

Ending caste-based oppression of students in educational institutions: An unfinished agenda

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Introduction

The tragedy of students from marginalised communities dying by suicide in higher education institutions (HEIs), including medical institutions, persists across India. Most would agree, regardless of differences about the underlying causes, that such deaths demonstrate the abysmal failure of policies, regulations, and operational mechanisms initiated to respond to them. Why are such measures appallingly dysfunctional? And what is the way forward?

Various interventions, whether by the judiciary, or regulations by apex academic bodies or commissions of enquiry have failed because those who conceptualised and steered them remain oblivious to lethal caste-based discriminatory practices amongst students. Even after belatedly acknowledging their prevalence, such authorities indiscreetly merged them with the general concept of "ragging and harassment" not as a separate category and a serious offence; resulting in measures which were designed to fail. It is essential that we acknowledge the entrenched social structural norms in the educational institutions to explain the failure. A radically different approach is warranted for an overhaul of the current system based on the idea of "transformative justice" embedded in the Constitution of India (1).

The problem

Any avoidable loss of life is deplorable, particularly when it is that of young fledgling students aspiring to become professionals and practitioners. Existing scholarship (2,3,4) in this area provides insights into possible causative factors of students' deaths by suicide in HEIs, but there is no consensus on their link with the communal or caste background of the victim. The commentaries published in this issue are testimony to these complexities, and the layered nature of the issues (5,6,7,8,9). However, all the commentators, regardless of their views, acknowledge the existence of egregious caste-based discrimination in these institutions.

The continued existence of caste-based discrimination in colleges should cause concern to everyone across the board. Should it be treated as ragging and harassment in general, a "usual" activity in these settings? Should the usual remedial interventions mentioned earlier remain a "constant" after every suicide by a student from Dalit and marginalised communities? The conceptual malady that has arisen by lumping casteist discrimination with "ragging and harassment" and its consequences for effective resolution need to be analysed.

Caste-based discrimination as part of ragging: A conceptual failure

From 1999 (10) to July 2019 (11), there have been repeated efforts by the central Ministry of Human Resource Development, and the University Grants Commission to curb the menace of ragging, in response primarily to public interest litigations filed with the Supreme Court (SC) of India. I note below four observations about the manner in which caste-based discrimination was viewed in these interventions intended to look into the issues of ragging, and/or deaths by suicide, especially of students from Dalit and marginalised communities.

- All the interventions since the first one in 1999 (10) were triggered by external factors such as public interest litigations, or instances of death by suicide of Dalit students, or protests in response to the reservation policy in college admissions. This indicates that the concerned authorities were completely oblivious to the ground realities of both ragging and caste-based discrimination, or turned a blind eye to them.
- The initial interventions, such as the Unny Committee Report, 1999 (10), and the SC judgment in *Vishwa Jagriti Mission vs Central Government* (12) conceived of ragging as a manifestation of power, authority or superiority by senior students over

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their juniors. It did not acknowledge caste-based discrimination at all. Later, the Raghavan Committee Report (13) contributed by acknowledging that ragging reproduces the entrenched power configurations prevalent in society, that it can take sexual forms, manifesting widespread sexual repression in our society. However, it offered little beyond it. In 2007, the Thorat Committee Report (14) documented the existence of and the need to explicitly acknowledge the rampant caste-based discrimination and harassment at the All India Institute of Medical Sciences, Delhi. However, the UGC Regulation of 2009 (15) on curbing ragging still did not include caste-based discrimination as a cause for concern. It simply focused on ragging.

- It was not until 2016 that the UGC Regulations, 2016 (16) revised the definition of ragging to explicitly acknowledge and include caste, gender, and religion-based discriminatory practices for the first time. That it took nine years after the Thorat Commission Report for the UGC to recognise the existence of caste-based discrimination in HEIs is quite inexplicable. However, coalescing casteist harassment and caste-based discriminatory practices against Dalit and marginalised community students with "ragging and harassment" is deeply flawed. Doing so implied a disregard of the very structural nature of these discriminatory practices deeply rooted in the overall oppressive caste-based social structure of Indian society. Recommendations offered by these committees or articulated in UGC Regulations therefore, were designed based on this flawed understanding of casteist harassment.
- Finally, all these interventions spread over the last two decades entrusted educational institutions and their in-house committees with the responsibility of compliance with regulations and recommendations by committees. By design, none of these measures had robust oversight mechanisms, nor a requirement for the representation on committees of representatives of marginalised communities or civil society. Both these aspects reflect that the interventions ignored or missed the very institutionalisation of caste-based oppression, making these efforts self-defeating.

Transformative justice framework of the Indian Constitution: Addressing the unfinished agenda

As a step forward, I foreground the concept of "transformative justice"; the foundation and spirit of the Constitution of India (1) which enables the addressing of historical injustices, through Articles 14 (equality), 15 and 16 (non-discrimination), 17 (prohibits practising untouchability), and 21 (personal liberty). The concept of substantive equality, central to the notion of transformational justice, is characterised by four cornerstones, says Fredman (17). They "aim to redress disadvantage; address stigma, stereotyping, prejudice and violence; enhance voice and participation; and lastly, accommodate difference and achieve structural change." The underlying idea is to disrupt the social and economic hierarchies as a way of dislodging the status-quo which hinders substantive equality.

In a 2019 judgment on reservation policy, Justice Chandrachud (18) draws upon the deliberations of the Constituent Assembly and its express recognition of the insufficiency of formal equality. He explains that the Assembly's key rationale for incorporating reservations for SCs and STs in the Constitution was the existence of inequalities in society, based on discrimination and prejudice within the caste structure for centuries. The Constituent Assembly's belief was that the Constitution would serve as a transformative document that would terminate exploitation based on caste, gender and religion, so that citizens of independent India could possess equal civil rights and live with dignity. Justice Chandrachud argued, "... Reservations are thus not an exception to the rule of equality of opportunity. They are rather the true fulfilment of effective and substantive equality by accounting for the structural conditions into which people are born. ...": (18: pp. 106-7). Overall, Article 15 (4) as well as Article 16 (4) of the Constitution facilitate and enable the rectifying of historical injustices the SCs and STs were subjected to, through affirmative policies.

Do the various state interventions in response to deaths by suicide of students from marginalised communities match up to the notion of substantive equality promised in the Constitution of India? The answer is clearly in the negative. The reasons are, as discussed earlier, unwillingness to recognise the existence of caste-based discriminatory practices in HEIs, not treating casteist discriminatory practices, abuse and violence as constitutional violations, and the consequent design failure at operational levels. Accused individuals, at least in some instances, get subjected to institutional scrutiny or face legal action. The families of victims invariably suffer the dual trauma of the loss, and of the gruelling, long drawn out road to justice with a deep sense of uncertainty. These are not fool-proof systems and not every victim's family feels sufficiently empowered to resort to legal remedies. However, the priority in the coming times must be meaningful and well-informed preventive measures. These also need to go beyond the individual perpetrators. Some strategic steps to rectify the exclusionary environments in HEIs are suggested as part of the way forward.

Introducing the liberal arts in medical curricula: A tool to support transformative justice

A radical approach towards medical curricula is warranted. Scholars, especially those from the marginalised communities such as Thorat (19), have for long argued that civic learning needs to be an integral component not only at HEIs but at every level of education, robustly integrated with the social sciences, and humanities or "liberal arts" throughout the medical training, both at under-graduate and post-graduate levels. These should not be optional but part of the core curricula. There is extensive scholarship (20,21,22,23) on the relevance of integrating liberal arts in science, technology and medical programmes both globally and locally in India. This scholarship demonstrates that such an approach contributes to going beyond training students in professional skills and specialised knowledge of medicine, to creating an awareness of human history, lived experiences from the standpoint of the oppressed in multiple ways, inculcating critical thinking, preparedness for ambiguities and uncertainties of medical science, adapting and adopting newer knowledge and advances in the field, and most of all, developing a sense of empathy for diversity in every respect. It is about learning these contexts and acquiring the ability to situate one's professional practice in these historical and contemporary contexts.

The question arises: Are there any opportunities to do so? There are, and if not, we will need to create them rather than opting for a status-quo which is no good for a strong and progressive society.

The New Education Policy (NEP) (24) may offer a long-awaited opportunity for integrating liberal arts with medical curricula if we build on both its letter and spirit before a lacklustre bureaucratic approach takes over implementation of this policy. Sarukkai (21) while appreciating the centrality of humanities in the NEP, also critiques flaws in the policy document and fears that, given the broader context of the educational system in India and the deep-seated apathy towards the liberal arts at societal level, NEP means little. However, he suggests certain concrete steps as a way forward. To me, this is a window of opportunity to exploit for good. The central idea of this approach to reforming medical education is that it would help translate the idea of "transformative justice" to counter the exclusionary social milieu in these settings. It will serve as a preventive strategy going beyond legal safeguards which are generally invoked after the occurrence of an untoward incident, and are primarily aimed at individual perpetrators.

Curing the conceptual malady: Building on insights from reforms in gender-based violence

The other set of learnings flows from some of the radical reforms intended to address the acute problem of violence against women in contemporary India. The reforms in the form of the Criminal Law Amendment Act, 2013(25) meaningfully expanded the scope of definitions of rape, sexual violence and other key concepts, enabling a more just approach to gender-based violence. Yet another reform reflected in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the "POSH Act") (26) enabled explicit recognition of sexual harassment at workplaces and also recognition of what comprise "workplaces". Operationally speaking, the POSH Act laid out dedicated mechanisms for every workplace to abide by, and mandated representation by civil society members and women on the redressal committees. While implementation gaps exist, the conceptual clarity allowed for the drafting of a dedicated legislative framework, a step forward in making work places safer for women. These will provide us direction towards reforms in the area of institutionalized casteism both conceptually and operationally.

Conclusion

We need to squarely and repeatedly acknowledge the deep roots of casteism in HEIs and in the societal structures; and treat casteist discrimination and institutionalised casteism as violations of the constitutional rights of individual students and the marginalised and minority communities they belong to, and not club them with ragging. We also need to consider a separate legal framework to respond to the problem, on the lines of the legal reforms addressing sexual harassment at workplaces.

The concepts of substantive equality and transformative justice are pivotal to the Constitution of India. These principles provide a reasoned rationale for the reservation policy for scheduled castes and tribes in educational institutions to respond to historic injustices. One way of altering the current dominant narrative amongst those not from marginalised communities opposing reservations can be through substantive interventions such as overhauling curricula and introducing the liberal arts in these curricula. This may be an uphill task, but is worth the effort to translate the spirit of the Constitution of India into creating humane human capital and inclusive institutional spaces.

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