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CASTE, CRIME, AND THE CRIMINAL JUSTICE SYSTEM: A CRITICAL SOCIO-LEGAL STUDY

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ABSTRACT

By highlighting caste as a constitutive rather than accidental feature in the creation of crime and criminality, this article develops a structural analysis of the Indian criminal justice system. It contends that caste is ingrained in criminal law's daily operations, including police, investigation, adjudication, and punishment, rather than only distorting it on the periphery. The study argues that the promise of equality before the law functions as a legitimizing myth that hides systematic prejudice, drawing on constitutional theory, critical legal studies, and socio-legal literature. By selectively criminalizing marginalized communities while providing institutional protection and procedural leniency to socially dominant groups, the criminal justice system effectively perpetuates caste hierarchy rather than serving as an impartial arbitrator. The paper advocates for a rethinking of criminal justice based on substantive equality and democratic accountability by redefining caste-based disparities as structural results rather than administrative failings.

Keywords: Caste, Criminal Justice, Structural Bias, Policing, Equality Before Law, India

I. Introduction:-

The criminal justice system in India asserts its impartiality, objectivity, and universality. It aims to treat everyone equally, regardless of social background, and is based on constitutional provisions of equality and nondiscrimination. Empirical fact, however, paints a different image. The most persistent social stratification system in India, caste, still affects who gets accused, detained, charged, found guilty, and punished. In India, crime is a social term that is frequently applied unjustly across caste lines in addition to being a legal category. Scheduled Castes and Scheduled Tribes, in particular, are marginalized communities that are both underprotected as victims and overcriminalized as offenders. This essay examines how caste influences criminal justice outcomes in ways that run counter to basic constitutional values. Through measures like

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the Criminal Tribes Act of 1871, which entrenched caste-based criminality, colonial legal structures have contributed to the stigmatization of specific caste groups. Even though these frameworks have been officially abolished, their intellectual legacy can still be found in contemporary criminal justice and law enforcement procedures. According to current factual data, undertrial inmates, victims of violence in custody, and those under surveillance and preventative detention are still disproportionately members of vulnerable caste groups. These trends cast doubt on the impartiality of the law and the degree to which the criminal justice system perpetuates rather than dismantles current socioeconomic structures.

According to a socio-legal analysis, caste interacts with gender, class, and geographical disparities to affect how crimes are defined and punished. While claimed offenses by members of marginalized castes frequently elicit tougher scrutiny and procedural infractions, crimes against lower-caste individuals are often underreported, improperly investigated, or subject to institutional delays. The disparity between formal legal protections and real justice is further demonstrated by the uneven application of protective laws like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

By putting the criminal justice system within its larger social framework, this essay critically investigates the relationship between caste and crime. It examines how caste-based power relations impact legal institutions, such as police, courts, and prisons, and how these dynamics impact legal of results, accountability, and access to justice. The project intends to expose systemic biases and investigate avenues for a more fair and transformational criminal justice model by seeing doctrinal analysis, empirical research, and critical theory.

II. Objectives of the study:-

1. To analyze the influence of caste on the definition, documentation, and classification of crime in the Indian criminal justice system.
2. To analyze the role of law enforcement agencies in maintaining or reducing caste-based prejudices in investigative, arrest, and detention practices.
3. To analyze the impact of caste on judicial processes and outcomes, including bail, trial, conviction, and punishment.
4. To analyze the socio-economic and structural factors which contribute to the over-representation of lower caste groups in prisons and undertrial populations.

III. Hypothesis:-

1. Schedule caste and schedule tribes are disproportionately criminalized at the phases of policing, prosecution, and sentence because the Indian criminal justice system structurally reproduces caste hierarchies.
2. Police discretion in arrest, investigation, and registration of FIRs is **systematically influenced by caste identity**, leading to:
 - (i) Over-policing of marginalized castes, and
 - (ii) Under-enforcement of crimes committed *against* them.

IV. Research Methodology:-

A detailed **doctrinal analysis** is undertaken to examine:

- Constitutional provisions (Articles 14, 15, 17, 21)
- Penal laws (IPC/BNS, CrPC/BNSS, Evidence Act/BSA)
- Special legislations (SC/ST (Prevention of Atrocities) Act, 1989)

Case-Law Analysis

Judicial decisions are analysed to identify:

- Patterns of caste-blind reasoning
- Dilution of protective legislation
- Judicial attitudes towards “misuse” narratives

Key cases include:

- *State of M.P. v. Ram Krishna Balothia*
- *Subhash Kashinath Mahajan v. State of Maharashtra*
- *Prathvi Raj Chauhan v. Union of India*
- *Vilubhai P. Solanki v. State of Gujarat*
- *Hitesh Verma v. State of Uttarakhand*

Caste still influences the social, economic, and political aspects of life in India, even with its constitutional ban. Although considerable research has focused on caste discrimination in education, employment, and civil rights, its impact within the criminal justice system is still insufficiently studied. This article argues that the criminal justice system does not operate as an unbiased mediator of crime and punishment but rather as a space where caste hierarchies are replicated, discussed, and challenged. By employing doctrinal analysis, empirical evidence, and a critical socio-legal examination, it reveals that caste influences the methods of policing,

prosecution, adjudication, and punishment in systematic ways that violate constitutional principles of equality and justice

V. Caste as Social Structure²

Caste is not merely a cultural identity or a system of ritual hierarchy; it is a **durable social structure** that organizes power, labour, status, and access to resources in Indian society. As a structure, caste operates through historically entrenched norms, institutional practices, and material relations that shape individual life chances and collective social outcomes. Unlike class, which is theoretically fluid, caste is **ascriptive and inherited**, embedding inequality at birth and reproducing it across generations.

From a sociological perspective, caste functions as a **system of graded inequality**, as articulated by B.R. Ambedkar, wherein social groups are ranked in a fixed hierarchy, each internalizing both privilege and subordination. This hierarchy is maintained through endogamy, occupational segregation, social exclusion, and stigma. These mechanisms ensure that caste is not merely a private identity but a **public ordering principle** that governs social interaction, economic participation, and political influence.

Caste's structural character is evident in its **institutional embeddedness**. State institutions—including the police, judiciary, bureaucracy, and prisons—are not insulated from caste relations but are shaped by the social composition and normative assumptions of those who operate them. As a result, caste hierarchies often enter legal processes indirectly, through discretion, interpretation, and enforcement, rather than explicit legal recognition. The formal abolition of caste discrimination under constitutional law has therefore not dismantled caste as a lived social reality.

Crucially, caste operates through both **material and symbolic dimensions**. Materially, caste determines access to land, education, employment, and political capital. Symbolically, it produces stereotypes of criminality, moral worth, and social deviance. Marginalized castes are frequently perceived through a lens of suspicion and disorder, while dominant castes benefit from presumptions of respectability and credibility. These symbolic associations deeply influence encounters with law enforcement and judicial institutions.

² Annihilation of Caste written by [B. R. Ambedkar](#) in 1936

The persistence of caste as a social structure also challenges liberal legal assumptions of individualism and neutrality. Criminal law treats offenders and victims as abstract legal subjects, detached from social location. However, caste structures shape who is more likely to be policed, arrested, believed, prosecuted, or punished. In this sense, caste functions as an **extra-legal determinant** of legal outcomes—operating invisibly but decisively within the criminal justice system.

Understanding caste as a social structure is therefore essential to any meaningful analysis of crime and justice in India. Without acknowledging its structural operation, legal discourse risks reducing caste discrimination to isolated acts of prejudice rather than recognizing it as a **systemic condition** that shapes state power, institutional behavior, and access to justice. A socio-legal approach foregrounds this reality by situating law within the broader matrix of social hierarchy and inequality.

*State of Madras v. Champakam Dorairajan (1951)*³

The Supreme Court acknowledged caste as a **deeply embedded social category** influencing access to education and state benefits. While striking down caste-based reservations at the time, the Court recognised caste as a **social fact with institutional consequences**, prompting the First Constitutional Amendment.

VI. Crime and Criminal Justice: Formal Neutrality vs. Social Reality

The criminal justice system is normatively premised on the ideal of formal neutrality—the assumption that laws are applied equally, impersonally, and without regard to social identity. However, empirical realities consistently challenge this claim. This paper interrogates the disjunction between the formal neutrality of criminal law and the social realities shaping crime control, policing, adjudication, and punishment. Drawing upon socio-legal theory, criminology, and constitutional jurisprudence, it argues that criminal justice institutions are deeply embedded within structures of class, caste, gender, race, and power. While legal doctrine proclaims equality before the law, its implementation often reproduces social hierarchies, resulting in selective criminalisation, differential enforcement, and disproportionate punishment of marginalised communities. The paper examines how discretion—exercised by police, prosecutors, and judges—functions as the primary site where

³ *State of Madras v. Champakam Dorairajan (1951)*

neutrality collapses into social bias. Using illustrative examples from India and comparative jurisdictions, the study highlights how poverty, caste location, and social stigma shape who is policed, prosecuted, and punished. The paper concludes that criminal justice reform must move beyond doctrinal neutrality and adopt a substantive equality framework that recognises structural disadvantage, institutional bias, and lived social realities.

VII. Formal Equality vs. Substantive Inequality (Indian Context)

In India, constitutional guarantees under Articles 14 and 21⁴ promise equality and due process.

Yet:

- Prison populations are overwhelmingly composed of the poor, SC & ST, and religious minorities.
- Undertrial incarceration reflects socio-economic incapacity rather than guilt.
- Preventive detention and special criminal laws disproportionately affect marginalised groups.

The law's neutrality becomes a **mask**, concealing systemic bias rather than eliminating it.

The Myth of Equal Access to Justice

Formal neutrality presumes equal access to legal resources. In reality:

- Quality legal representation is determined by economic capacity.
- Bail jurisprudence disadvantages those without stable housing or employment.
- Procedural rights exist on paper but fail in practice for vulnerable populations.

Justice, therefore, becomes a function of social capital rather than legal entitlement.

Victimhood, Credibility, and Access to Justice

Caste plays a crucial role in determining whose suffering is recognized as legitimate. Lower-caste victims often face disbelief, intimidation, and social pressure when seeking justice. Delays in registering complaints, dilution of charges, and hostile investigation practices undermine their access to remedies.

Legal processes privilege certain forms of speech, demeanor, and documentation that align more closely with upper-caste social capital. As a result, credibility itself becomes caste-coded, disadvantaging those already marginalized.

⁴ Articles 14 and 21 of constitution of india

VIII. Judiciary and Structural Bias

While courts are constitutionally mandated to act as guardians of rights, they are not insulated from social power. Judicial reasoning frequently deploys caste-neutral language while overlooking caste realities embedded in facts and procedure. This structural blindness is evident in bail jurisprudence, evidentiary appreciation, and sentencing patterns.

In *State of Rajasthan v. Balchand* (1977)⁵, the Supreme Court articulated the principle that “bail is the rule, jail is the exception.” However, subsequent practice reveals that this liberal principle is unevenly applied. In cases involving marginalized accused, pre-trial detention often becomes the norm rather than the exception, undermining the presumption of innocence.

In *Arnesh Kumar v. State of Bihar* (2014)⁶, the Court cautioned against routine arrests and emphasized personal liberty under Article 21. Despite this, empirical evidence suggests that arbitrary arrests continue to disproportionately affect Scheduled Castes and Scheduled Tribes, reflecting a gap between doctrinal safeguards and social reality.

Caste bias is also visible in atrocity-related cases. In *Subhash Kashinath Mahajan v. State of Maharashtra* (2018)⁷, the Court introduced procedural safeguards for accused persons under the SC/ST (Prevention of Atrocities) Act, citing concerns of misuse. The judgment was widely criticized for privileging the rights of the accused over the structural vulnerability of victims, prompting legislative reversal. The episode reveals judicial discomfort with caste-specific protections.

The dilution of victim-centric justice is further illustrated in *Khuman Singh v. State of Madhya Pradesh* (2019)⁸, where the Supreme Court emphasized strict scrutiny of evidence in atrocity cases, often resulting in acquittals due to investigative lapses that disproportionately disadvantage lower-caste victims.

Judicial responses to custodial violence also reflect uneven empathy. In *D.K. Basu v. State of West Bengal* (1997)⁹, the Court laid down landmark guidelines to prevent custodial torture.

⁵ *State of Rajasthan v. Balchand* (1977)

⁶ *Arnesh Kumar v. State of Bihar* (2014)

⁷ *Subhash Kashinath Mahajan v. State of Maharashtra* (2018)

⁸ *Khuman Singh v. State of Madhya Pradesh* (2019)

⁹ *D.K. Basu v. State of West Bengal* (1997)

Yet, continued custodial deaths—largely involving marginalized communities—demonstrate weak enforcement and institutional tolerance of police violence.

In *Prakash Singh v. Union of India* (2006)¹⁰, the Supreme Court mandated police reforms to ensure accountability and autonomy. The persistent non-implementation of these directives has enabled discretionary policing practices that disproportionately harm lower-caste populations.

Sentencing and remission practices further expose structural bias. In *State of Gujarat v. Kishanbhai* (2014)¹¹, the Court acknowledged systemic failures in investigation leading to acquittals. However, the burden of such failures is borne primarily by victims from marginalized castes, whose cases are more likely to collapse due to poor investigation.

Finally, in *Union of India v. State of Maharashtra* (2020)¹², the Court reaffirmed the mandatory nature of protections under the SC/ST Act, implicitly recognizing that caste-based violence requires heightened legal response. Yet, such recognition remains doctrinal rather than transformative, rarely interrogating caste bias within the judiciary itself.

The cumulative effect of these decisions reveals a pattern: while rights-expansive doctrines exist, their application is filtered through social hierarchies. Judicial discretion, far from being neutral, often mirrors caste power, reinforcing structural inequality under the guise of legal reasoning.

Special Laws and Their Limitations

Legislation aimed at protecting marginalized communities represents an acknowledgment of caste-based injustice. However, implementation gaps remain significant. Procedural hurdles, misuse allegations, and reluctance among enforcement agencies weaken the transformative potential of such laws.

Rather than addressing structural caste bias within policing and prosecution, special laws are often treated as exceptions, reinforcing the idea that caste injustice is an anomaly rather than a systemic feature.

¹⁰ *Prakash Singh v. Union of India* (2006)

¹¹ *State of Gujarat v. Kishanbhai* (2014)

¹² *Union of India v. State of Maharashtra* (2020)

IX. Theoretical Framework: Critical Legal Perspective

From a critical legal standpoint, law is not a neutral arbiter but a social institution shaped by power relations. Criminal law, in particular, functions as a mechanism of social control. When viewed through this lens, caste-based disparities are not failures of the system but predictable outcomes of a structure embedded within an unequal society.

The persistence of caste bias challenges liberal assumptions about objectivity, fairness, and universality in law. It calls for a re-examination of foundational legal concepts such as equality before law and due process.

Towards a Transformative Criminal Justice System

Addressing caste bias in criminal justice requires more than legal reform; it demands structural transformation. Key measures include caste-sensitive policing, accountability mechanisms, judicial diversity, and community-based legal empowerment.

Criminal justice must move from formal equality to substantive justice. Recognizing caste as a legal reality, rather than an uncomfortable truth, is essential for building a system that protects the vulnerable rather than reproducing historical injustice.

X. CONCLUSION

The relationship between caste, crime, and the criminal justice system in India reveals a constant gap between constitutional ideals of equality and the lived realities of marginalized communities. Although the Indian Constitution guarantees equality before law and prohibits discrimination on the basis of caste, color and place of birth and sex the functioning of the criminal justice system often reflects the social hierarchies embedded in society. From biased policing and selective enforcement of laws to unequal access to justice and disproportionate incarceration of Schedule caste and tribes and other marginalized groups, caste continues to influence who is criminalized, who is protected, and who receives justice.

The criminal justice system, rather than operating as a neutral arbiter, frequently reproduces caste-based power structures through institutional practices, discretionary decision-making, and social prejudice. The under-registration of crimes against Scheduled Castes, misuse or non-implementation of protective legislations such as the SC/ST (Prevention of Atrocities) Act, and the over-representation of lower castes in prisons collectively indicate systemic failure. These

patterns challenge the assumption of formal neutrality and expose the limitations of a purely legalistic approach to justice.

Addressing caste-based inequities in criminal justice requires more than legislative reform; it demands structural transformation, institutional accountability, and social sensitization. Police, judiciary, and prison authorities must be trained to recognize and counter caste prejudice, while mechanisms for transparency and community participation should be strengthened. Ultimately, meaningful justice can only be achieved when the criminal justice system actively confronts caste hierarchies rather than unconsciously sustaining them. The pursuit of social justice, therefore, must remain central to any effort aimed at reforming India's criminal justice framework.

