

## Structural Violence: Interrogation on Judicial Process in Atrocities Cases

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### **Abstract:**

The structural violence in a hierarchical caste society covered the notion of prejudice practices in the atrocities cases. In caste hierarchical society, violence persists with the different forms with the 'organic collectivities' (Oommen: 2014). This paper endeavors to understand the structural violence in legal practices which start with the occurring of incident and is continued even in the courts. This paper also tries to explain the caste discrimination with structural violence in access to justice. Structural violence is legitimated by the state through police procedure; local caste relation, media, political appeasement, and court decision perpetuate the caste discrimination with humiliation and segregation? In caste atrocities cases, how violence persists in surrounding way in everyday life?

Keywords: Society, caste, gender, violence, atrocities, judiciary.

### **Introduction:**

In the historical understanding of law in India, the customs have the power in an invisible form, which give legitimacy to a hierarchical caste society. Law and customs in Indian society are going to parallel to maintain the social dominance. In Weberian sense, status and value in the society persist with the hierarchical manner. So, the judicial legacy in Indian society covered the notion of Hindu tradition system with mythological text like Manusmriti, Bhagavad Gita etc. If we trace the epistemology of juridical practices in India, found that legal system perpetuates the caste system and give the appeasement of caste practices. In Galantarian understanding of caste and law, how Indian legal system recognizes and regulates the caste system. What are the legal practices and rules which give the legitimacy to caste as an institution? (Galanter: 1963). In my way of understanding customs and the norms of any society affects the legal system. But the question is that in everyday practices what are the ways which manifest the contextuality and intentionality to oppress the one section of that society? The other question comes in my mind that which section of Indian society is using the court or what purposes?

In the ethnographic study of court most of the anthropologist put up the question on compromise culture. But they don't focus on the everyday violence which impact in psychological manner. In this paper the main theme starts with the structural violence which basically focused on the atrocities cases and the invisibility of legality. This paper endeavor with the practice of exclusion of dalit in the atrocities cases which start with the lodging of FIR and is continued in the court. In most of the atrocities cases, the everyday practices of violence are not focused by the court and which create the wretched consciousness with psychological humiliation. After the post-independence era, the narrative of reality is questionable in the judicial system. In the world's largest democracy monopoly over truth create the chaos with the hegemonic institutionalization of legal system. You can make the law for equality, liberty but not fraternity. Therefore, it's an ethical question that could the ruling governing class in judicial system create the equality, liberty without fraternity. In the context of structural violence, the role of court, village Panchayat, local dominant caste, and the culture of compromise covered the notion of legal invisibility and exclusion of dalits from justice. The question should be asked that if any section of the society has the monopoly over the truth then is there any chance for justice for the weaker section in the society? This monopoly over truth starts with the incidental village and is continued in the court as well. Power domination at such sites results in psychological violence. In the understanding violence and power in atrocities cases, the legality with illegality and the invisibility and visibility of customs and norms are the main concepts which draw the structural violence as an everyday practice.

The reality about the violence which is culturally manifested and legitimized by the top of the twice born reject the essential form of truth due to the sense of social dominance. In most of the atrocities cases, the judgment of the court carries the burden of falsification of the incident with the failure idea of empiricism like 'Tu kehta kagad ki lekhi m kehta aankhan ki dekhi'. What has been written in the FIR and the role of witness doesn't matter, because the case deal by the dominant caste police officer and after taking the bribe, he force dalits to compromise. In India the legal invisibility is seen in the all cases which are related with the dalit community because of the social structure of the society. In *thanas* the rape trials procedure we can see that they are treated with caste consciousness. We can take example like in thanas, 'chamari ka case hai' they are addressed by caste identity and power of texture, which in turn humiliates dalits. In Bordieu sense invisibilisation of dalit as a form of habitus

by the top of the twice born which proposed the practices of exclusion in the context of taste. In the decision which is given by the court in collective violence and atrocities cases, we can see that they draw the analogy between fact and caste consciousness.

## Conceptual Understanding

Now we will move on the conceptualization of violence in a sociological way. The definition of violence given by C. W. Mills, he argued that, “violence is nothing more than the most flagrant manifestation of power”. (Mills: 1959). Regarding this definition in Foucauldian sense power exist in a ubiquitous form. But the question is that what are the ways by which power operate in a manifested form in hierarchical society? Is it a tool or weapon of oppression to maintain the hegemony by cultural legitimization? When we discuss the notion of power and violence it is very understandable that how notion of power is related with the hegemony and status quo. Foucault suggests that it is most productive to analyze power relations through the ‘antagonism of strategies’. In which he argued that know the means of sanity through an investigation of insanity, or understanding legality through the field of illegality (Foucault: 1975) (cited in Kannabiran 2012: 37). Now we can say that the practice of illegality carried with the imbibed nature through the social structure and relation of power in the society.

The term structural violence was coined by Johan Galtung. He calls structural violence as pervasive violence which is tied to the structures, institutions, ideologies, and histories. Structural violence is constraint on human potentials which is caused by the economic and political structures, Galtung argues. According to him cultural violence is manifested through religion and ideology, language and art, empirical science and formal science and which are also to legitimize direct or structural violence. Structural violence is also perpetuated in accessing resources, be it in accessing political power, health care services, education or legal standing. (Galtung:1990)

Galtung contends that, both immediate furthermore structural brutality whichever be shown through physical and psychological violence, it might be guided at particular questions alternatively might not, goes about might make exceptional or unintended Furthermore Might be communicated Previously, manifest furthermore idle types (ibid). Both Direct and structural violence are reciprocal in a contextual way, because direct violence is visible due to

the caste socialization. Structural violence persists in invisible manner which creates the violence in a venomous manner. But a step ahead Structural violence in Indian society questions on Structural legitimacy.

But in this paper the structural violence defines with the caste hierarchical society. Structural violence in caste atrocities cases draws the manifestation of power by the upper caste people. In caste atrocities cases, the diversion of cases starts with before and after the lodging of FIR and reached in the court. The most important factor in caste atrocities cases is denial of conspiracy angle by court as a form of structural violence. In Indian caste hierarchical society, direct violence also a part of structural violence. Structural violence takes place in which the perpetrator perceives his or her act as legitimized in the structure of caste hierarchy.

According to Berger, “to be located in society means to be at the intersection point of specific social forces, locations become important because it influences a whole gamut of conditions ranging from life-chances and health to world-view. Without an appreciation of location, one fails to see the contrasting perceptions of or vested interests in violence based on one’s place in society.” (Berger 1963:67). In the caste hierarchical society, the location of dalits with the organic collectivities defines the violence in an epistemic way, because the law’s violence perpetuates and regulates the caste location of dalits in an intentional way. With the Weberian forms of interpretative understanding like sociology of “Verstehen” attach with the phenomena of incident and meanings individuals attach to them. In the form of interpretative understanding structural violence should be understood in contextual way which persists in invisible form. In the way of interpretative understanding it is clear that, in the atrocities cases the role of court should be checked with the interpretation of law by the antagonism of strategies.

Gopal Guru (2012) taking a clue from Lefebvre, further noted that ‘space which has a depth form of experience and it is understood by the cultural manifestation. Space is not simply a living phenomenon, it persists with culturally constructed. Regarding the civilizational violence where the historically dominant group achieves their hegemonic purpose through the structuring and restructuring of the given space. It is true that violence with the cruel nature define the restructure of the space in a specific way. In the khairlanji incident, the four dalit member of the same family were killed by the upper caste. Due to the

location of experience, the upper caste did not like to break the social protocol by the dalit, because they wanted to maintain the domination with the hierarchical space'. (Guru: 2012). Therefore, we can say that civilizational violence is the root of structural violence which structured through the presence of location in the hierarchical system.

## **Indian Judiciary and Historical Approaches to Law:**

Roots of Indian traditional law can be traced in Sanskrit-based Hindu Law, Islamic legal systems, customary laws and there was a constant interaction between this multi-tiered system and state law. Finally, in the 1950s and 1960s this was questioned by the Legal scholars. Legal Scholars were mainly questioning the approaches, that has viewed customs as a source of ancient stable practices which were codified rather than was treated as a process which could be altered according to the needs of the situation. (Derrett 1957; 1968; Lingat 1973; Kane 1950). Customs for a long time in India serving as a source to be referred in delivering justice in the everyday practices and also in the legal cases as well argues Werner Menski. Richard P. Lariviere (2005) and Menski have strongly questioned the way colonizers were treating classical texts of Hinduism with positive law (see also Davis 2007).

Ethnographic methods were evolved in the mid-twentieth century by the anthropologists to make a better understanding of the legal plurality. M.N Srinivas propounded field studies and documented reports of village disputes in great detail and also brought into light the usage of indigenous and official laws. Using Srinivas concept of bi-legality, Bernard Cohn (1987a; 1987b) also emphasized on questioning the motives of villagers' choice of one legal system over another legal system, and the results of this in influencing decisions and relationships in villages. With adoption of Western legal system in India, values of two societies had come together in delivering justices and Cohn emphasized villagers how villagers were implicating their enemies in false cases. He also called court proceedings to a form of gambling as it provided villagers a chance to win cases that would have not been possible in the villages setting. (Cohn 1987a:90). So, it opened the door of opportunity for the members of the marginalized community to heed for justice by crossing the boundaries of the village legal system.

Since the villages in Indian society have been main site of violence against the dalit community at large. Here we can bring in the Marc Galanter, who talks about "forum

shopping attitude” between two sets of norms – the “lawyer's law” and the “local law-ways. This is of great significance when we are talking about the Indian villages, as the legal rights guaranteed to every citizen of India have been infringed, and in it the local laws of the villages have been prevalent. Local laws were always biased towards weaker sections, as it the powerful sections who were dominating and dictating terms of laws at the local level. Local laws hardly delivered justices to marginalized (Galanter 1968–9). Galanter works also talks about the Indian legal issues which include India's reservation policies or “compensatory discrimination” as well as the juridical doctrines and its social consequences. He also put forward that laws are existing only in paper but when it comes to its applicability laws, there has been little attempts to ensure its applicability, and this he brings the laws against untouchability. (Galanter and Khosla 1987). He is also pointing out at the social controls that has entangled with many discriminatory practices against dalits. Nonofficial legal systems have been the main barriers in justice delivery. Despite the emergence of the modern legal Institutions local laws continued to play a central role in controlling social life. In order to replace the local traditional laws with the modern legal systems in rural areas, government established Nyaya Panchayat ... (Galanter 1992a; Galanter and Baxi 1979).

In the discourses of customs and that of the official law, lawyers play a central role. Holden talks about this referring to the Hindu divorce case from the state of Madhya Pradesh. Holden emphasizes the critical role of lawyers, who according to the situation can translate laws into customs and customs into laws depending on the client's position. Though official law had acquired significance but their stills remains unawareness in villages regarding, points to the larger question of perception of customs and customs representation at the official judicial Institutions. (Holden:2003; 2008).

Legal pluralism has been central in the anthropological studies and the history of law in India thus affirming that the multiple legal systems co-exist in Indian society. But the existence of multiple legal systems in Indian society has been put to question. As there have been arguments regarding the existence of loyalty to the local power and the centralized system of political power. It existed since the pre-colonial times. So the conflicts in village laws and the other laws has not been a new phenomena and an outcome of the colonial rule in India. (Anderson: 1990) Anderson has also underscored the need to understand structural distribution of political authority is related to processes of production and social

reproduction” (1990:163). It is over time emphasized that the changes in the historical contexts along with the changes in the administrative and political structure has to be brought into focus, rather than just discussing justice and law in legal juxtaposition terms and hybridity.

## **Structural violence, Law and Morality:**

What are the main functions of administrative crime in judicial enquiries which create the crises in the constitutional morality due to maintain the status- quo? In hierarchical society the range of justice is much more away from the dalit. The psychological impact of atrocities over dalit in everyday violence does not reflect in the judicial enquiry. Austin Sarat (2001) says that, “it surely comes as no surprise that violence of all kinds is done every day with the explicit authorization of legal institutions and officials or with their tacit acquiescence. Some of this violence is done directly by legal officials, some by citizens acting under a dispensation granted by law, and some by persons whose violent acts subsequently will be deemed acceptable”. In the everyday practice of violence, the most hidden part attached with the conspiracy angle, because the court does not focus on the conspiracy part in caste atrocities cases. The expression of conspiracy in structural violence in one side is open and the other side a part of public morality. The denial of the conspiracy angle by courts for the most part (for instance in Khairlanji, Tsundur, Bhanwari devi and Bathani tola) of the dominant ideological state apparatus (Althusser 1971) to denies the liberty, life, freedom, and justice in the same breath.

Robert Moog (2008) argued that “the law is not simply a set of objective rules that affects everyone equally. Nor do all members of society have equal influence on or access to the justice system.” As Galanter observed, extreme frisbee that legitimate framework is not basically a “body about rules,” as well as a “body from claiming men [and women].” And it will be the associations Around these men and women inside the system, and in addition their co-operations for outside forces, that extreme frisbee focus what “the law” may be in act and the net benefits, or harms, it acquires should social order. (Galanter: 1968-69).

Robert Moog has discussed how in order to make a better understanding of the justice system, it’s not only important to go through the functions that it has but equally important is the way in which it functions and also not restricting just to the various interpretations of the

court. As this can only bring the various nuances engaged in it, ranging from the difficulties one encounters in accessing justice at different sites such as courts, police stations, and villages. But studying this has not been an easy go, since attaining information on the processes is difficult. (Moog 2008). In the judicial system, the behavior and attitude of the lawyer and judge correspond with the influence of the society. In caste hierarchical society, the question should be put up that what is the purpose of the court and whose section of the society has benefited from it?

There are some incidents of collective violence which draws the exclusion of dalits in social life like kilvenmani, Belchi, karamchedu, Melavalavu, Jhajjar, Bathani Tola, Bhagana, Khairlanji, and Hamirpur. In the context of access to justice and democracy, the role of judiciary connects with the brahminical consciousness in delivering to justice. This is my personal experience that after the incident of atrocities cases, the consciousness to lodging the FIR emerged with the wretched consciousness that in this police station inspector belong to this caste or 'wo hamari nahi sunega.' Therefore, the thing is that the body and mind of the dalit is captured by the cultural legitimization of oppression. The question comes in my mind that if freedom of mind does not persist then is there any chance to conceptualize the possibility of justice. Robert Moog observed that "Who is using these courts, and for what purposes, remains largely a guessing game? Who is not using the courts, and why"?

Robert Moog (2008) pointed that 'the Police consistently register cases bearing once these acts. Anyway, individuals don't dependably accept those criminal nature of the hones directed toward these acts furthermore they don't delay will challenge the accuses for wrongdoing. To reasons that can't make clarified here, significantly the individuals who launch a lawful the event might transform their personalities later on; furthermore, seek after non-official types of bargain or conformity. Ethnographic perceptions of the situations that do make it of the criminal court therefore give knowledge under those sorts of tensions that emerge the middle of neighborhood the public arena and the state Legal organization. These tensions need aid especially unmistakable at witnesses deny in front of those judge what they allegedly said of the police throughout preliminary investigations. Toward this altogether minute they regularly turned into dangerous.' (Moog: 2008) Here Moog point out that 'Those issue for the thing that to normal law wording is called "hostile witnesses" is, clinched alongside fact, all previously, India what's more need provoked numerous a response from

judges and politicians, and also endless open deliberations over daily paper editorials. In spite of this issue expects specific significance during high-profile, well-publicized trials, the place witnesses might a chance to be politically pressured or bribed. It will be repeating commonplace circumstances for which judges what's more prosecutors for any little region town would routinely confront. On Numerous such cases, the dangerous conduct comes about starting with different progress that meddle for the trial's Conclusion – town or crew solidarity, those imparting of the same particular illicit action for which the denounced need been incriminated, political interests, crew pressures, different types of investment compensation, thus. At times the witness gets to be “hostile” basically as a result police records of as much or her sooner confirmation would evidently bad. Judges themselves would great mindful that those police do compose false proclamations to the reason for fortifying their cases.’(Moog 2008).

In Durkheimian sense moral facts are most important to maintain the solidarity in the society they are residual and obligatory in the society. Hart doesn't deny that there may be a connection the middle of laws, as a set about standards also ethics. He additionally says that laws can shift with ethical principles; in any case certain laws can a chance to be substantial without at whatever vital connection to ethical quality. (Cited John & Van, 1980). But my question is that if positive laws are modified by the prejudice section to maintain the status quo, then what will be happened. The main critic of legal positivism is that it does not mention the predominantly set of rules in the dominant society. Dworkin argues that under positivism, if a judge decides a case through the exercise of his discretion, he is outside the binding rules and as a result, no legal obligation or duty exists. So the point is that in a hierarchical society where the brahminical consciousness exists in the upper caste judge how they will define the judgment in a right path.

The other form of morality exists like constitutional morality. Ambedkar quote George Grote, quotation is worth reproducing in full:

The diffusion of ‘constitutional morality’, not merely among the majority of any community, but throughout the whole is the indispensable condition of a government at once free and peaceable; since even any powerful and obstinate minority may render the working of a free institution impracticable, without being

strong enough to conquer ascendance for themselves (cited in Rodrigues, V. 2002: 485-86).

What did Grote mean by ‘constitutional morality’? Ambedkar quotes Grote again. By constitutional morality, Grote “meant... a paramount reverence for the forms of the constitution, enforcing obedience to authority and acting under and within these forms, yet combined with the habit of open speech, of action subject only to definite legal control, and unrestrained censure of those very authorities as to all their public acts combined, too with a perfect confidence in the bosom of every citizen amidst the bitterness of party contest that the forms of the constitution will not be less sacred in the eyes of his opponents than his own” (ibid 2002: 486).

Pratap Bhanu Mehta writes that “for Grote, the central elements of constitutional morality were freedom and self-restraint. Self-restraint was a precondition for maintaining freedom under properly constitutional government. The most political expression of a lack of self-restraint was revolution. Indeed constitutional morality was successful only insofar as it warded off revolution.” (Mehta: 2010). He also argued that “Ambedkar (1949) also takes on the explicitly anti-revolutionary tones of constitutionalism. In a strikingly odd passage, he says that the maintenance of democracy requires that we must ‘hold fast to constitutional methods of achieving our social and economic objectives. It must mean that we abandon the bloody methods of revolution. It means we must abandon the method of civil disobedience, non-cooperation and satyagraha.’ (See Mehta: 2010). We can say that constitutional morality is an intrinsic part of a larger project of morality in politics that nourishes a free ranging intellectual life and democratic political possibility rooted in democratic political struggle. (Baxi 2008)

As Kalpana Kannabiran argued that the ‘habit of discrimination’ is the central problem that concerned Ambedkar. Elsewhere in the specific context of caste, he spoke of the indispensability of ‘notional change’ for the annihilation of the caste (Ambedkar 2002b). The point is that, Ambedkar were trying to give the indication for the security of fundamental rights and directive principle by the administrative structure and apparatus, which would ensure the entrenchment of constitutional morality. But the thing is that structural violence with the socialization, assimilation, and location create the construction of the others. It is dangerous for the constitutional morality because the habitus (structural inequality) and

power of texture divert the way of social justice. The point is that in atrocities cases the violence structured in an identical way to perpetuate the stigma on a victim with memory of instinctive location. Therefore, the law, violence and the morality associated with the influence of the structure of the society and you know very well that men make society but it is also important that some men make the particular kind of society in which laws fluctuate with the prejudice space and location.

## **Caste Atrocities and Violence: Analysing a Case Study**

When we discuss about the violence and atrocities as a part of exclusion, it is important to mark the history of violence in postcolonial India. Because lots of cases speak of the need to look critically connect with way of discrimination and atrocities. The constitution of India has given the security of life in the context of article 21 (right to life) but the other side lots of cases of collective violence and atrocities perform the notion of cumulative and contextual exclusion of dalits. And the decisions in these cases given by the court draw the space of crises in the rule of law.

Even after more than sixty years of independence, caste-based atrocities on Dalits (referred to only Scheduled Castes) are common news each day in the national and local dailies. Despite different provisions and legislations drafted such as The Untouchabilities Offences Act, 1955, Protection of Civil Rights Act, (PCR) 1976 and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (POA) 1989 and Rules 1995, the number of incidents against Dalits are continuously increasing. According to the latest Crimes in India data (National Crime Records Bureau) shows that in the year 2010 a sum total of 32,712 the total crimes against Dalits have been reported under Indian Penal Code and Special and Local Laws (PCR Act and POA Act).

When one discusses the emergence of atrocity as a juridical category, it is necessary to go to the deep notion of understanding the difference between rape as a crime and rape as an atrocity. Firstly the term atrocity was used for the first time by the commissioner of scheduled caste and tribes- a special officer appointed under article 338 (1) of the constitution as its originally stood- in his annual reports in relation to crimes against the scheduled castes and scheduled tribes (cited in P.Baxi 2014: 285).

The thing is that structural violence carries with the practice of generalization of atrocities over Untouchables. Upendra Baxi (1994) argued that If we see the research study of Indian Bureau of Police Research and development (1979), then we find that they held that in atrocity there must be an element of cruelty or brutality or wickedness in the commission of a particular offence, or it should have the background of having been committed with a view to teach the 'Harijans a lesson' (ibid: 285). As a sociologist Kamble argued in the 1980s that the law did not adequately address instances of violence against the dalits. He gives a very phenomenological understanding that every offence stem from the inordinate lust for power that dominates the Hindu mind and vitiates the caste Hindu relations with the untouchables. The caste Hindu mind is conditioned from early childhood by caste and the concept of untouchability. We can see how the consciousness of atrocity develops with the responsibility to memory in a negative sense.

Finally, the PoA act was introduced in 1989 in order to address 'the increase in the disturbing trend of commission of certain atrocities (against the SC and ST). In this act the thing is mentioned that certain atrocities like making the SCs person eat inedible substances like human excreta and attacks and mass killing of helpless scheduled caste and scheduled tribes and rape of the women to scheduled caste and scheduled tribes(ibid:286).

Pratiksha Baxi (2014) argued that 'teaching a lesson' becomes an operative term to distinguish rape as a crime from rape as an atrocity. Teaching a lesson means to put the individuals and communities in 'their' place. The upper caste people treat the dalit women bodies as a literally forced under rapacious bodies- to transact power over despised and inferior communities (cited in P. Baxi: 2014, 287).

Now, shall move on the views of atrocities by the different authors as Ram (1977) views that the, atrocities are caused by the amalgamation of both social structure and social segregation, when administration in the name of maintaining law and order often provides space to the perpetrators to carry out the cruel acts. Explaining the state meeting out violence against Dalits, Aloysius (2010) is of the opinion that after the independence, Brahmanical hegemony got itself inscribed or engraved within the newly emergent body-politic both at structural and cultural levels, which is more pervasive even in the contemporary time, having disastrous consequences. The network between the privileged communities at societal and institutional levels operates against Dalits which poses the question on the legitimacy of law

and its law enforcement agencies (Aloysius, 2010). Because in the caste ridden society, judicial structure performs the biasness in the decision which are related with the dalit community.

The report produced by the Human Rights Watch (1999) after rigorous documentation, field surveys, analysis of underlying causes points that ‘police are the main culprit for the violence against Dalits.’ Since the Dalits shares lower caste and class status, their views are undermined; facts are twisted and they are suppressed as they attempt to raise their voice. Similarly, while putting together the important facets of atrocities against Dalits, it highlights the biased and controversial functioning of state institutions. It reveals that violence against the Dalits is perpetrated by dominant castes often with the active complicity of state agencies. As the role of the investigating agencies remains critical in the justice delivery; the influence of ‘caste and power’ misguide the judiciary through distorted evidence, leading to the denial of justice and forcing victims further into the ‘silence’ and victimization.

We can say that it is necessary to analyze the judgement to map the juridical discourse on rape as atrocity. If we use the definition of atrocity in the context of Indian law, which distinguish specific crimes as atrocities, Claudia Card argued that an atrocity as a ‘gross evil’ is the widespread toleration of wrongfully perpetrated intolerable harm to individuals’ (2004: 219) (ibid: 283). She believes that rape is an atrocity that communicate an immediate message to women and girls that we will have in our bodies only the control that we are granted men and thereby in general only that control in our environments that we are granted by men’ (ibid: 284). The thing is that this violence is ‘enjoyed for its own sake’ and in this sense it is recreational and instrumental to sending a message to all other women (ibid: 284).

However, what is important for us to note here is that the rape of a Dalit woman is not only a sexual assault on Dalit women, rather it assumes a much higher level of caste atrocity. We can easily infer that the rape of the Dalit women results because of her location in the caste structure of Hindu Social Order. The cruelty of the crime with dalit women associated with the power internalization of prestige space for top of the twice born in the society. They wanted to break down the moral of Dalit community.

## **Conclusion:**

In the world largest democracy, the picture of justice blurred with the monopoly over truth. The compromise culture bifurcates the way of justice and insulate with the status quo in the society. In the structural violence phenomenon, the violence persists with the characterization of incident. In Indian judiciary system the judgment not, justice perpetuate the notion of caste hierarchy. In Bhanwari Devi case the judgment not justice perpetuate the violence with internalization of castiest and patriarchal mind. If we point out that how two shameful incidents occur but the state respond quickly only on privileged section not the vulnerable section of the society. With the problem of contextuality of incident, we find that in December 2012 delhi gang rape case the response of the state and civil society was very responsible, effective and active. After the incident, the activity level performs the seriousness with the incident, a commission to review legislative protections and recommend amendments, and a new enactment. But in the Laxmanpur Bathe case the role of the state and civil society was opposite and passive in nature. The thing is that how caste atrocities cases are taken for granted for the state, civil society and media. In this way of contextual and intentionality problem “why Khairlanji did not provoke national outrage and why India is unmoved by the most gruesome massacre”? (Kannabiran 2013). Here Kalpana put up the right question and also characterize the incidental location with responsibility of internalization of self. The point is that the judgment and incident (contextual) blurred the eyes of judge who perceive the power with privileged memory. Further she also writes that “This is the trouble with caste atrocity. The fact that perpetrators are in an immediate relation of dominance with victims and survivors and are easily recognised counts for nothing. Can we even begin to understand the courage and determination of poor and traumatised Dalits? The outcome of this case demonstrates yet again how difficult it is to keep a case alive, to keep memories raw and open in the face of an almost certain betrayal by the state, and how tough it is to keep fighting against the conspiracy — between upper caste perpetrators, their collaborators in the establishment and their apologists in a caste-ridden society”. (Kannabiran 2013).

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