the propriety of receiving money from Epstein?

If these cases are to be seen as indirect efforts by Epstein to build his reputation as a concerned philanthropist, then his efforts also took a more direct route. His publicist asked Nowak to give Epstein prominence on the PED website, an official Harvard website. Wrong information was given and his photograph was posted on the page. The report mentions that the vice president for alumni affairs and development and other senior officials were unaware that Epstein featured on the Harvard portal. It concludes with a small rebuke to Nowak that he "failed adequately to consider Harvard's interest in seeing that its name is well used" (p 23).

Seven and a half months after Bacow had regretted "Harvard's past association" with Epstein, the report could only say that Nowak had "failed adequately to consider Harvard's interest in seeing that its name is well used." One wonders if there is a link between such moral timidity when confronted with the moral improbity of those in power across the institutions in America, and the turmoil that has engulfed it. Few American scholars of democracy who preach to the world about corruption have thought it relevant to pose such questions to themselves. There seems to be a surreal disjunction between the lectures in the classroom, especially those on justice, and the behaviour of the university's officials and professors. Students are taught to align their ethical beliefs with their actions, which they do, while senior professors and administrators apparently do not have to.

Faculty support for Epstein: If this was just a case of an error of judgment by some, whereas others meet the condition of uprightness, then I would drop my harangue. But it is not. It is a problem that seems to permeate every level of the university, from the officers, to many among its professoriat, to its administrative staff, and its social groups. This comes out very clearly in footnote 13. I need to quote it at length. There is not just a problem of an unfortunate series of events, but of a persistent institutional culture.

In spite of the ethical turbulence raging across the world, the committee found the Harvard faculty largely untouched by the Epstein scandal. According to footnote 13,

> A number of the Harvard faculty members we interviewed also acknowledged that they visited Epstein at his homes in New York, Florida, New Mexico or the Virgin Islands, visited him in jail or on work release, or travelled on one of his planes. Faculty members told us that they undertook these off-campus activities primarily in their personal capacities rather than as representatives of Harvard. These actions did not implicate Harvard rules or policies. (p 18)

It is true that this is a private matter and not one for Harvard to legislate on, but that its faculty thought it perfectly proper to enjoy the hospitality of a sexual predator of underage girls raises some difficult questions that I propose to discuss in the next part of this paper. In contrast to the general counsel and professors arguing that this was a private matter, the students had this to say. The editorial in the *Crimson* of 5 May 2020, five days after the publication of the report states:

> While Harvard professors can interact with whomever they please, pursuing such trips suggests, at the very least, an extremely concerning lapse in basic moral judgment, and we should judge them accordingly. Relegating that information to a footnote reveals the extent to which Harvard has not only failed to mount sufficient moral criticism but perhaps failed to acknowledge the significance of these relationships. (*Crimson* 2020)

Without ambiguity, the students answered the question: "What is the right thing to do?" No grey zones for them, unlike the professoriat for whom it was business as usual.

Recommendations: In the light of its findings, the committee offered five administrative recommendations on how the system can be improved. These range from reviewing donations, to better dissemination of policy decisions, to refusing to accept donations from people, such as Epstein. The recommendations sought to fine-tune the administrative system, which, it was felt, was basically in order. Suprisingly, even though the committee was constituted by the highest authority of the university, the president, it gave its recommendations of penalties not to the president but to a subordinate authority, the faculty affairs office in the FAS and to the dean of human affairs to determine what disciplinary action should be taken in the Nowak and CAO cases. Some would consider this a whitewash. To me, it is a sign of a deeper problem, which I shall now discuss.

The Issues

In the preceding discussion, I placed on record the facts of the case, as offered by the report itself and, only occasionally, relied on evidence or comment from outside. The time has now come to move from a presentation of facts to a discussion of the ethical and social issues that emerge from the case.

The committee presented the case as if it was discussing a series of "errors of judgment." The system, for them, remains basically in order—the few lapses mentioned can be fixed through additional review and reporting procedures—just some fine-tuning is required. In contrast, Bacow's statement regretting Harvard's "past association" with Epstein has more interpretative potential and can be read in two ways. First, a variation of the committee's position is that there has been a major failure, but remedy is possible within the system since it is basically sound. Second echoes the position of

MIT President L Rafael Reif who acknowledged that the "tech world in general, devalues the lives, experiences, and contributions of women and girls" and that

> it took this cascade of misjudgments for me to truly see this persistent dynamic and appreciate its full impact. It's now clear to me that the culture that made possible the mistakes around Jeffrey Epstein has prevailed for much too long at MIT. (*Guardian* 2019)

For Reif, it was the "university's culture" that allowed an Epstein to roam unchallenged. The university's pursuit of money, sans ethical engagement, led to the "cascade of misjudgments." It is this second reading of Bacow that I want to pursue.

I do so with some hesitation because Bacow's decision to give the balance unspent money, some $2,00,937, to two groups, "My Life My Choice" and "Girls Educational and Mentoring Service," who "support victims of human trafficking and sexual assault," makes one suspect that he belongs to the first reading. Bacow is silent about the entire tainted money of $9.179 million received from Epstein. Although $9.179 million is just 0.023% of Harvard's corpus, keeping it poses no moral issue for Bacow. This takes us to another Harvard trolley problem, that is, keep the money received from Epstein or give it to some worthwhile causes, as is being done with the $2,00,937?

I have chosen to discuss Harvard because, as I said in the beginning of this paper, it is a knowledge institution that stands at the apex of the global knowledge pyramid in every sphere: humanities, law, business studies, government, ethics, justice, and so on. It is also unrivalled in its resources, both intellectual and material, which gives it a unique position from which to assess the vagaries of the "the human condition." And so, if Harvard can be shown to be complicit in sustaining falsehood, because material inducements cloud its judgment, then we are faced with more fundamental questions than has been considered so far. By referring to Arendt's book, *The Human Condition*, I have, at this juncture, brought her into this discussion because hers is the response, a kind of "Eichmann in Jerusalem" and the "banality of evil" framing, that I would like to mimic. The Epstein case at Harvard shows a "culture of casualness towards collective norms by the elite." Its attempt to treat the case as a fixable one therefore needs to be resisted.

This resistance will not be easy since even the *New York Times* and the *Washington Post*, two crusading and fearless newspapers that have taken on the United States presidency, produced tame comments on the reports. They did not have the courage to take on the intellectual Leviathan, offering merely weak summaries of the report (Levenson 2020; Svrluga 2020). The boldest comment came from the *Crimson* (2020), which stated in its editorial that the report

> reveals the extent to which our institution was actively complicit in Epstein's pattern of abuse. It betrays the influence of power, reputation, and wealth, even within academic institutions that profess to be committed to truth and the nurturing of young people.

Because of Harvard's tremendous public legitimacy, it is important to raise the issues, since they are necessary for the academy as a whole to introspect.

Let me, therefore, begin by explaining why I have referred to this case as Harvard's "Lord of the Flies" moment. If William Golding's acclaimed novel *Lord of the Flies* was a fictional attempt to explore the conflict between the inherent human tendency towards violence and savagery and the societal norms and rules designed to regulate and contain it, then the Epstein episode at Harvard is clearly a "Lord of the Flies moment." The institution has well-formulated norms and rules, both written and unwritten, which every member of the Harvard community knows about. Students are regularly required to affirm them through the "honour code," which declares that "we hold honesty as the foundation of our community." So why was there a deliberate and persistent departure from this honour code?

The "Lord of the Flies" moment requires us to treat Harvard as an island in which there is, at play, all the key elements of a society: money, power, glamour, sexual gratification, glory, social esteem, intellectual curiosity, and self-worth. On this hypothetical island, certain human relationships develop. These, as the Epstein case shows, have violated the norms and institutional rules that have evolved to check and penalise errant behaviour. This regulation did not happen, not even after Epstein was convicted as a sexual predator. Such transgression of norms and rules continued at every level of the institution, from the president's office to the security system, from the development office to the section that manages the cyber profile of the university, from the office of the alumni affairs to the Gift Policy Committee, and from the academic departments to the non-official social groups. There was complicity in dishonouring the honour code. Only after Epstein died, and only after his actions became a global controversy, did Harvard sit up, take notice and produce a feeble report.

When reviewing the report, I offered, in passing, some propositions to explain the Epstein affair. Proposition (i): In every society, there are two sets of norms—one for the ruling class and the other for the ruled class. The ruled class has to be "rule abiding," which sustains the institutions and processes of society, whereas the ruling class can be "transgressors" since they benefit, as free riders, from the "rule abidingness" of the ruled class. The ruling class, to continue to rule, offers the ruled class "political formula"—democracy, rights, veritas—as palliatives. This is a modern version of the Pareto–Mosca thesis. Harvard is the ruling class. Proposition (ii): Although the rules of the game are essential for a society to build trust, they do not apply in certain spaces where the chosen few in a society do not pay a price for disregarding them. There are no penalties if the transgressors can mobilise other social forces—money, sex, power, glamour, and status—as factors to trump the rule. Harvard's grandees can trump the rule. Proposition (iii): Our ethical attitudes, which are firm when judging distant events, begin to flounder and get more accommodative of wrongdoing and falsehood when the event is existentially close. This is particularly so, if the event concerns our intimate circle.

These are important issues, but having stated them, I shall shift to the issue I primarily want to address here; the

relationship between intellectuals and the truth. While the three propositions just mentioned are important, they are not Harvard-specific and concern, more broadly, the human condition. For these issues, Harvard is just an illustration. The relationship between intellectuals and the truth is, however, Harvard-specific. The question therefore is: What does the Epstein case at Harvard tell us about the relationship between intellectuals and the truth. If we can explain it at Harvard, we can explain it anywhere. It is therefore to Veritas, Harvard's core, to which I shall now turn.

The relationship between truth and falsehood has been at the centre of every major philosophical and theological system, both in the East and in the West. It is too big a question to explore here, and so, while it would be interesting to explore, for example, the idea of "Taqiyah" in Islamic theology, where denial of religious belief is accepted as an option if it saves a life as long as the content of the deception is not believed, honesty for a higher cause being the basis of the lie, or the concept of "Apadharma" in Indic philosophy, where it is permitted to stray from one's "dharma" (moral norms) under extreme circumstances, for example, when life is under threat; these conditions do not obtain in the Epstein case, so I shall skip them.

My attention will focus on two aspects of the issue. First, how has this relationship between truth and falsehood been discussed in different fora, and second, what are the inducements that make intellectuals, who by definition are committed to the truth, stray and flirt with falsehood instead. These are perennial questions, and so my paper should be regarded as just a modest contribution to this continuing philosophical quest.

Rabbi Jonathan Sacks, in his reflections on Judaism, gives two illustrations, the Old Testament story of Jacob and his brothers and that of Abraham and Sarah, of when it is permitted to tell a lie. I shall recount only the latter one. Sacks recounts the story of the angels visiting the childless Abraham and his wife Sarah to tell them that they are about to have a child. Sarah, ever sceptical, laughed at the news saying, "Will I really have a child when both of us are old?" God asked Abraham, "Why did Sarah laugh and say, 'Will I really have a child, now that I am old?'" God did not mention that Sarah believed that she was too old to have a child. So was Abraham. God did not mention it because he did not want there to be bad feeling between husband and wife. From this, the sages derived the principle *Mutar le-shanot mipnei ha-shalom*: "It is permitted to tell an untruth (literally, "to change" the facts) for the sake of peace." A white lie is permitted in Jewish law (Sacks nd). Even god told a white lie to prevent "bad feeling" between the husband and the wife. We then ask: Were the lies recorded in the Epstein report, and the report itself, white lies told for the sake of some higher principle? Emphatically no. They were self-serving. They were intended to deceive, to protect the interests of some powerful professors and the reputation of the university as seen by the president and the general counsel. They were not for Veritas. This line of defence too is, therefore, unavailable.

The second case, when a lie has some justification, comes from Euripides' play *Ion*. Michel Foucault, in his six lectures at the University of California at Berkeley, in October–November 1983, titled "Discourse and Truth: The Problematization of Parrhesia" has a wonderful discussion on the question of lies and truth. Creusa is raped or seduced by the god Apollo from whom she bears a son, who she abandons as an infant in the open expecting him to be killed by wild beasts. Apollo, the father, has the child rescued, and Ion, then grows up in the temple of Delphi, Apollo's abode. Only Apollo knows his genealogy. When, decades later, the king Xuthus and his queen Creusa, who are childless, come to the temple to ask the oracle if they will have a child, they ask separately. The answers given are different to Xuthus and Creusa. "Apollo's temple, the oracle at Delphi, was the place where the truth was told by the gods to any mortals who came to consult it" (Foucalt 1983). Xuthus is told that the first person he meets—and he meets Ion—when he leaves the temple will be his son. To Creusa's question on what was the fate of the son she had had with Apollo, the god remains silent. He is ashamed to speak. Foucault writes that

> What is even more significant and striking is what occurs at the end of the play when everything has been said by the various characters of the play, and the truth is known to everyone. For everyone then waits for Apollo's appearance — whose presence was not visible throughout the entire play (in spite of the fact that he is a main character in the dramatic events that unfold). It was traditional in ancient Greek tragedy for the god who constituted the main divine figure to appear last. … [but] Apollo does not dare to appear and speak the truth. (p 16)

Harvard is the modern-day oracle of Delphi. The report was intended to be its answer to Epstein's crimes. As shown in the first part of this paper, it choose not to speak the truth. Apollo did not appear. Is the silence defensible? I think not. I agree with Bernard Williams, who in his book *Truth and Truthfulness: An Essay in Genealogy,* states that the "authority of academics must be rooted in their truthfulness" in respect of both the virtues of truth; "accuracy and sincerity" Williams (2004). On both these counts, Harvard came up short. It lost its way. A 0.023% donation, measured in terms of its corpus, caused it to abandon Veritas. Harvard needs self-introspection, which the report was supposed to do, and return to its core identity. Apollo must appear on stage at the end of the play. To start with, it could give away all of the tainted money received from Epstein.

The second question, however, still continues to trouble. If the first was directed at the university administration, the second is directed at the faculty, the globally renowned intellectuals on the university's rolls. Why was Epstein able to so easily co-opt them? Was it because he made money available for research, gave them access to people in power, introduced them to people of status, offered them a lifestyle that was alluring and titillating? Was it because he makes them members of a high-society social club? Through Epstein, Harvard's intellectuals could be both, knowledge seekers and society icons. He only required from them a suspension of Harvard's honour code and to offer him a platform for a "reputation retouch." For the intellectuals, this was not too heavy a price

to pay. Nobody would notice. For the benefits to be gained, this was small change. Their doing so resulted in what Julien Benda describes as the "treason of the intellectuals," the abandonment of truth and justice for political gains.

Global capitalism today has, unfortunately, with all its seductions, produced such complicity of "supping with the devil" among most intellectuals across the world. Saying "no" to an Epstein becomes difficult, if not rare. On the contrary, one finds rationalisations for such complicity. Kosslyn the chair of psychology wrote about Epstein, "I wish I could have even a single student who asks such good questions." Rationalisation replaces Veritas, which gets obscured by all the rationalisations. Soon, the intellectual mistakes rationalisations for Veritas. We need to get back to a self-examination. We need to return to making connections between our material aspirations and our ethical beliefs. We need to identify the social processes that threaten and undermine our ability to be true to these beliefs. If it can happen at Harvard, it can happen anywhere. Instead of Harvard influencing Wall Street, Wall Street has begun to dominate Harvard. The university needs to stop being a corporation and return to become a university again. Return to Veritas? Yes, Michael?

NOTES

1   Incidentally, the list of 100-plus signatories is now not available on the internet.

2   "Now is a time to revisit how the principles of an organisation are expressed through its funding process—and to explore how we can, together, build mechanisms to ensure our fundraising efforts reflect our core values. However, the conversation has veered into increasingly pessimistic territory, and the media has focused their attention largely on this negativity. As such, it is our responsibility as members of the greater Media Lab community to add our voice to the conversation. We have experienced first-hand Joi's integrity, and stand in testament to his overwhelmingly positive influence on our lives—and sincerely hope he remains our visionary director for many years to come."

A number of prominent professors and thinkers involved with MIT and Harvard are listed as signers, including Harvard law professor and creative commons founder Lawrence Lessig, Whole Earth Catalog founder Stewart Brand, Media Lab co-founder Nicholas Negroponte, Harvard law professor and EFF board member Jonathan Zittrain, and synthetic biology pioneer George Church (who also had ties to Epstein). https://www.theverge.com/2019/8/27/20835696/mit-media-lab-joi-ito-apology-petition-jeffrey-epstein (viewed on 6 May 2020).

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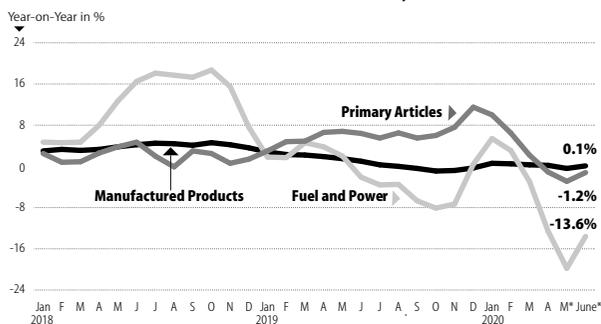
ECONOMIC & POLITICAL WEEKLY

Wholesale Price Index

The year-on-year (y-o-y) inflation rate declined to -1.8% in June 2020 from 2.0% reported a year ago, but lower than -3.2% a month ago. The index of primary articles fell by (-)1.2% against 6.4% registered a year ago, but lower than -2.9% a month ago. The index for food articles decreased by 2.0% compared to 7.3% recorded a year ago, higher than 1.1% a month ago. The index for fuel and power declined by (-)13.6% against (-)2.1% reported a year ago. The index for manufactured products decreased by 0.1% compared to 1.0% registered a year ago.

Consumer Price Index

The CPI inflation rate increased to 6.18% in June 2020 from 3.1% reported last year, but lower than 6.3% a month ago. The CPI-rural inflation rate rose to 6.20% from 2.2% registered last year and 6.18% a month ago and the urban inflation rate increased to 5.9% from 4.3% a year ago, but was lower than 6.4% recorded a month ago. As per Labour Bureau data, the CPI-inflation rate of agricultural labourers (CPI–AL) increased to 7.2% in June 2020 from 6.3% registered a year ago while that of industrial workers (CPI–IW) decreased to 5.1% in May 2020 from 8.7% reported a year ago.

Foreign Trade

The trade balance reported a surplus of $0.8 billion in June 2020 compared to the deficit of $15.3 bn reported a year ago. Exports decreased by (-)12.4% to $21.9 bn and imports by (-)47.6% to $21.1 bn from $25.0 bn and $40.3 bn, respectively. Oil imports went down by (-)55.3% to $4.9 bn and non-oil by (-)44.7% to $16.2 bn from their respective values of $11.0 bn and $29.3 bn. During April–June 2020–21, the cumulative exports declined by (-)36.7% to $51.3 bn and imports by (-)52.4% to $60.4 bn from $81.1 bn and $127.0 bn, respectively, during the same period last year.

Index of Eight Core Industries

The index of eight core industries declined by (-)23.4% in May 2020 against 3.8% reported last year. Growth in the production of refinery products, coal, steel, and cement dropped to -21.3%, -14.0%, -48.4% and -22.2% from their respective growth rates of -1.5%, 1.7%, 13.3% and 2.8% registered a year ago. Production of crude oil decreased by (-)7.1%, natural gas by (-)16.8% and electricity generation by (-)15.6% against -6.9%, -0.1% and 7.4%, respectively. Only fertiliser production reported an increase of 7.5% compared to -1.0%.

Movement of WPI-Inflation Rate January 2018–June 2020

Year-on-Year in %

Primary Articles — 0.1%
Manufactured Products — Fuel and Power — -1.2%
-13.6%

* Data is provisional; Base: 2011–12 = 100.

Trends in WPI and Its Components June 2020* (%)

	Weights	Over Month	Over Year	Financial Year (Averages)		
				2017–18	2018–19	2019–20
All commodities	100	1.4	-1.8	2.9	4.3	1.7
Primary articles	22.6	2.3	-1.2	1.4	2.7	6.8
Food articles	15.3	2.0	2.0	2.1	0.3	8.4
Fuel and power	13.2	5.5	-13.6	8.2	11.5	-1.8
Manufactured products	64.2	0.4	0.1	2.7	3.7	0.3

*Data is provisional; Base: 2011–12=100; Source: Ministry of Commerce and Industry.

Movement of CPI Inflation January 2018–June 2020

Year-on-Year in %

Miscellaneous
CPI
Consumer Food
7.9%
6.1%
5.7%
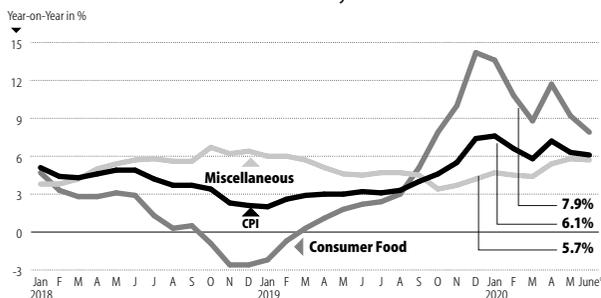
* Data is provisional; Source: National Statistical Office (NSO); Ministry of Statistics and Programme Implementation, Base: 2012=100.

CPI: Rural and Urban June 2020* (%)

	Latest Month Index	Over Month	Over Year	Financial Year (Avgs)	
				2018–19	2019–20
CPI Combined	151.6	0.5	6.1	3.4	4.3
Rural (2012=100)	152.5	0.9	6.2	3.0	5.4
Urban (2012=100)	150.5	-0.1	5.9	3.9	4.8

CPI: Occupation-wise

Industrial workers (2001=100)#	330.0	0.3	5.1	5.4	7.5
Agricultural labourers (1986–87=100)	1018.0	-0.1	7.2	2.1	8.0

* Provisional; #May 2020; Source: NSO (rural and urban); Labour Bureau (IW and AL).

Merchandise Trade June 2020

	June 2020 ($ bn)	Over Month (%)	Over Year (%)	April–June (2020–21 over 2019–20) (%)
Exports	21.9	15.0	-12.4	-36.7
Imports	21.1	-4.9	-47.6	-52.4
Trade surplus	0.8	-125.4	-105.2	-80.2

Data is provisional. Source: Ministry of Commerce and Industry.

Trade Balance January 2018–June 2020

$ billion

Non-Oil
Oil
Total Trade Balance
$3.9 bn
$0.8 bn
-$3.1 bn
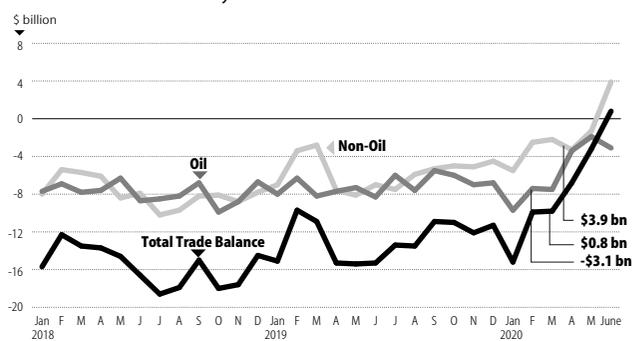
Oil refers to crude petroleum and petroleum products, while Non-oil refers to all other commodities.

Movement of Index Values of Components of IIP January 2018–May 2020

Index Value

Electricity — 149.6
Manufacturing — Mining — 87.0
82.4
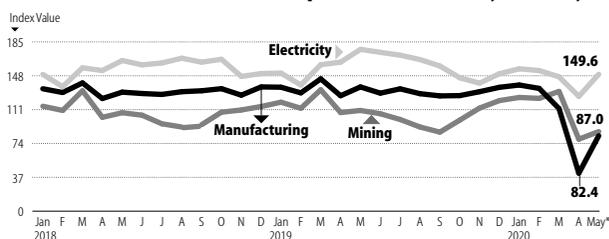
* May 2020 are quick estimates; Base: 2011–12=100.

Index of Eight Core Industries May 2020* (%)

	Weights^	Index Values		Growth Rate (%)		
		May-19	May-20	Over Year	2018–19	2019–20
Infrastructure industries	40.27	137.0	105.0	-23.4	4.4	0.3
Coal	10.3	127.3	109.4	-14.0	7.4	-0.4
Crude oil	9.0	88.2	82.0	-7.1	-4.1	-5.9
Natural gas	6.9	68.7	57.2	-16.8	0.8	-5.6
Petroleum refinery products	28.0	129.6	102.1	-21.3	3.1	0.2
Fertilisers	2.6	105.5	113.4	7.5	0.3	2.7
Steel	17.9	161.8	83.4	-48.4	5.1	3.2
Cement	5.4	149.3	116.1	-22.2	13.3	-0.9
Electricity	19.9	176.8	149.3	-15.6	5.2	0.9

^In the Index of Industrial Production (Base: 2011-12=100) ; *Data is provisional.
Source: Ministry of Commerce and Industry.

Comprehensive current economic statistics with regular weekly updates are available at: http://www.epwrf.in/currentstat.aspx.

■ India's Quarterly Estimates of Final Expenditures on GDP

₹ Crore | At 2011–12 Prices	2017–18 Q1	Q2	Q3	Q4	2018–19 Q1	Q2	Q3	Q4	2019–20 Q1	Q2	Q3	Q4
Private final consumption expenditure	1769688 (9.3)	1750056 (5.5)	1911901 (5.3)	1948175 (7.7)	1889008 (6.7)	1903853 (8.8)	2046415 (7.0)	2068782 (6.2)	1992967 (5.5)	2025488 (6.4)	2182352 (6.6)	2125099 (2.7)
Government final consumption expenditure	362769 (21.6)	367882 (7.4)	319547 (10.5)	293024 (8.9)	393709 (8.5)	407780 (10.8)	341988 (7.0)	335089 (14.4)	418249 (6.2)	465643 (14.2)	387729 (13.4)	380747 (13.6)
Gross fixed capital formation	958859 (0.7)	967190 (5.9)	1014300 (8.8)	1120847 (13.7)	1082670 (12.9)	1077942 (11.5)	1130201 (11.4)	1170154 (4.4)	1132195 (4.6)	1035736 (–3.9)	1071838 (–5.2)	1094323 (–6.5)
Change in stocks	49996 (61.7)	54050 (75.8)	52497 (78.3)	59252 (79.6)	64131 (28.3)	66159 (22.4)	63999 (21.9)	70126 (18.4)	67328 (5.0)	66999 (1.3)	64718 (1.1)	70445 (0.5)
Valuables	62905 (80.1)	46317 (25.0)	39512 (11.2)	43928 (1.5)	41080 (–34.7)	44629 (–3.6)	39252 (–0.7)	44772 (1.9)	51347 (25.0)	51761 (16.0)	43368 (10.5)	46153 (3.1)
Net trade (Export–import)	–137041	–85422	–128661	–125231	–122238	–141491	–104580	–51926	–117242	–76355	–44444	–59686
Exports	627176 (3.9)	639543 (4.5)	646620 (4.4)	688438 (5.0)	686695 (9.5)	719352 (12.5)	748505 (15.8)	767991 (11.6)	708546 (3.2)	703282 (–2.2)	703023 (–6.1)	702809 (–8.5)
Less imports	764217 (21.8)	724965 (10.5)	775281 (14.1)	813669 (23.6)	808933 (5.9)	860843 (18.7)	853085 (10.0)	819917 (0.8)	825788 (2.1)	779637 (–9.4)	747467 (–12.4)	762495 (–7.0)
Discrepancies	69397	132000	105705	151725	10803	73679	–17242	52683	–9576	15062	–62812	146521
Gross domestic product (GDP)	3136572 (5.1)	3232072 (7.3)	3314801 (8.7)	3491719 (7.4)	3359162 (7.1)	3432553 (6.2)	3500033 (5.6)	3689678 (5.7)	3535267 (5.2)	3584335 (4.4)	3642748 (4.1)	3803601 (3.1)

■ India's Overall Balance of Payments (Net): Quarterly

Item	2018–19 ($ mn) Q1	Q2	Q3	Q4	2019–20 ($ mn) Q1	Q2	Q3	Q4	2018–19 (₹ bn) Q1	Q2	Q3	Q4	2019–20 (₹ bn) Q1	Q2	Q3	Q4
Current account	–15803	–19054	–17752	–4647	–15004	–7579	–2630	558	–1059 [–2.3]	–1337 [–2.9]	–1279 [–2.7]	–328 [–0.7]	–1044 [–2.1]	–534 [–1.1]	–187 [–0.4]	40 [0.1]
Merchandise	–45751	–50037	–49281	–35214	–46774	–39650	–36040	–35042	–3065	–3510	–3552	–2482	–3253	–2793	–2567	–2536
Invisibles	29947	30984	31529	30567	31769	32070	33410	35600	2006	2174	2272	2154	2209	2259	2380	2577
Services	18676	20256	21678	21331	20075	20941	21879	22027	1251	1421	1562	1503	1396	1475	1558	1594
of which: Software services	18605	19286	19895	19868	20998	21064	21455	21125	1246	1353	1434	1400	1460	1484	1528	1529
Transfers	17031	19331	17424	16160	17964	19952	18893	18400	1141	1356	1256	1139	1249	1405	1346	1332
of which: Private	17216	19511	17558	16317	18224	20188	19132	18673	1153	1369	1265	1150	1267	1422	1363	1352
Income	–5760	–8603	–7573	–6925	–6270	–8822	–7361	–4827	–386	–604	–546	–488	–436	–621	–524	–349
Capital account	4787	16604	13770	19241	28624	13580	23626	17350	321 [0.7]	1165 [2.5]	992 [12.1]	1356 [2.7]	1991 [4.0]	956 [1.9]	1683 [3.3]	1256 [2.4]
of which: Foreign investment	1427	7612	5199	15856	18835	9791	17572	–1782	96	534	375	1117	1310	690	1252	–129
Overall balance	–11338	–1868	–4296	14162	13984	5118	21601	18794	–760 [–1.7]	–131 [–0.3]	–310 [–0.6]	998 [2.0]	973 [2.0]	360 [0.7]	1539 [3.0]	1360 [2.6]

Figures in square brackets are percentage to GDP.

■ Foreign Exchange Reserves

Excluding gold but including revaluation effects	17 July 2020	19 July 2019	31 March 2020	Variation Over Month	Over Year	Financial Year So Far 2019–20	2020–21	Financial Year 2015–16	2016–17	2017–18	2018–19	2019–20
₹ crore	3588345	478335	402538	3344616	9849	75797	15725	218620	25300	353270	68050	668976
$ mn	478335	318	17190	443645	–2836	83458	146430	16297	10160	53217	–14168	56831

■ Monetary Aggregates

₹ Crore	Outstanding 2020	Variation Over Month	Over Year	Financial Year So Far 2019–20	2020–21	Financial Year 2017–18	2018–19	2019–20
Money supply (M₃) as on 3 July	17536790	142550 (0.8)	1933856 (12.4)	170867 (1.1)	736859 (4.4)	1170657 (9.2)	1469480 (10.5)	1367864 (8.9)
Components								
Currency with public	2571573	27167 (1.1)	461643 (21.9)	57721 (2.8)	221858 (9.4)	495583 (39.2)	292496 (16.6)	297506 (14.5)
Demand deposits	1631361	33522 (2.1)	202622 (14.2)	–197773 (–12.2)	–106331 (–6.1)	86962 (6.2)	142800 (9.6)	111180 (6.8)
Time deposits	13293677	88625 (0.7)	1266046 (10.5)	306028 (2.6)	619662 (4.9)	585266 (5.8)	1026347 (9.6)	952412 (8.1)
Other deposits with RBI	40178	–6765 (–14.4)	3545 (9.7)	4891 (15.4)	1671 (4.3)	2817 (13.4)	7835 (32.8)	6765 (21.3)
Sources								
Net bank credit to government	5635073	64532 (1.2)	825367 (17.2)	421216 (9.6)	728490 (14.8)	144799 (3.8)	387091 (9.7)	518093 (11.8)
Bank credit to commercial sector	10948780	39487 (0.4)	641448 (6.2)	–75387 (–0.7)	–89864 (–0.8)	802225 (9.5)	1169004 (12.7)	655925 (6.3)
Net foreign exchange assets	4023975	44557 (1.1)	878180 (27.9)	74954 (2.4)	222939 (5.9)	364065 (14.2)	148546 (5.1)	730195 (23.8)
Banking sector's net non-monetary liabilities	3097354	6028 (0.2)	411470 (15.3)	250013 (10.3)	124706 (4.2)	140995 (6.8)	235396 (10.7)	536777 (22.0)
Reserve money as on 17 July	3182919	–792 (–0.0)	389084 (13.9)	23354 (0.8)	153245 (5.1)	518300 (27.3)	351701 (14.5)	259193 (9.4)
Components								
Currency in circulation	2675760	15227 (0.6)	488249 (22.3)	50740 (2.4)	228481 (9.3)	494078 (37.0)	307423 (16.8)	310508 (14.5)
Bankers' deposits with RBI	467884	–16579 (–3.4)	–102432 (–18.0)	–31653 (–5.3)	–76004 (–14.0)	21405 (3.9)	36444 (6.4)	–58081 (–9.6)
Other deposits with RBI	39276	560 (1.4)	3267 (9.1)	4267 (13.4)	768 (2.0)	2817 (13.4)	7835 (32.8)	6766 (21.3)
Sources								
Net RBI credit to Government	1077033	–46863 (–4.2)	22384 (2.1)	252698 (31.5)	84841 (8.6)	–144836 (–23.3)	325987 (68.5)	190241 (23.7)
of which: Centre	1066981	–52294 (–4.7)	15430 (1.5)	251078 (31.4)	77240 (7.8)	–145304 (–23.5)	326187 (68.8)	189268 (23.6)
RBI credit to banks & commercial sector	–296169	–13957 (4.9)	–167704 (130.5)	–281316 (–184.0)	–95276 (47.4)	372643 (–120.5)	89478 (0.0)	–353744 (0.0)
Net foreign exchange assets of RBI	3869002	38288 (1.0)	919207 (31.2)	101208 (3.6)	278599 (7.8)	363571 (15.2)	87806 (3.2)	741816 (26.0)
Govt's currency liabilities to the public	26315	0 (0.0)	330 (1.3)	97 (0.4)	0 (0.0)	572 (2.3)	236 (0.9)	427 (1.6)
Net non-monetary liabilities of RBI	1493261	–21740 (–1.4)	385133 (34.8)	49333 (4.7)	114919 (8.3)	73650 (8.8)	151805 (16.7)	319547 (30.2)

■ Scheduled Commercial Banks' Indicators (₹Crore)

(As on 3 July)	Outstanding 2020	Variation Over Month	Over Year	Financial Year So Far 2019–20	2020–21	Financial Year 2017–18	2018–19	2019–20
Aggregate deposits	14075185	119799 (0.9)	1399914 (11.0)	101499 (0.8)	507693 (3.7)	668390 (6.2)	1147722 (10.0)	993720 (7.9)
Demand	1510533	33652 (2.3)	197200 (15.0)	–197955 (–13.1)	–106470 (–6.6)	88843 (6.9)	141005 (10.3)	105715 (7.0)
Time	12564652	86147 (0.7)	1202714 (10.6)	299454 (2.7)	614163 (5.1)	579547 (6.1)	1006717 (10.0)	888005 (8.0)
Cash in hand	83392	–1122 (–1.3)	5455 (7.0)	3061 (4.1)	–3868 (–4.4)	–1295 (–2.1)	14811 (24.7)	12384 (16.5)
Balance with RBI	441784	–3743 (–0.8)	–68185 (–13.4)	–55738 (–9.9)	–94402 (–17.6)	16906 (3.3)	40021 (7.6)	–29521 (–5.2)
Investments	4218390	65693 (1.6)	672755 (19.0)	164579 (4.9)	471041 (12.6)	287494 (9.5)	62602 (1.9)	366293 (10.8)
of which: Government securities	4217503	66472 (1.6)	675177 (19.1)	163325 (4.8)	478807 (12.8)	287657 (9.5)	61594 (1.9)	359695 (10.6)
Bank credit	10291611	36835 (0.4)	594177 (6.1)	–74289 (–0.8)	–79250 (–0.8)	783965 (10.0)	1146298 (13.3)	599138 (6.1)
of which: Non-food credit	10205725	36631 (0.4)	579059 (6.0)	–103447 (–1.1)	–113372 (–1.1)	795906 (10.2)	1146677 (13.4)	588984 (6.1)

■ Capital Markets

	24 July 2020	Month Ago	Year Ago	Financial Year So Far Trough	Peak	2019–20 Trough	Peak	End of Financial Year 2017–18	2018–19	2019–20
S&P BSE SENSEX (Base: 1978–79=100)	38129 (0.7)	34869	37848 (2.8)	27591	38140	25981	41953	32969 (12.1)	39714.20 (12.4)	29816 (–21.8)
S&P BSE-100 (Base: 1983–84=100)	11233 (–1.0)	10424	11350 (–0.2)	8180	11268	7683	12456	10503 (11.5)	12044.07 (9.1)	8693 (–25.2)
S&P BSE-200 (1989–90=100)	4679 (–0.1)	4365	4684 (–1.8)	3416	4693	3209	5185	4433 (12.0)	4986.55 (7.1)	3614 (–25.1)
CNX Nifty-50 (Base: 3 Nov 1995=1000)	11194 (–0.7)	10305	11271 (–2.4)	8084	11215	7610	12362	10114 (11.1)	11922.80 (11.1)	8660 (–24.3)
CNX Nifty-500	9086 (–0.8)	8496	9160 (–3.1)	6638	9114	6243	10119	8912 (12.6)	9805.05 (5.3)	7003 (–26.3)

Figures in brackets are percentage variations over the specified or over the comparable period of the previous year. | (–) = not relevant | - = not available | NS = new series | PE = provisional estimates

■ Comprehensive current economic statistics with regular weekly updates are available at: http://www.epwrf.in/currentstat.aspx.

Beats of Misogyny

Malayalam cinema continues to devalue the concept of consent and naturalises all violations of women's personhood.

ANJANA MENON

Songs tend to live much longer in public memory than their parent films, and have a lasting impact on society. Sometimes, this is because of their musicality, and sometimes because of their lyricism—and yet, we often don't pay much attention to exactly what the lyrics say. A classic example is the song "Poomukha Vathilkkal Sneham Vidarthunna Poomthingalagunnu Bharya" from the Malayalam film *Rakkuyilin Ragasadassil* (1986) directed by Priyadarshan. The lyrics describe an "ideal wife:" as an "abode of love, an obedient slave in duty, a pacifying soul and a 'Lakshmi' in appearance." This song, though more than three decades old, continues to frame young men's conception of a suitable partner and continues to be used in orthodox religious preaching in a nostalgic tone of a glorified past while deliberating on the "need to keep the wife at home and under control."

Malayalam movies have played a significant role in the manufacture of ways to express "real" love. The Malayalee audience continues to be fed an idea of heroism that applauds the concept of "persuading" a woman to love the hero, no matter what it takes. Such actions are often depicted as innocent expressions of true love and sympathise with the male protagonist.

Even turn-of-the-century movies did not offer much respite for the female protagonist. In the song "Maine Pyar Kiya" from *CID Moosa* (2003), Sahadevan, portrayed by actor Dileep, pursues a girl from the neighbourhood, Meena (actress Bhavana), despite her visible expressions. This causes Meena to lose her job—an insignificant matter for the moviemakers, more interested in depicting how she started to respond positively to the hero's approaches.

The next decade, however, began on a more powerful note as movies from a feminist standpoint, like *22 Female Kottayam* (2012), began to shake off the male chauvinist stronghold in the industry. But, the possibility of a total shift was still a far cry. The big-budget mainstream movies refused to change. Songs like "Karthave Nee Kalpichappol" (*Christian Brothers*, 2011), which portray a character stalking his "love interest" in the streets, who eventually "falls" for him, made waves at the box office.

The year 2012 also witnessed the release of *Mr Marumakan*, "enriched" with rancid dialogues, rape jokes, and a derogatory portrayal of womanhood by suggesting that women need to be disciplined by a man, and denounced single and divorced women. The song "Bale Bale" deserves special mention here. No logic can justify the actions of Ashok Chakravarthy's (portrayed by Dileep) attempt to discipline the "haughty"

Raja Lakshmi (portrayed by Sanusha), as being for her own good. The repeated portrayal of a "hero" who sneezes to make the heroine's dress fly, thus demeaning the otherwise confident heroine, is extremely shameful and problematic. Such actions, and the complete disregard for consent, even if "only in a movie," cannot be ignored on the grounds of the "art for art's sake" argument, as they hold the potential for multiple ways of social conditioning. Both men and women are naturalised to stalking. Men's actions are legitimised by their "duty" of pursuing (pestering) a woman of their interest till she acknowledges them, and women are pictured as passive but, in a case of what is called gaslighting, who finally accept to love any man who continuously approaches them. The concept of consent has always been alien to Mollywood romance.

The 2013 Criminal Law (Amendment) Act criminalised stalking. And, more recently, under the directive of the Kerala State Human Rights Commission, Malayalam cinema has started to display a statutory warning that "Violence against women is punishable under the law" while showing scenes of violence against women (usually not inclusive of stalking).

However, this directive is not appreciable for two reasons. Fundamentally, violence in any form is an offence and must not be legitimised or accepted. Such pop-up cautionary messages in the present form are incomplete and non-inclusive if not used in all scenes that portray sexual, verbal or physical abuse against any gender, caste, or creed. Secondly, it is not legal warnings that we need but creating a culture that empathises with the victim and not one that glorifies the perpetrator.

Nonetheless, clichés and harmful stereotypes in Malayalam movies have continued to thrive. Women who wear Western dresses are portrayed as lacking humility and culture in contrast to "refined" characters symbolised by saree-clad women. Romance in Mollywood seems to have no concern for the woman's agency. In movies like *Thattathin Marayathu* (2012), *Sound Thoma* (2013), and *Jacobinte Swargarajyam* (2016), the heroine is a mere object for the hero to objectify and adore. Such stereotypes propelled by the male gaze have denied and ignored the personhood of women. However, *Ohm Shanthi Oshaana* (2014) did recognise the existence of the female gaze—a pattern that was neither preceded nor succeeded by similar films, unfortunately.

Women in the Malayalam cinema industry, both on-screen and off-screen, have moved forward in the path of empowerment thanks to the #MeToo movement and the subsequent formation of the Women in Cinema Collective (WCC) in 2017. In due course,

> Pop-up cautionary messages in the present form are incomplete and non-inclusive if not used in all scenes that portray any violent action against sexual, verbal or physical abuse against any gender

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movies that portrayed imperfect human beings, like *Kumbalangi Nights* (2019) and *Uyare* (2019) did get made. Appreciably, young actors who have taken up roles that are different from the traditional conceptualisation of the hero, like Fahad Fazil (*22 Female Kottayam* and *Kumbalangi Nights*) and Asif Ali (*Kettyolaanu Ente Malakha* [2019] and *Uyare*) are ably manoeuvring the industry away from the tradition of misogynistic heroes. They are simultaneously helping their female colleagues to prove their mettle and reclaim their rightful space, both on-screen and off-screen. But sadly, commercial big-budget movies still prefer to run within the patriarchal narrative.

It is certain that Malayalam movies still uphold misogyny as much as the community suffers in the clutches of patriarchy. While women are subdued and made to keep their romantic feelings, sexual desires and anxieties to themselves, those who dare (however rarely) to express themselves, run the risk of being slut-shamed. Men too suffer the burden of patriarchy in having to meet the demands of being "manly." Masculinity places on their shoulders the burden of approaching the women of their interest, with the duty of safeguarding and "disciplining" them. While the younger generation continues to be closely watched for signs of "immorality," the movies tend to uphold the social ills. This system needs to be shaken from within, even as the potential of the industry to be the tool for this revolution remains underexplored.

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Of Unlikely Bedfellows
Classical Performance and the Internet

How has the COVID-19 pandemic opened up new opportunities for the production and consumption of Carnatic music in the virtual world?

SHREYA RAMNATH

Last December, I sat in the last row of the Madras Music Academy's stately auditorium, marvelling at how little had changed in the 15 years I'd been attending the Margazhi (December–January) season concerts. Every year, I felt the familiar exhilaration of being able to listen to my favourite performers live, and greeted the same *rasikas* (audiences) with a deference reserved for the gatekeepers of the arts. While Carnatic music itself is often criticised as being a static art form, it was the listening experience

that, for me, remained untouched, too hallowed a practice to allow for much change.

Exactly seven months later, the future of this year's Margazhi season is shrouded in uncertainty. Hit by a pandemic that refuses to abate, it seems unlikely that the festival—with its thousands of concerts across scores of halls big and small—will continue in its traditional avatar. Very early on in the pandemic, the Western world stepped up to the plate. By March, major orchestras like the London Symphony Orchestra began broadcasting full-length performances from their archives; others like the Budapest Festival Orchestra ensemble began live-streaming concerts filmed during the lockdown; and individual artistes like cellist Yo-Yo Ma and pianist Igor Levit shared home concerts on social media. In India too, Carnatic musicians streamed home concerts on an almost daily basis, both from personal social media accounts and using cultural platforms that curated presentations and advertised them online. It became quickly evident that the pandemic—and the swift adoption and exploitation of the online platform—had opened up several new opportunities for the production, curation and consumption of classical music.

Carnatic music has long reverberated with connotations of exclusivity, inflexibility and extreme complexity. The internet, however, is proving to be a tool of democratisation

Historically, technological mediation has played a crucial part in the manufacturing of the Carnatic tradition. The introduction of the microphone, for instance, marginalised some groups of people while empowering others. Existing anthropological work points to how, while the microphone is said to have led to the disappearance of the *nadaswaram*—an instrument considered too loud to be amplified and therefore not suitable for the concert stage—it also played a role in enabling women to enter the realm of performance by providing the necessary amplification for their "naturally soft" voices. The gramophone, similarly, allowed women (hitherto kept away from the public realm in accordance with notions of femininity and Victorian morality) to be heard, recorded music to be played multiple times, and geographical and demographic boundaries to be weakened. Today, artists otherwise surrounded by their coterie of co-musicians sing to the meditative drone of their *tanpura* alone. It is a new and exciting world, in which the artist is suddenly no more an enigmatic figure removed from their audience, and the gap between the least expensive last-row seat and the concert stage is bridged by a small handheld device. There is, therefore, good reason to believe that this encounter with the online space and social media may be a significant moment in the trajectory of Carnatic music.

The challenges of the new medium will undoubtedly impact the content and form of Carnatic music—it is, after all, unlikely that Ariyakudi Ramanuja Iyengar's architecture of the Carnatic concert, which was tailored to the modern stage, can be replicated with equal success on an online platform. But it is not just the format that is reimagined; greater liberties are

taken with content too. Virtual concerts are shorter, often organised around a theme or a particular composer, may experiment with genres and styles, and sometimes involve the artist explaining the significance of their choices. There is growing evidence that audiences across the world are omnivorous, consuming art forms both popular and consecrated with equal interest. It is unsurprising, therefore, that local audiences have embraced the variety on offer. Perhaps, it is the novelty and excitement of watching a reticent musician one admires from afar dabble in an alien genre, but taste eclecticism and openness, though yet academically unexplored in the Indian context, seem to be a defining characteristic of the internet rasika.

Carnatic music has long reverberated with connotations of exclusivity, inflexibility and extreme complexity. The internet, however, is proving to be a tool of democratisation. For example, vocalist Saketharaman's YouTube series seeks to make the classical accessible by exploring its intersection with film music and unpacking its intricacies with examples. A variety of collaborative concerts with explanation of the lyric draw in the uninitiated listener. There is little doubt that these attempts challenge the boundaries between highbrow and lowbrow, and work at reconfiguring the artistic pecking order within the classical itself, doing, in essence, what T M Krishna's Chennai Kalai Theru Vizha, a festival that celebrates diverse music and dance forms and seeks to subvert existing artistic hierarchies, has worked towards over the last few years. Previously unfamiliar with the classical, a friend had just stumbled upon a series of now-viral videos of a young girl lacing popular English songs with notes from heavily classical ragas like Todi and Saveri. This virtual experiment, completely unfettered by the seemingly oppressive framework of the purely classical, had proved successful in recruiting a possible new member into the folds of Carnatic music.

However, as the concert diversifies from the stage to the home via virtual networks, who makes decisions crucial to upholding standards of performance? In the late 1800s and early 1900s, when the landscape of Carnatic music shifted from the temple and royal court to the urban colonial centre, the *sabhas,* which organised concerts, played a pivotal role in selecting musicians, setting the standards of classicism and becoming the arbiters of "good taste." In the case of cultural platforms that plan virtual performances, the organiser shoulders a double responsibility: that of curating the event while setting and maintaining standards, as well as of creating a platform that accommodates democratic debate about artistic boundaries and the contestation of widely held cultural hierarchies.

There are, of course, some downsides to this brave new world. Despite its democratising potential, the virtual concert is unequal in its own way, only allowing for some types of artists and art forms to take the spotlight. A soloist is more likely to be able to perform for an audience than an accompanying artiste, and those without access to or the ability to adapt to the new format may be disadvantaged. It is unclear how it will generate revenues for the actors involved, especially instrumental accompanists and others marginalised in the classical world. It is also true that the online concert cannot rival the ritual of the concert hall. Superior acoustics aside, there is great thrill in the collective gasp let out at an unexpected variation, whispered debates about which raga is being sung, and the burst of applause after a particularly creative percussion solo. Virtual listening is a far more individual practice, scrolling comments and floating emojis notwithstanding.

The last few months have made one thing clear: the internet presents exciting new opportunities for the production, instruction and consumption of Carnatic music. Affording greater access and a less rigid approach to the classical, live performances and recorded videos have proven to be effective tools of democratisation. Both an analysis of the impact of digitisation on listening experiences as well as ethnographic investigation of the new live concert could prove crucial to the chronicling of the evolution of the southern Indian classical form.

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Bespoke but Not Woke

"Woke" politics must go beyond critiquing and cancelling popular culture in aggressive ways that do not foster a culture of solidarity and learning.

ISHA BHALLAMUDI

The docuseries *Indian Matchmaking* only premiered two weeks ago on Netflix, but its eight episodes have already generated an avalanche of reactions. The show ostensibly introduces Indian arranged-marriage culture to a global audience, but really it focuses only on very privileged Indian families (in India and the United States), all of whom are upper caste, upper class, heterosexual and largely Hindu.

Produced by Smriti Mundhra, who also directed the acclaimed and sensitive documentary *A Suitable Girl* (2017), this docuseries is fashioned differently, like an American reality show. There is a titular character, "Sima from Mumbai," the high-end matchmaker trying to satisfy her wealthy clients, while providing meme-worthy quotes ("In India nowadays, marriages are breaking like biscuits"). The participants are quickly slotted into singular stereotypes. The men are deemed sweet, successful, loving, lazy, confused, while the women are assessed against the familiar standards—slim/trim/fair, too ambitious, too rigid, too unaccommodating. The sexism, ageism and colourism are all too familiar.

Throughout, the show teases intimacy, love and romance, but stops itself from exploring these themes more deeply. The format, which feels extremely American, clearly works—the show quickly became extremely popular online, especially in India.

ECONOMIC & POLITICAL WEEKLY

To Netflix's growing Indian audience, the prospect of getting to watch this world of high-end matchmaking and wealthy clients at convenience seems to have been quite irresistible. And so, in the two weeks since it released, *Indian Matchmaking* has inspired an avalanche of responses—tweets, opinion pieces, news articles, memes, social media statuses and reaction videos. Even the universe of critical responses to the show is only helping Netflix generate more revenue off of it. While we critique popular culture for (even if only mirroring) regressive ideas, are we able to extend the same critical eye towards our own social practices and internal biases that provide fodder for such shows?

Across Facebook, Twitter and Instagram, not to mention all the opinion pieces on various online platforms, I was astonished to see the intensity of the critical responses to the show. Clearly, it had struck a nerve. This is perhaps unsurprising, as Indian marriage is the most visible and crushing site where caste, gender, class and religious boundaries come together in a single explosion. Nearly every single Indian is affected by the social pressure around marriage, and younger urban Indians are pushing back against this pressure more and more. While they are pushing back against arranged marriages, are they also questioning the way in which their voluntary choices (even in "love marriages") still fall largely within accepted social categories of caste, class and religion?

While the first few responses to the show seemed to reflect viewers uncritically enjoying the show and relating to it, very quickly, the tide of public response turned towards equally uncritically bashing the show for holding up regressive traditions and views without challenging them. Smriti Mundhra, the producer, pushed back a little, saying that the show simply held up a mirror to the reality of Indian matchmaking and that it represents a diversity of experiences.

In my opinion, the trajectory of public reaction to the show has been both predictable and boring. Unfortunately, this is increasingly becoming the norm whenever a new piece of popular culture comes out—it has become almost fashionable to interpret the show as prescribing or promoting the realities it shows, to quickly come up with salient structural criticisms of the piece at hand, and to do so in such a way that enjoyment of the piece is instantly vilified and imbued with guilt. Yes, it is necessary and transformative to engage in thoughtful public discourse around popular culture, which more often than not reflects and holds up structural inequities. However, it is not so useful when we consistently direct our constructive criticisms only outward, make a habit of reacting instantly, and weaponise the public response to "cancel" the makers of the piece or its defenders (and arguably, even viewers who don't necessarily defend the piece), all with no engagement afterwards.

We are becoming adept at honing this critical ability outward, but are we also building the parallel capacity to levy these critiques inward? We are all very much a part of the Indian social fabric. We are as implicated in the Indian gender–caste–religion matrix as anyone else. What is it that allows us to come up with such nuanced and thoughtful criticisms of popular culture like

> **Do we recognise and question the ways in which our voluntary (and self-congratulatory) romantic choices reflect the very social structures we are committed to dismantling?**

clockwork, but stops us from asking ourselves, for instance, why we tend to only be attracted to people from our own class, caste or religion, even when we fight the arranged marriage system and marry "for love?" Do we recognise and question the ways in which our voluntary (and self-congratulatory) romantic choices reflect the very social structures we are committed to dismantling? Do we give ourselves opportunities to think about how our personal landscape of desire and decision-making buys into these structures we are comfortable criticising, but which we rarely extend to ourselves in any meaningful way? And what does it mean when our engagement with popular culture, more broadly, begins to revolve around critique in such a way that it forecloses enjoyment and pleasure?

The case of *Indian Matchmaking* tells us something about the nature of "woke" politics today—it is slowly becoming about constantly throwing insightful criticism at others, often in very aggressive ways that do the opposite of fostering a culture of solidarity and learning, but losing the ability to do it to oneself or accept feedback from others, with grace or ease. We are all implicated in the social structures we criticise, but often, this kind of public critique-making, or "calling out," serves to let us distance ourselves from the goings-on. Yes, engaging in public reaction politics often lets us find validation, courage and solidarity towards our experiences and traumas, and strength to stand up against practices we find inexcusable and violent. While this is wonderful, it is also essential that we do not stop here, but move beyond this sort of politics, and towards a politics of radical reimagination, which will allow us to collectively engage with the personal, cultural and social with joy, care and freedom, rather than staying in a space of reactionary anger directed outwards.

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LAST LINES

Sameeksha Trust

A Special Appeal

For more than half a century, the *Economic & Political Weekly* (*EPW*) has been a major presence in India's intellectual space. It has been a crucible for ideas and a forum for debate, which has created a journal of international repute that has become a virtual institution. *EPW* provides a multidisciplinary platform for academics and practitioners, researchers and students, as well as concerned citizens, for critical engagement with economy, polity and society in contemporary India.

It has always been a struggle to ensure *EPW*'s financial viability and sustainability. The resource constraint has been exacerbated by our conscious decision to abstain from receiving grants from governments and donations from abroad, to preserve the autonomy and independence of the journal.

With the COVID-19 pandemic and the consequent nationwide lockdown, *EPW* is now experiencing an unexpected and drastic drop in revenue from retail sales (as there has been no print edition for three months) and advertisement income (as advertising has contracted sharply with the crisis in the economy), resulting in an acute financial crisis. This is not unique for *EPW* alone. However, while other print media organisations have resorted to closures, large-scale retrenchment of staff, and salary cuts, it has been our endeavour not to undertake such drastic measures in *EPW*. In the first two months of the lockdown, full salaries were paid to all *EPW* staff. The Editor and his team adopted drastic austerity measures and cut expenditure to the bone. In spite of this, there was a large operational deficit every month, which could aggravate further if the problems associated with and following the lockdown, persist. If this excess of expenditure over income goes unchecked, a stage would come when we would no longer be able to keep *EPW* alive.

The situation became so critical in the month of June that there was no other choice but to implement a temporary measure of reducing staff salaries. This is being done for the months of June and July 2020 in a graduated progressive manner ranging from 0% to 40%. The situation, however, continues to remain extremely uncertain. The financial situation of *EPW* will be reviewed again in August 2020.

In these difficult and troubled times, an institution of *EPW*'s stature and credibility is needed more than ever before. Well-wishers of *EPW* have been reaching out and urging us to do whatever necessary to ensure *EPW*'s sustainability.

We therefore appeal to the community of readers, contributors, subscribers and well-wishers of *EPW* to come forward and make donations to the extent each one can, so as to ensure that *EPW* continues to perform its historic role. This is urgent. And it is of utmost importance. We hope you will join us in supporting *EPW*.

Trustees, Sameeksha Trust and Editor, *EPW*
9 July 2020

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We welcome donations from Indian citizens as well as from non-resident individual Indians and Persons of Indian Origin (PIOs), but only in Indian currency and through regular banking channels. Donations in foreign currency and from political parties are not accepted. Donations can be made in one of the following ways:

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