Article

Revisiting Inequality and Caste in State and Social Laws: Perspectives of Manu, Phule and Ambedkar

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Abstract

The Constitution, as a formal legal document, reflects a commitment to secure to all citizens, Equality, Justice, and Liberty, as a non-negotiable duty of the State. The nature and context of present society, however, is embedded in its socio-cultural development through civilisations. This study aims to engage with such a manifestation of state power as revealed in the text *Manavdharmashastra,* that marked the origin of codified social laws to derive legitimacy and establish a 'divine' authority to rule. Subsequently, the pioneers to critique the dysfunctions of Manu's social laws became a subject of interrogation by social reformers like Jyotirao Phule and Dr. Bhimrao Ambedkar. Methodologically, our effort will be to weave together an intertextual analysis based on scientific observation of the case of caste subaltern, through three widely acknowledged texts— *Manusmriti*, Phule's *Slavery* (*Gulamgiri*), and Ambedkar's *Annihilation of Caste*, on ideals of society and governance, in order to present a historical legacy into the origins of social hierarchy as an institutional mechanism to perpetuate inequality among subjects. The aim is to develop an approach to evaluate the ancient political thought of *Manusmriti*, and probe contradictions and realism in actions, with explicit excerpts of relevant texts, to authenticate the credibility of facts and its alignment with the central thought. The article eventually attempts to suggest alternatives to secure the vision of an ideal Indian society that aims to disintegrate the institution of caste.

Keywords

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Introduction

Inequality is commonly understood as an unequal distribution of resources and opportunities. However, the underlying cause of inequality lies in 'domination' (Jodhka 2018). Hence, any analysis that attempts to question structures of inequality must necessarily be located within the "particular framework of history, culture and social configuration" (ibid.). In India, contemporary inequality, in particular, inequality among specific identity groups, is largely an outcome of historical exclusion and marginalisation, perpetuated through the institution of caste as a critical marker of social stratification. Therefore, interpreting inequality from this perspective demands that glories and illusions of religious-scriptural traditions be evaluated within the domain of academic research, to reveal its systemic and operational imperfections. This is because, the nature and context of present society is embedded in its socio-cultural development through civilisations.

The ancient Indian logic behind the establishment and organisation of social order has been a conscious effort to obligate disadvantages, exclusion, and marginalisation, institutionalised through the *Code of Manu*—a widely acknowledged work on social laws in India. The text is known for its caste and patriarchy-based approach to design a hierarchical categorization of society, that codifies conduct and actions, for instance, personal hygiene, manner of attaining knowledge, diet, marriage, interpersonal relations, and spiritual aspects, into a legally bounded system. The authoritativeness of the text may be perceived from the prerequisite of European conquest to uphold Hindu Law Code as a legal sanction, rather than a spiritual or religious narrative of colonial subjects.[1] Unlike this law code, the Constitution of India, as a formal legal document, became an embodiment of an accommodative, socially sensitive, inclusive, and aspirational society. It reflects a commitment to secure to all citizens, Equality, Justice and Liberty, as a non- negotiable duty of the State.

This article tries to weave together an intertextual analysis based on scientific observation of the case of caste subaltern, through three widely acknowledged texts—*Laws of Manu (Manavdharamshastra)*, Jyotiba Phule's *Slavery* (*Gulamgiri*), and B.R. Ambedkar's *Annihilation of Caste*, on ideals of society and governance. These texts are significant as they present a historical legacy into the origins of social hierarchy, its influence on the nature of nineteenth century colonial India, and the responses through constitutional values. The aim is to develop an approach to evaluate ancient political thought of *Manavdharmashastra*, and probe contradictions and realism in actions, with explicit excerpts of relevant texts, to authenticate the credibility of facts and its alignment with the central thought.

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[1]As Naegele (2008) notes, "Europeans "discovered" the Law Code of Manu about the same time as the United States was adopting a Constitution, in the 1790's, when a British judge sent to India, Sir William Jones, learned the ancient Indian language of Sanskrit, translated the Law Code of Manu and published it."

Interpreting *Varna*, Caste or *Jati*

The textbook view of caste presents it as an ancient institution based on the ideas of *varna, karma* and *dharma,* most explicitly elaborated in the classic Hindu text *Manusmriti* (Jodhka 2018: 112). While *Manusmriti* does not explicitly mention the word 'caste', it governed individual conduct and social interactions based on the belief that the organisation of the Hindu social order[2] was divinely ordained through a system of hierarchy that was institutionalised on the notion of 'purity and pollution'. This was achieved by the mechanism of distinctions based on *varna*. The *varna* system established the Hindus into four mutually exclusive and hierarchically ranked categories. Beyond the four *varnas* were the *atishudra or achhoots* (the "untouchables"), 'who by virtue of being classified as the *avarnas* (those without a varna) occupied the lowliest position in contrast to the *savarnas*[3] (those with a varna)' (Deshpande 2011: 19). This intergenerational transfer of hierarchy defining one's social standing in the overall structure was inscribed in ritual terms by a codified framework, that structured almost every aspect of social and economic life of people for centuries. The second related element that naturalised a caste order was the *karma* doctrine. According to it, the present life of a person is a link to the infinite chain of subsequent births and rebirths, and that, the birth of each in a specific (*varna*) position is an outcome of their own past deeds. Therefore, the only way to improve the prospects of a better future birth was to adhere to, and perform well, the role considered appropriate for the stratum in which one was born. Finally, with regards to the concept of dharma in ancient India, it must be noted that, *dharma* governed the criteria of human behaviour and social duties, as adherence to it was stated to be beneficial not only for the individual, but also for the overall welfare of society at large (Meena 2005: 578-579). In the text *Manusmriti*, dharma has been conceptualised as a creation of 'divine power' established on the idea of religion and spirituality for the execution of 'right duties'[4] in all aspects of human life. According to this, the only 'attachment' that mankind must have, shall be the attachment towards one's *dharma*, for the text declares that *dharma* alone, guarantees realisation of the divine creator (ibid.: 579).

The 'caste system'—which essentially communicates the reference to the indigenous term jati—originally started with the four-fold varna classification mentioned above. However, as is known, the operative category is no longer determined

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[2]While the work has a standalone focus (and, a conventional one) on Hinduism, it is important to remember that all religions (especially in South Asia) have an inherent system of social stratification, similar to the Indian caste system. In this context, Deshpande (2011) gives a brief insight on the manifestation of the system within Buddhism (pp. 22-23).

[3]Ambedkar identified two major classes of castes based on varna division in society: *Savarna* and *Avarna*. Within *Savarna*, there are two classes—*Dvija* castes (twice born high castes) and castes of Shudra status. Similarly, the *Avarna* has three groups—tribes, nomadic tribes and those belonging to the category of untouchable castes. (Bagade 2012: 35)

[4]According to Chapter VII *verse* 27 of *Manusmriti*, a ruler who uses his power to properly protect the caste order, will achieve all desires, wealth, and spiritual merit. On the other hand, one who misuses it for personal interests, will end up in destruction.

by *varna*, but individual jatis. This categorisation of jatis is more commonly based on personal claims of its members regarding their respective varna affiliations. Whatever may be the contradictions in such narratives, the nature of the caste pyramid has traditionally been standardised to an imagination that is characteristic of a vast population of "lower castes" to assume the bottommost position. It is equally important to highlight, that caste divisions between the so-called "high" or "low" distinction is most often indicative of the historically subjugated "untouchable" cluster of jatis that were together identified as a specific social category in government schedule during the colonial period. These were subsequently referred to as the Scheduled Castes (and similarly, the Scheduled Tribes). It may therefore be interpreted that, any investigation into the origins of caste and subsequent transformations thereon, necessitates that the emergence of untouchability be analysed in proper perspective.

The foundation of untouchability has its roots in the religious-scriptural tradition of Indian society. Ambedkar argued that 'untouchability was an infliction and not a choice' to ensure compulsory segregation (Ambedkar 1989 [2014]: 5). In *Untouchability and Stratification in Indian Civilisation,* Shrirama (2007) presented a historical study of ancient texts to understand the phenomena of untouchability and the process of its institutionalisation within the system of Hindu social stratification in India. He has eloquently demonstrated how newer invasions gradually transformed social status based on racial differences to one based on ritual purity among the Aryan elites and the pre-Aryan settlers. According to him,

> "…the metaphysical doctrine of *karma* has provided a powerful rationalisation for inequality based on birth and made it acceptable to the wide masses" (p. 49)

To recall, the doctrine of *karma,* as articulated for the first time in the Upanishads implies that, birth in a certain position is directly linked to one's own past deeds. In order to improve later births however, it is imperative to adhere to and perform the assigned role of the *varna* to which the person is born (ibid.: 49). The process of establishment of a four-fold hierarchy to the institutionalisation of low status to Shudras, and the subsequent formation of untouchability, can be broadly divided based on three significant textual evidence. To begin with, *Rig Veda*[5] (the oldest scripture) with the composition *Purushasukta* is the first to mention all four ranks together with their occupations, tracing a mythical origin of each to be symbolically related to different parts of the body of the *Purusha* (Shrirama 2007: 57) or the 'divine creator'. In later Samhitas and Brahmanas, for instance, the *Taittiriya Samhita and Aitareya Brahmana,* the so-called "low" status assigned to Shudras was institutionalised. The

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[5]It is important to highlight that, "in the *Rig Veda*, the word '*varna*' clearly refers to the colour of skin and hair of the people of two different races, the Aryan varna and the Krshna varna. Nowhere in the Rig Veda is the word *varna* used for the four-fold stratification of society. Though the two classes, Brahmin and Kshatriya are mentioned often, the word *varna* is not used to denote them. Even in the *Purushasukta*, where the origin of the four classes is described, the word varna does not occur" (Shrirama 2007:. 49).

relationship of Shudras with other three varnas was reasserted through the social laws of Manu. In this context, *Manusmriti* asserts that,

> …the dominance of priestly elites and the hierarchy based on varna was to be re-established not only through religious prescriptions but by the full might of the king and the state (through the power of punishment or *dand*). (ibid., 2007: 72)

It is therefore, that the position of the king was instituted to 'preserve' the *varna* order. The text declared that, "The king has been created (to be) the protector of the castes (varna) and orders, who, all according to their rank, discharge their several duties". (Chapter VII *verse* 35)

Similarly, the occupational division of Vaishya and Shudras was propounded in the verse, "(The king) should order a Vaisya to trade, to lend money, to cultivate the land, or to tend cattle, and a Sudra to serve the twice-born castes". (Chapter VIII *verse* 410)

It further provided in *Manusmriti* that, 'a Shudra, being unable to find service with the twice-born (a term associated with the three "higher-order varnas") may engage in mechanical occupations such as handicrafts' (Chapter X *verse* 99-100) as their alternative duties. In any case however, it was impossible for the Shudra to be entitled for ownership of wealth or property (Chapter VIII *verse* 416-417). It is necessary to mention the fact that,

> (though) Manu assigns low position to the Vaishyas and Shudras (it) does not mean that he was not aware of their functional utility. In fact, he enjoins the king to ensure that the people of the Vaishya and Shudra varnas continue to perform the work prescribed for them because if these castes 'swerved from their duties, the world would be thrown into confusion'. (Shrirama 2007: 73)

Given the ongoing discussion about origins of the caste system, it is essential to consolidate the extensive revelations by the most widely known ideological critique of such stigmatised classification of social identities. Beginning from the nineteenth century, the most noteworthy challenge to the institution of caste as a form of systemic structural inequality was first posed by the social reformer and thinker Jyotirao Govindrao Phule. This became an equally imperative question for Ambedkar who began to search for a possible redressal for the same nearly a century later. With time, Ambedkar became a notable critique of *Manusmriti* and emphasised on the non-interference of socially codified laws of Manu to the dynamics of state functions so as to attain a just and equitable social democracy that respected the dignity of all. The association as Chairperson of the Drafting Committee of the Constituent Assembly enabled him to incorporate through consensus, his core beliefs and values as an institutionalised mechanism that supported the primacy of law over individual interest

or passion. Ambedkar analysed the varna-caste relation by identifying the similarities and differences between the two. According to him,

> Varna and caste are identical in their de jure connotation. Both connote status and occupation. Status and occupation are the two concepts which are implied both in the notion of varna as well as in the notion of caste. Varna and caste, however, differ in one important particular. Varna is not hereditary, either in status or occupation. On the other hand, caste implies a system in which status and occupation are hereditary and descend from father to son. (Mungekar 2017: 17–18)

As Ambedkar's inquiry on the origins and growth of varna-caste system suggests, the evolution of varna into several castes is an evolution in the opposite direction (Bagade 2012: 25). It must be noted that, Ambedkar categorically rejected Manu as the originator of the caste system (Ambedkar 1916: 19). Nonetheless, he held that regimentation of caste identity emerged from the recognition that social status and occupation ought to be governed by the logic of hereditary succession (Mungekar 2017: 18). It is in this respect that Ambedkar contextualised religious sanctions to uphold caste hegemony and the indiscriminate degradation of Shudra and untouchable castes.

As a matter of fact, understanding the term "caste" becomes essential in order to differentiate it from the term "*jati*". Typically, the belief is that caste translates as *jati* in English terminology.[6] In the words of Galanter (1984), jati is "an endogamous group bearing a common name and origin, membership in which is hereditary, linked to one or more traditional occupations"[7] (p. 7). It is to say, while 'jati is not visually ascriptive' (Deshpande 2011: 28), an individual may conveniently be placed under a particular jati based on the last name (surname) of the person.[8] Therefore, while *varna* ranking is visualised as a pan-Indian scheme, and *castes* are conceptualised as a set of regional and subregional groups, the term "jati" is representative of the local caste hierarchy. Therefore, while the article acknowledges the conceptual conflicts between varna and caste, it intends to relate both in a rather comprehensive perspective, and recognizes them as objects of individual or group identity that has an influence on inequality, exclusion and marginalisation.

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[6] "Caste" is not an indigenous Indian term but has its origins in the Portuguese word *casta*. There is no exact equivalent in Indian languages for the word caste (Galanter 1984: 6). Probably, theoretical ambiguities on jati, made the term caste correspond directly to the former.

[7] In general, the term *jati* means kind or genus, commonly seen as natural units of society each representing a distinct variety of human possibility. Therefore, *jatis* are bound to exhibit geographical variations.

[8] This, however, becomes problematic to ascertain due to two reasons: *one*, when people voluntarily decide to drop their surnames or prefer to use generic and not *jati*-specific surnames; *two*, as *jatis* are regional categories, same surname may belong to different *jatis* across/within states (Deshpande 2011: 28–29).

Dharamshastra, Knowledge and the State

The classification of major literary sources for the history of India are broadly categorised under *shruti* (i.e. *Vedas*) and *smriti* (i.e. *Dharamshastra*) texts.[9] The term "*shastra*" broadly connotes an organised compilation of 'knowledge'—"social, political, economic, religious, ethical, and aesthetic dimensions" (Sinha 2011). It is rightly noted that "the title of the work poses a problem for the readers, because the text is known by two different names, *Manusmriti* and *Manavdharmashastra*."[10] (ibid.). Nonetheless, the work is considered a "synthesis of philosophy, religion and law".

Any *shastra* text is acclaimed as a comprehensive treatise on knowledge. While considerable analysis have been attempted by scholars on the *shastra* tradition through another ancient classical text *Arthashastra*, the manner of social conduct enforced within the domain of statecraft in the text has either remained unfamous or uncovered. The thematic contribution of this text on diplomacy and statecraft, often gains primacy over the nature of its cooperative state machinery that gave importance to institutional patronage of *dvijas* for an efficient functioning of the state. According to Chalam (2020: 110), "In the hierarchy of the state, the ministers, who were in general drawn from among the Brahmins, came first and then the *purohits* enjoyed the highest status…The vaishyas have cooperated with the king in carrying out the internal and external trade. Thus, the *Dvijas* had the opportunity to run the state in the past and in the present". Nonetheless, it is equally important to mention that later *dharamshastra*, specifically the *Manavdharamshastra*, borrowed theoretical concepts such as the idea of *saptanga rajya*—the state consisting of seven inter-related functions—from the text *Arthashastra* (Singh 2019). The purpose here, to include reference of *Arthashastra* is in synchroneity with the ideation that, privilege and domination by virtue of 'acquired knowledge' within systems of *dharamshastra* tradition, caused exclusion and marginalisation of some social groups.

It is in this context, that the term 'spirituality' needs further analysis. A common impression of the term evokes a sense of communication of the self, with an invisible mystical power, embodied through the use and abuse of religion. This understanding of spirituality naturalizes the exercise of 'divine authority' to control individual-social conduct and ritual behavior. When such spirituality is located within the religious-cultural notion of Hindu social order, what effectively develops is the *varnadharma* categorization of people, as revealed in the text *Manusmriti*.

The concept of State in ancient Indian political thought, is a complex theorisation of the institution defined in terms of its basic features that includes among others, a definite territory and a 'divine monarch', vested with authoritative and coercive capabilities. The existence of this institution as ascertained by historians and political

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[9]Shruti texts are considered divine revelations, that which is heard; Smriti texts are recollected works of man. (Singh 2019; Sinha 2011)

[10]This article uses the terms *Manusmriti* and *Manavdharmashastra* interchangeably to refer to the text in question.

scientists, reveal that "vedic political organizations were pre-state social formations, and proto-states or states in Indian history first materialized in the post-Vedic period when the primary egalitarian ethos of the tribal society in the mid-Ganga valley gave way to the class-stratified society in which monarchy and aristocratic oligarchy and coercion were needed for the perpetuation of inequalities of property"[11] (Singh 2011: 10). Considering the differential treatment granted to 'divinely created unequal beings' in *Manusmriti*, the logic of governance, that is, the authority to make rules to regulate rights and duties, punishments, and rewards—became a natural tendency. Accordingly, this exposition helps us understand how, in order to ensure continuity of the 'divinely crafted' laws of Manu, political and institutional structures were organized to maintain a stratified social order and perpetuate inequality—of opportunity, resources and human dignity.

It is observed that, "all hierarchies—and especially the inequalities of caste, class, patriarchy, etc.—were built on the claims of knowledge (both of the secular and supernatural religious variety)" (Mani 2012). Within this discussion therefore, it is intriguing to examine the 'knowledge' discourse through realms of—what constitutes 'knowledge', who 'owns' it, and the 'power of knowledge'. The focus here, however, is to interpret the domain of knowledge, independent of the Western conception, and in fact, within the framework of its Brahmanical textual construction.

Structurally, a hegemonic knowledge—its constituents, realization, dissemination and enforcement—was largely restricted to religious sanctions of *dharma*. Therefore, knowledge of *dharamshastras* became a source of power to establish an intellectual domination of the *brahmanas* in ancient India, and thereby, essentially command spiritual adherence from the remaining varnas. The concept of *dharma* in ancient India implied that, acceptance of *dharma* became a means to regulate human behaviour as it was stated that *dharma* is beneficial for the welfare of both the individual and society. In this way, *dharma* recognised both individual behaviour and the social duties. This view made '*Dharma* not only a base for spiritual and moral development but equally a base for stable and regular system' (Meena 2005: 577). Specifically, the context of *dharma* used in the text *Manavdharamshastra* is the creation of the 'divine power' established on the idea of religion and spirituality, for "the execution of right duties" in all aspects of human life. According to this notion, the only 'attachment' that mankind must have shall be the 'attachment towards one's *dharma*', for the text declares that "the accumulation of *Dharma*" alone, guarantees realization of the divine creator or the Supreme God.

It will therefore be interesting to apply the vision of *dharma* envisaged in *Manusmriti* to the complexities of state functioning. In this regard, Manu is considered as the "first to systematize the science of government and administration" (Sinha 2011: 20) and the text as the propounder of the *'Divine Theory of the Origin of State'* (Meena 2005; Sinha 2011). According to it, the king is a divine creation of God to protect all

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[11]The Nandas and the Mauryas of Magadh were the first to establish such a large-scale state. (Singh 2011)

creatures. "For, when these creatures, being without a king, through fear dispersed in all directions, the Lord created a king for the protection of this whole (creation)". (Chapter VII *verse* 3)

Thus, it was assumed that, "God originated both the Dharma and state power at the same time. Due to this, Dharma made the king responsible towards the God" (Meena 2005) and the text declared that the king is free from accountability towards anybody in the world. However, it must be noted that *Manusmriti* validates subservience of the 'divine' king towards honour of the 'great deity' (Chapter IX *verse* 319)—the Brahmanas—"on account of superiority of his origin", that they be regarded as "the lord of all castes" (Chapter X *verse* 3).

Therefore, it is conclusive to state that, constraint and coercion as tools of state power to enforce *dharma*, was embedded in the assigned duties of the King. According to Chapter VII *verse* 27, a ruler who uses his power to properly protect the caste order, will achieve all desires, wealth, and spiritual merit. On the other hand, one who misuses it for personal interests, will end up in destruction. In other words, "unless dharma upheld caste hierarchy, unless righteousness was bound to caste order, unless justice was one with *danadaniti* (rule of force)" (Mani 2012), the strength of "*Dharma*" would become insignificant. Thus, 'knowledge' as defined through the ancient textual tradition of *dharmashastra*, 'blurred the boundary between faith and reason, hierarchy and harmony, and their sole goal being power' (ibid.).

Within this discussion it is important to highlight that, unlike textual sources of knowledge, oral forms of knowledge have traditionally been most closely associated with those commonly known as *shudras* according to the *varnadharma* system (Shepherd 2020). This was because during the pre-colonial era, the *shudras* were denied access to learning of ancient education. In the present age, perhaps, this has gradually transformed as a means for creative expression of their consciousness. In fact, in the anti-caste discourse, the use of new-age mediums of modern forms of entertainment has emerged as a widely popular mode of assertion—the phase of what is referred to as 'dalit cultural resistance' to caste subjugation and humiliation.

Indeed, "brahmanic control over knowledge" remained the prerogative of those socially dominant within the caste structure, and "brahmanical forms of knowledge were critical in the establishment and maintenance of caste" (Mani 2015). Thus, knowledge and education in the context of ancient learning implied strategies of domination and exploitation, rather than an individual's liberation through reason and upward mobility. In this reference, John Fiske's observation on knowledge is important. According to him, "knowledge is power, and the circulation of knowledge is part of the social distribution of power" (Apple 2000: 179).

Caste and Colonialism: Continuity and Change from *Manavdharamshastra*

Theories and documentation that links Brahmanism and colonialism suggests that "caste is a colonial construction: almost a fabrication of the Population Surveys and

Census Reports" (Mani 2015).[12] In this regard, a brief understanding of the history of the colonial administration in India is worth revisiting. The Regulating Act, 1773 was a landmark legislation that introduced a new administrative machinery for the British East India Company (EIC), from the hitherto exclusively commercial entity, to govern the land and its people. Thus, the necessity for a comprehensive and uniform governance structure through 1773 Act, created the foundation of central administration in India. This meant that colonial rule heavily relied on textual prescriptions of both religious denominations, i.e., Hindus and Muslims—that overpowered local realities. Attempts to translate indigenous Hindu texts, including *Manavdharamshastra* therefore, became foundational for the evolution of the colonial judicial system to govern the Hindu population.

Another aspect of the advent of colonialism on the institution of caste in India was the emergence of caste-based enumeration through conduct of official census in the nineteenth century. The Census was a direct survey of population; instead of surmising or using textual references (Samarendra 2011). This implied that individual questionnaire-based survey determined the presence of *varna* hierarchy, instead of interpretation of sanskrit texts. While such assessment had no uniformity in the method adopted, the purpose of the census was meant to count the population and classify it according to age, sex, religion, caste, occupation, among other categories. Such an enumeration exercise "started from census of the North-Western Provinces in 1865, and it continued to be a prominent part of the colonial census till 1931" (ibid.). It was realised gradually that the empirical caste census faced contradictions in terms of text and practice. The *varna*-based classification failed to adequately represent the entire population of the Indian society. Thus, probably for the first time, 'the state' (even if it was colonial), 'questioned the credibility of the propagator of this model – Manu' (ibid.). The fact that the so-called 'outcastes' or those outside the *varna* scheme did find mention in the caste census, the definite criteria for their identification was explicitly mentioned in the 1931 Census. The criteria to define such groups was determined by the degree of social restrictions and discrimination applicable on them. For instance, their inability to be served by barbers, tailors; inability to enter Hindu temples, and use public resources such as roads, wells or schools, became part of such criteria (Singh 1997). It was, in fact, this idea of untouchability, that restricted them from using or accessing natural and public resources (Bagade 2012: 33). Thus, colonial rule institutionalised the categories of caste-based divisions through conduct of official census.

It is in this perspective that social reformers such as Jyotiba Phule and B.R. Ambedkar viewed the inability of colonial rule to correctly recognise the plight of the bottommost section of the population. This, according to them, was attributed to their use of "Brahmin spectacles" (Phule 1873) to position people within Indian social structure. Phule was convinced that the advent of British rule in India largely freed "the *Shudras* from the physical (bodily) thraldom (slavery)" (ibid.,: 27). Nonetheless,

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[12]In this regard, some other works include *Imagining India* by Roland Inden 1990 and *Castes of Mind: Colonialism and the Making of Modern India* by Nicholas Dirks 2002.

he acknowledged the inadequacy of the British government to initiate equitable distribution of welfare to the masses, especially the neglect of primary education, which he believed to be critical for the emancipation from "mental slavery" (ibid.,) of the downtrodden. Thus, Phule's attitude towards the colonial government was as hostile as it was towards, what he referred to as 'Bhats' (*Brahmins*). On the other hand, Ambedkar, in his struggle against caste and untouchability, sought to awaken the identity of this social category for 'self-respect and self-esteem' (Bagade 2012: 35). He asserted that, "We must have a government in which men in power, knowing where obedience will end and resistance will begin, will not be afraid to amend the social and economic code of life." (Dr Babasaheb Ambedkar, Writings and Speeches, Vol. I: 505.)

Religion, Social Laws, and the State: Locating Self, Family and the Social

The relationship between spirituality and religion has already been substantiated within this article. Religion is ordinarily perceived as a 'way of life', often accommodated in everyday majority-minority political binaries. However, such a commonsensical understanding tends to overlook the influence of social construct on the economic and political dimensions of equality. Then, in order to trace the ancient logical interconnectedness between religion, social laws of Manu, and the State, it is pertinent to approach the issue from the axis of what is broadly referred to as 'governance'[13] within the state-society relationship. In this regard, the interplay of governance dynamics in the ancient state essentially implied, *an arrangement that influenced interactions among institutions of power, that determined individuals' choices that had an impact on both the individual and collective action*. The article identifies three forms of governance—the individual or self, social relations, and kingship and administration. These are understood as interrelations and interactions of individuals between and within *varnas*, essentially *dvijas* and *shudras* as two distinct units. While the first two are dealt with in this section, the third pillar of kingship and administration has already been elaborated in the previous sections. For a focused analysis, the article intends to look at the question of caste-based marginalization from the perspective of occupation (livelihood) and gender (family and household). The reason for this lies in the theory of *varna-sankara* or mixed varnas, according to interpretation of the text *Manusmriti,* which declares that apart from the three *dvijas*—Brahmana, Kshatriya, Vaisya—and Shudra, "there is no fifth varna" (Chapter X *verse* 4). While it recognizes *varna-sankara*, two critical aspects necessary for the maintenance of social identity and to 'avoid *varna-sankara'* are through conduct of 'legitimate marriage' and prescribed occupational duties.

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[13]The article acknowledges non-availability of a single, uniform definition of Governance. The effort, therefore, was to chart the understanding and contextualize it within the theme of the article.

Caste, Occupation and Livelihood

Rules of occupational division of each varna and the economic organization of labour were an important aspect of social identity in the *Manavdharamshashtra*. Accordingly, the text prescribed 'Brahmana to teach the Veda, Kshatriya to protect people, and Vaisya to trade as their most 'commendable occupation'' (Chapter X *verse* 80). It acknowledged that hierarchies created as a result of the relationship between *varna* and occupation existed even in times of distress, when one is compelled to forgo his assigned means of subsistence based on *varna*. However, in such situations, it attempts to promote what is referred to as 'downward occupational mobility', that is, each preceding *varna* may perform an occupation of the succeeding *varna* but can never adopt the mode of life of their preceding *varna*. This rule was uniformly applicable to all *varnas*.

   The identification of one's caste, based on hereditary nature of occupation has been a unique feature of division of labour in India.

> "Division of labour as elaborated by Adam Smith and explained by Marx is a practice where the process of production is divided into different stages, like 18 sequences of pin making, and each process is perfected by one. This raises productivity. But in India, each occupation is held by a caste and the finished product is produced by the family or caste by following all the processes of caste occupation" (Chalam 2020: 13).

Socially marginalized groups, including the Scheduled Castes (SCs) and certain artisan castes, have been historically characterized as involved in specific occupations that maintain their labour supply restricted to those. However, the social history of India reveals that such an 'assignment of work based on specific *varna'* can be located in the text *Manusmriti*. It is to be noted here, that the 'process of production' is equally important as the 'end-product'[14] produced by such castes. For instance, in *Manusmriti* (Chapter X *verse* 99; Chapter X *verse* 100) knowledge and occupation of crafts ("mechanical work") has been assigned to *Shudras*.

   It is often said that the past does not remain in the past; its legacy continues to influence contemporary notions of skills/acumen attached to individuals. For example, processing of raw leather and manufacture of specific footwear, as two distinct occupations are included as a consolidated work of SCs. Indeed, lack of occupational mobility failed to improve their income, livelihood, and wellbeing conditions (Chalam 2020). Ambedkar rightly noted that, "As an economic organization Caste is therefore a harmful institution, inasmuch as it involves the subordination of man's natural powers and inclinations to the exigencies of social rules." (Ambedkar 1936: 37).

   This is where Marx's emphasis on the "unchangeableness of Asiatic Societies" is to be understood in context of the socio-economic character of labour in India. It is

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[14]For the purpose of this article, end-product also includes services delivered by the castes in question.

interesting that K.S. Chalam (2020) in his book, *Political Economy of Caste in India*, attempts to formulate what he calls as the 'Caste Mode of Production' (CMOP) as part of Marx's Asiatic Mode of Production, "as an analytical tool to understand the Indian situation".

In his work, *Annihilation of Caste,* Ambedkar relates caste with limits to occupational mobility of individuals; "…that Caste System is not merely a division of labour. It is also a division of labourers." (Ambedkar 1936: 36). According to him, this "division of labourers" was based on the Hindu social structure that is characterized by hierarchy, rigidity, and individual efficiency and competency that depended on one's caste. The contemporary empirical findings suggested by studies conducted on the question of interlinkages between caste and occupation on food and beverages business and dominance of a particular caste among sanitation workers in a way reinforces these arguments. To elaborate, a 2013 research paper by Ashwini Deshpande and Smriti Sharma at the Delhi School of Economics, 'used data from the third and fourth rounds of the Indian Micro, Small and Medium Enterprises Survey to show that the share of SC-owned firms in the food and beverages category was much lower than the national average and the average for other social groups. The authors also found that SCs had a disproportionate ownership of leather-related industries'. Thus, historically while, 'caste divisions took place on the basis on occupations, within one occupational caste group divisions of sub-castes took place on the basis of what kind of labour/service/products provided or what technique of production employed were by particular groups/people' (Bagade 2012: 30).

A paper published in 2021 categorically shows the existence of a peculiar occupational pattern among 'urban regular salaried workers aged between 15 and 65 years' using data from the 61st round of National Sample Survey (NSS), Employment and Unemployment corresponding to the year 2004–05 and Periodic Labour Force Survey (PLFS) 2017–18. Its findings reveal "that in 2017–18 SC (Scheduled Caste) workers' share in the middle- and low-level occupations was high (70.56%) compared with the HC (High Caste) (47.23%). The share was particularly high in elementary occupations,[15] followed by service workers, shop and market sale workers, craft and related trade workers, plant and machinery operators, and assemblers. Conversely, the SC share in better quality occupations was low (29.43%) compared to the HC (52.77%). The better-quality occupations include legislators, senior officials and managers, professionals, technicians and associated professionals, and clerks" (Thorat et. al., 2021). According to the paper, inter-caste differences is equally significant in terms of employment rates and wage earning both in the public and the private sectors. What is worth mentioning is that not only unemployment rates among SCs is high, but "discrimination in the probability of access to employment is much higher in the

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[15]According to the National Classification of Occupations, 2004 elementary occupation includes cleaners and helpers; agriculture, forest and fisheries labourers; labourers in mining, construction, manufacturing and trans- port; food preparation assistants; street and related sales and services workers; refuse workers like garbage collectors, sweepers, etc. (Thorat, et al., 2021)

private sector compared to the public sector" (ibid.). This is intriguing and offers a possible evaluation metric in policy-making, especially in context of the discourse on privatisation as a mechanism for economic restructuring, growth and development. It not only points to its logical relatedness to caste prejudices practiced in regular salaried employment, but also demonstrates that differences both in endowments factors (such as education, professional skills, work experience, and others) and due to discrimination faced in employment and wage rates in the labour market, compel greater representation of SCs in low-earning occupations in the informal sector (ibid.). The paper further indicated other factors that influence occupational attainment such as childhood influences, influences due to personal characteristics, and latent discrimination constraints occupational choice or entry among SCs. Further, on the implications of caste disparities in labour market, it suggests that legal and policy measures are necessary to ensure adequate representation of SC in their workforce to make it more inclusive and non-discriminatory. Diversity and inclusion, including perspectives on intersectionality within caste and gender, are not mere rhetoric, but instead form part of the Constitutional framework and values built in response to structural inequality as an outcome of stratification of identities based on caste.

Caste, Gender and Household

The law of marriage, as emphasised in the text *Manusmriti*, marks the beginning of *Grihastha Ashram*—the order of life to be followed by a householder. According to *Manusmriti*, it is stated that, a Shudra can only marry a Shudra woman; a Vaishya can marry any of the two; a Khastriya can marry a woman from his caste or any woman from the caste below him; while a Brahmin is eligible to marry a woman from any of the four castes (Chapter III *verse* 13). Within this scheme, Ambedkar observed that "low-caste women were made sexually accessible to the high-caste men" (Bagade 2012: 27) as his observation on caste and gender were made in the broad spectrum of caste hierarchy.

While the text delves deep into an elaborate classification of marriages, a careful observation indicates that statements around marriage-related ritual ceremonies remain absent. Moreover, the interchangeableness in the use of words 'women' and 'wife' is significant enough to point towards the role of women as restricted to ideal 'wives' alone. It is essential to note that notions of "ideal women" within the text is representative exclusively of *dvija* women (wife). It declares that marital associations with a *shudra* women causes loss of one's *varnadharma* (Chapter III *verse* 14-19).

Aspects related to household and family—roles within caste and social relations—represents an intrinsic predominance of a 'patriarchal authority governing social relations between men and women'. It is worth mentioning that protection of women (wife) is considered the *"highest duty of all castes"* (Chapter IX *verse* 6), as it is stated that "*a woman is never fit for independence"*(Chapter IX *verse* 3). This indicates an implicit presupposition according to which, while women (wife) may be a source of dishonour or ruin to herself and her family caused either by separation from husband, disloyalty, or even drinking liquor, but the only way she could bring honour is by duly

performing the duties of a 'virtuous wife' (Chapter IX *verse* 27). Relatedly, the idea of *"honour"* within the text is based on two aspects – one, where it is overtly associated with women's chastity, and the other, where the cause of such reverence of women is presumed as necessary for the welfare of family, explicitly her male relations, i.e. "*father, brothers, husbands, and brothers-in-law*" (Chapter III *verse* 55-57).

The language of the text *Manusmriti* views women as unworthy of respectful social dealings. It therefore employs the logic of domination and subordination to establish control over women—physical, social, and psychological—and ensure their perpetual patriarchal dependency. This dependency transcends to include the economic dimension, as it considered women as ineligible for 'ownership of wealth or property' (Chapter VIII *verse* 416). The only recognized inheritance right of women pertains to *stri-dhana* (Chapter IX *verse* 194)—a women's sole possession for life.

Clearly, the rules concerning women not only legitimises their subjugation, but also deprives them of their access to knowledge, and restricts their self-determining, autonomous social position. In particular, the concept of gender, family and household are interwoven around ideals of "womanhood". *Manusmriti* was probably among the first in the series of ancient texts to have introduced certain degenerative practices, which compelled the Indian legal and constitutional machinery to introduce and influence several social policies of the state, especially those directed towards gender equality and women empowerment. To illustrate, some such practices includes child marriage (the 'child' is a girl according to Chapter IX *verse* 94), forbidding widow remarriage (Chapter IX *verse* 65), legalizing dowry (Chapter IX *verse* 194), restricting women's mobility to household work (Chapter IX *verse* 11), women's liberty to marry someone of her choice (Chapter IX *verse* 92), her share in father's property (Chapter IX *verse* 127), importance of male offspring "*putra*" (Chapter IX *verse* 137). Interestingly, the common perception towards specially -abled persons is also largely a contribution of *Manusmriti*, which relates bodily formations to sinful activities; with the degree of sin committed determining the level of change in physical appearance or mental abilities (Chapter XI *verse* 53).

The above analysis therefore suggests that sanctity of regressive attitudes on the question of identities around caste or gender, are intricately linked to what Ambedkar referred to as 'rules of religion' (Ambedkar 1936) as warranted by social laws under *Manavdharamashastra*. He was convinced that religious reform meant, that religion itself should be grounded on doctrinal values of cooperation, dignity and worth of all, that encouraged free and just opportunity for all to participate, one that consciously discarded segregation, prejudices, and privileges.

One's religiosity must necessarily be divorced from indoctrination of mind and heart, that may extend to superstition and bigotry (Phule 1873: 20). This necessitates a conscious deconstruction of mythology, traditions, and beliefs shaped by "the code of cruel and inhuman laws" (Phule 1873)—a methodological innovation initiated by reformer Phule (Bagade 2012) in nineteenth century India. In one of his most powerful writings, *Gulamgiri* (Slavery) published in Marathi in June 1873, Phule visualised societal divisions as a continuum of two extremes; one whose existence was defined

by perpetual poverty, exploitation, and ignorance, and provision of material support to all other groups above them. The other constituted those literate castes who, through their inherited authority from religious-scriptural traditions and subsequent privileges, monopolised benefits from English education and clerical or professional employment in the British administration. Dr. Y.D. Phadke, an eminent scholar on Phule noted that, in his book *Sarvajanik Satya Dharma Pustak,* Jyotiba Phule warned against "persistent demands for Indianisation of the administrative services", for he was convinced that, "if accepted, (it) would lead to Brahmanisation of the services in India" (Phule 1873: 15)

The interconnections between Phule and Ambedkar on the idea of religion is well-elaborated by the eminent scholar Gail Omvedt in an excerpt from her book *Buddhism in India: Challenging Brahmanism and Caste*. She noted that for both Phule and Ambedkar, 'Hinduism', in its present form was not a true religion and that finding a true religion implied freeing the masses from Brahmanic slavery. Just as Ambedkar's final and major book was to be *The Buddha and His Dhamma*, so the concluding written work of Phule's life also focused on religion—The *Sarvajanik Satya Dharma Pustak*, published just after his death. In it, he gave a savage critique of the Vedas, the Ramayana and Mahabharata stories, and undertook the effort to formulate a religious alternative: a true religion as universal; founded on reason and truth and rejection of superstition; anti-ritualistic; ethical; equalitarian, not recognizing caste or ethnic differences, and especially admitting the equality of women (Omvedt 2012).

Towards Annihilation of Caste: Is Hatred more Powerful than Solidarity?

The "system of priestcraft" (Phule 1873: 18) so established to entrench the institution of caste not only meant an unequal order, but it also perpetuated a 'psychological hatred' emanating from the unjust social order, and "the commonest rights of humanity were denied (to) the *shudra-atishudras*" (Phule 1873). According to Phule, "it was difficult to create a sense of nationality so long as the restriction on dining and marriage outside one's caste was observed by people belonging to different castes". (Phule 1873: 15)

Interestingly, his efforts culminated in the formation of the *Satyashodak Samaj* (Truth Seekers' Society) in September, 1873 in Maharashtra. The organisation was a 'non-Brahmanical alternative to the then existing social reform organisations' (Harad 2021), and was founded on Phule's own ideological framework that aimed to '*deconstruct the hegemony of enslavement*'. Till today, 'Satyashodak weddings resist Brahmanical rituals'—where, both the bride and bridegroom 'write their own vows', which they recite in front of guests on the wedding day (Harad 2021).

For Ambedkar, it was the caste apparatus that prevented Hindus from forming a real society or nation—a thought that echoed with Phule's idea. He believed, that a society does not segregate individuals and impede collective cohesion, but caste

consciousness in order to assert notions of hierarchical superiority and purity prevents solidarity among Hindus. He argued that,

> ..inter-dining and inter-marriage are repugnant to the beliefs and dogmas which the Hindus regard as sacred. Caste is not a physical object like a wall of bricks or a line of barbed wire which prevents the Hindus from co-mingling and which has, therefore, to be pulled down. Caste is a notion, it is a state of the mind. The destruction of Caste does not therefore mean the destruction of a physical barrier. It means a notional change. (Ambedkar 1936: 64)

Any reform is a conscious attempt to initiate institutional or human behavioral transformations. In *Annihilation of Caste* Ambedkar declared that, caste (social aspect) prevented all reform (economic and political aspects), whether based on individual assertion or group authority. This may be contextualized in the contemporary period, with everyday cases of caste violence and atrocities. While *Manusmriti* acknowledges 'act of violence' as the 'worst offence', it introduced certain 'rules concerning self-defence of twice-born men', that legalized violence done by them, if they are obstructed in "performance of their duties". This, according to it, is neither a sin, nor does it make guilty those who commit such an act (Chapter VIII *verse* 348-351). The commonality among all incidents is found in the 'magnitude of alleged crime' committed, that range from eating in front of upper-caste men, or owning and riding a horse, wearing a pair of royal footwear generally worn by upper-caste members, viewed as acts of resistance to caste norms and a sign of *reversal of domination*. The dynamics of such violence within urban spaces and among emerging nascent middle class who have benefitted from affirmative action (Chakravartty; Subramaniam 2021) are manifested differently. Instances of spatial segregation and physical violence then are either largely hidden or numerically low, compared to subtle, yet powerful forms of social ostracism, discrimination, and humiliation. International media reports in 2021 on the technology conglomerate Cisco Systems Inc., exposed realities of caste inequalities in a liberal society such as the United States. In the case, a Dalit engineer alleged that he was "ousted as beneficiaries of Indian affirmative action". On complaints to relevant authorities within the company, he was "retaliated by denying him opportunities for advancement". The Cisco case is another addition to the already existing literature of such cases in India. There exists abundant scholarly work that reflects a peculiar pattern of caste discrimination that *equalizes merit with one's caste identity*. Caste-based affirmative action, that intended to widen opportunities for such communities to explore their capabilities through education, have exposed them to continuing realities of *fierce opposition and stigmatisation of their worth* and their social alienation. What exists then, are 'victims of caste-oriented psychological hatred'. The evaluation thus suggests, that traditionally asymmetrical power relations and social capital based on caste-based identities are primarily responsible for reproduction and revival of ideological faith in the hierarchical social system that supports a superiority-inferiority structure.

Ambedkar's political approach to social reform was based on the Constitutional safeguards to acknowledge indifference and neglect of certain sections. His association as Chairperson of the Drafting Committee of the Constituent Assembly, enabled him to incorporate, through consensus, his core beliefs and values, as an institutionalised mechanism that supported the primacy of law over individual interest or passion. Therefore, Ambedkar's ideal of a caste-less society reflected his emphasis on equality, liberty and fraternity. For Ambedkar, to treat individuals unequally based on their 'effort', required that they must be treated equally so far as birth, family name, education, parental care, inherited wealth are concerned (Ambedkar 1936). Liberty for him meant full utilization of people's capabilities without enforcing control on their choices. However, an idea that is truly directed towards caste annihilation was his conception of fraternity. For him, fraternity implied that,

> There should be varied and free points of contact with other modes of association. In other words, there must be social endosmosis. This is fraternity, which is only another name for democracy. Democracy is not merely a form of Government. It is primarily a mode of associated living, of conjoint communicated experience. It is essentially an attitude of respect and reverence towards fellowmen. (Ambedkar 1936: 49)

He believed that unless notions of 'collective honour' are transformed to 'honour of individual dignity', irrespective of caste identities, it was difficult to emulate in practice the three core values. This was because, according to him, effectiveness of assertion—of belief, independence, and interest—depended on tolerance and unprejudiced nature of acceptance of assertion. If there was anything that withheld such acceptance, it was the sacred nature accorded to religious sanctions, 'that punished dissenters with excommunication' (Ambedkar 1936: 48), for he argued that "religious was social and religious was sacred" (Bagade 2012). Thus, "without using any force individuals are socialized by caste system and subjugated in the world of caste habits"—a form Ambedkar identified as "psycho-social regimentation of caste" (Bagade 2012: 22). Thus,

> …it must be recognized that the Hindus observe Caste not because they are inhuman or wrong-headed. They observe Caste because they are deeply religious. People are not wrong in observing Caste. In my view, what is wrong is their religion, which has inculcated this notion of Caste. If this is correct, then obviously the enemy, you must grapple with is not the people who observe Caste, but the Shastras which teach them this religion of Caste. (Ambedkar 1936: 64)

A pertinent issue therefore, should be to question, if conformity to constitutional principles enforced through law alone can be a real mechanism for emancipation of those socially disadvantaged. The discussion on anti-discrimination law indicates that progressive legislations constitute an important part in the effort to address problems of

inequality and social prejudice. However, as Edward Burke, an Irish social philosopher observed, "law can punish a single solitary recalcitrant criminal. It can never operate against a whole body of people who are determined to defy it. Social conscience is the only safeguard of rights. If social conscience is such that it recognizes the rights which the law chooses to enact, the rights will be safe and secure." Further, while priorities of modern governments to equality and liberty can be addressed to some extent through its social policies, the fact is, that fraternity can neither be legislated nor can it be cultivated within a policy framework. Then, it becomes imperative to explore alternatives for disintegration of the ideology of caste and how it governs within state and society. The article attempts to identify three such alternatives. First, the observation that caste identities tend to mobilize masses politically, implicitly assumes that political participation can be a mechanism to counter dominant traditions of caste-based inequality. However, this must be premised on concerted action by what Phule called "a united collective of the oppressed to counter social forces of caste Hindus" (Phule 1873). Second, a rediscovery of the institutional foundations of religion. In this context, Ambedkar was convinced that religion must be grounded on doctrinal values of cooperation, dignity and worth of all, and one that encourages free and just opportunity of participation to every being. As *systems of belief*, religion must consciously discard inequality, segregation, and prejudices. Third, a greater role of pedagogy in education for a moral empowerment of young minds—a teaching-learning methodology that demonstrates virtues of equality, fraternity, and justice among others, as noble qualities worthy of conscious nurturing. Broadly, it involves an assimilation of sociological and psychological approaches to develop their consciousness, and humane sensibilities that denies violation of individual dignity based on complex socio-religious norms.

Conclusion

Civilizations evolve through efforts to change. This becomes true despite continuous and rather regressive resistance. The text *Manavdharamshastra* is a unique combination of society and law—a contrast to democratic ideals of equality, liberty, fraternity, and justice. As representative of the State's divine power, it established the Hindu social order that marked origin of the use and abuse of codified social laws, to derive legitimacy and perpetuate inequality among subjects. It demonstrated how a traditionally unequal distribution of rights, privileges, and dignity manifests itself in the contemporary age, as varied forms of inequality—social, economic, and political. Subsequently, the pioneers to critique the dysfunctions of Manu's social laws became a subject of interrogation by social reformers like Jyotirao Phule and Dr. Bhimrao Ambedkar. Phule believed that the marginalised experience of injustice, deprivation and humiliation, transcended their everyday episodic social and political life, and was a feature of structural hierarchy based on 'superiority of birth' and access to opportunity and resources. This eventually validates the existing researches, that such asymmetries in equal opportunities, created a foundational impact on their access

to education, health, and employment, that gradually widened both material and moral degradation, which together constituted a significant marker of policy intervention since Independence. The nineteenth century challenge to the institution of caste as a form of systemic structural inequality posed by Phule, became an equally imperative question that Ambedkar sought to address a century later. Ambedkar too became a notable critique of *Manusmriti* and emphasised on the non-interference of socially codified laws of Manu to the dynamics of state functions, to attain a just and equitable social democracy, that respected the dignity of all.

A key theme throughout the article has been to highlight that the purpose of power is not only to demand social control, subordination and exercise restraint on immoral conduct, but also to introduce and nurture social change and transformation through ethical and political values in policy and practices that are based on a larger understanding of the inherent societal structure.

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