



## Rethinking Poverty: A Socio-Legal Enquiry

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# RETHINKING POVERTY: A SOCIO-LEGAL ENQUIRY

Socio-Legal Review interviews Dr. Usha Ramanathan<sup>1</sup>

At the time of writing this, the second phase of the 2019 General Elections are ongoing. Unemployment rates are at an all-time high<sup>2</sup> and one of the planks on which opposition parties are campaigning is the lack of measures by the party in power to eradicate poverty over the past 5 years.<sup>3</sup> The Congress has promised a Universal Basic Income scheme if it is voted to power and has touted this to be the deliverance from poverty for millions of people.<sup>4</sup> But what is the understanding of poverty that lies behind this narrative? As Amartya Sen said, while emphasising the multi-faceted nature of the concept that goes beyond its economic dimension, “poverty is not just a lack of money, it is not having the capability to realize one’s full potential as a human being.”<sup>5</sup> Due to its complexity, poverty has been termed by the United Nations as a social phenomenon which mounts a comprehensive assault on human rights.<sup>6</sup>

Given the perennial importance of this issue, the *Socio-Legal Review* took the opportunity to interview Dr. Usha Ramanathan, an internationally renowned expert on law, poverty and rights. She has also written and researched extensively on environmental law, labour law, consumer law,

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<sup>1</sup> The Editorial Board is extremely thankful to Ms. Rashmi Venkatesan, Assistant Professor of Law, National Law School of India University for her help in framing the questions. The interview was conducted in person on December 23, 2018 when Dr. Usha Ramanathan was at the National Law School of India University. It was then transcribed by the members of the board and finalised through email exchanges.

<sup>2</sup> “Unemployment Remains the Biggest Challenge as India Prepares for 2019 Elections”, *Livemint* (March 31, 2019), <<https://www.livemint.com/politics/policy/unemployment-remains-biggest-challenge-as-india-prepares-for-2019-election-1554005275121.html>> (accessed April 22, 2019).

<sup>3</sup> Satyasundar Barik, “In Odisha’s KBK Region Modi Slams Congress on Poverty Alleviation”, *The Hindu* (April 2, 2019), <<https://www.thehindu.com/elections/lok-sabha-2019/in-odisha-kbk-region-modi-slams-congress-on-poverty-alleviation/article26710246.ece>> (accessed April 22, 2019).

<sup>4</sup> “2019 Lok Sabha Elections: Rahul Gandhi Promises Rs. 12000 to Poor under Minimum Income Scheme”, *Business Today* (March 25, 2019), <<https://www.businesstoday.in/current/economy-politics/2019-lok-sabha-election-rahul-gandhi-promises-rs-12000-to-poor-under-minimum-income-scheme/story/330726.html>> (accessed April 22, 2019).

<sup>5</sup> Amartya Sen, *Development as Freedom* 11 (1999).

<sup>6</sup> United Nations Office of the High Commissioner for *Human Rights, Human Rights Dimensions of Poverty* (2010), <<https://www.ohchr.org/EN/Issues/Poverty/DimensionOfPoverty/Pages/Index.aspx>>.

criminal law and the judicial process. She is an independent legal researcher and a formidable intellectual whose work seeks to bridge the gap between the theory and practice of law. She is a guest lecturer in several universities, an editor of many prestigious academic journals and has been on several panels and committees constituted by the government or civil society organisations. She also tirelessly engages in issues which threaten to abridge civil liberties including the Unique Identification project of the government in which she was one of the lead petitioners. She writes regularly for several national dailies.

In this interview, we took advantage of Dr. Ramanathan's keen insight and deep understanding of the intersectionality of several issues regarding poverty and her unique approach in looking at all issues holistically and ensuring that "one looks at the law through the people and not at people through the law"<sup>7</sup> to better understand them.

**SLR:** *How do you think the political narrative around poverty has changed and do you think poverty as an issue has lost its political currency since the days of Gareebi Hatao*<sup>8</sup>?

**Dr. Usha Ramanathan (UR):** Gareebi Hatao was a political slogan which was deployed to change the constituency that was being addressed and to give morality to a state that was not very sure about its position. This was in the seventies, around the time of imposition of the Emergency.<sup>9</sup> So you will hear some narratives where poverty was looked at as the reasoning for imposition of the Emergency and that the socialist agenda that was going to play out is why they needed the Emergency.

By now, we know that this is really not an explanation at all and it was a constitutional takeover by Mrs. Gandhi at that time. However, Gareebi Hatao did, very effectively, bring to the fore many issues that we did not even know existed in our setup. For instance, it is extraordinary that the government admitted, 30 years after it had become independent, and 25 years after it had a constitution,<sup>10</sup> that bonded labour existed in our country. That is extraordinary because bonded labour is as close to slavery as you can get. So, the imperatives of that period produced certain confessions by the State which is the phenomenon that we need to recognize.

Gareebi Hatao was an explanation for the emergency but the change that happened during and post the emergency was the mobilization of many people

<sup>7</sup> This is a quote from one of Dr. Ramanathan's lectures in the course of Civil Liberties at the National Law School of India University, Bengaluru in 2018-19.

<sup>8</sup> See The Garibi Hatao Programme, <<http://indiragandhi.in/en/timeline/index/garibi-hatao-timeline>>.

<sup>9</sup> See Coomi Kapoor, *The Emergency: A Personal History* (2015) as recommended by Dr. Ramanathan.

<sup>10</sup> Art. 23, Constitution of India.

and the various kinds of movements that arose during that period. Part of the reason for the rise of those movements was that, by then, we had been independent for 25-30 years and we were seeing the power inequalities emerge again. These movements were a contestation of the extraordinary power that the independent, constitutional state was assuming to itself. So we have many democratic rights movements, civil liberties movements, women's movements and *dalit* movements coming up. These were not just economic or political movements, they recognized politics and were socio-economic movements. And within this the idea of poverty was centrally located.

In the eighties, it was a virtue to be compassionate and to care about people who were getting left out by the system. For the Court, it was also a time when they were trying to get past the Emergency and what *ADM, Jabalpur*<sup>11</sup> had done to them or what they had done to themselves through *ADM, Jabalpur*. It is important to remember that when *ADM, Jabalpur* was delivered, the Court did not know when the Emergency would be lifted and what would happen thereafter. So, it is a very significant period to study what happens to institutions when they sense a threat to the institution itself and how these institutions respond; and it is not a glorious sight. Resurrecting their reputation required them to be more inclusive. In the eighties, apart from compassion, we find that it became important to recognize and acknowledge that the country was more than those who were visible. That there were many people who were invisible to many other people who determined policy, who worked with governments and with various elements of power. This was an acknowledgement of various conditions in which people live and various people who live in those conditions. I think that is a significant moment.

What I think changed that was the nineties. It used to be called 'the human rights fatigue' where people are just tired of caring about others, and that is the tragedy of any country.<sup>12</sup> A human rights fatigue, is when you basically give up the responsibility that we have for each other. The system works for you, so you take what the system has to offer and say, "*Well, I have worked to get here, so if someone else wants to get here, they have to work too.*" It is a period when you start blaming the poor for their poverty whereas the poor are in various conditions of poverty, in many instances, because of state policy and the kind of priorities that get set which exclude them from inclusive development.

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<sup>11</sup> *ADM, Jabalpur v. Shivakant Shukla*, (1976) 2 SCC 521. For a short summary, see Chiranjeeb Prateek Mohanty, "*ADM, Jabalpur vs Shivakant Shukla* (1976) 2 SCC 521 – Case Summary", (July 12, 2018), <<https://lawtimesjournal.in/adm-jabalpur-vs-shivkant-shukla-1976-2-scc-521-case-summary/>>.

<sup>12</sup> See Geoffrey Dancy and Christopher Fariss, "The Heavens are Always Fallen: A Neo-Conservative Approach to Human Rights in Global Society", 81 *LAW & CONTEMP. PROBS.* 73 (2018).

So, while a visibilising happens in the eighties, still persons in various conditions of poverty are seen as a burden on the system. If you look at the nineties and since, one of the stark things that you can see, for instance, in urban spaces, is the demolition of slum dwellings. In a country where the poor cannot afford to be legal because legality requires a certain buying capacity, we create these tropes of legality and illegality and impose that trope of illegality on the poor. So, you see demolitions happening which results in people who are already in conditions of poverty becoming even more immiserated. And we do not take responsibility for that, we put the burden on the poor themselves.

**SLR:** *Do you see any difference in the treatment of the rural poverty versus the urban poverty? Would you say the former has been neglected?*

**UR:** There is a difference, not just between the treatment of rural and urban poverty, but even the recognition of rural and urban poverty. Urban poverty, because it is in our midst, for periods of time has been tolerated and in periods of time has been attacked (i.e. the persons in poverty and their lives have been attacked). In the eighties, the Krishna Iyer Committee Report<sup>13</sup> was drafted which said that you need to get rid of people from the streets when you have any function or any event happening in a city because they should not even be seen.

So, the idea that the poor are there to serve exists - those who do not serve are redundant and even those who serve should keep themselves out of sight. It is not a new phenomenon. What we see, however, is that over the period of time the attitudes changed. When Krishna Iyer produced his report it was seen as wrong to treat the poor like that, when the same thing happened during Commonwealth Games,<sup>14</sup> it was not even seen as wrong and that is the dulling of our moral sense. You see a dulling of morality in public life and in policy making.

As for rural poverty, there has been a pull to the city but there has also been a push from the city, partly because of neglect. One can definitely say that there has been an enormous shallowing out of our understanding of 'the rural'. It is not just of the rural poor but even of the rural life itself. We do not even know, half the time when we are making the policies, what it means for the people on the ground. Most governments, do not have information about this. When you go out and look, you find some strange phenomena which you wonder why nobody is even looking at.

<sup>13</sup> Report of the Expert Committee on Legal Aid: Procedural Justice to the People (1973).

<sup>14</sup> "Commonwealth Games Leaves 2,50,000 homeless", *The Hindu* (October 13, 2010), <<https://www.thehindu.com/news/cities/Delhi/Commonwealth-Games-leaves-250000-homeless/article15778872.ece>> (accessed April 22, 2019).

I will give you one illustration: In a poor village in Rajasthan we found that there had been four government pensioners. Because these pensioners got money, which was much more than what the others got, a certain redistribution used to happen in the system –they need things, you need things, so you go buy them – a certain amount of exchange in the process. It might be for work or it might be because you have a shop where there is somebody who has the ability to buy. It can be a range of things. When we visited them two years ago, we found that there was only one pensioner left and since government jobs have come down dramatically, there were no new pensioners who were going to emerge from there. And we were told that when this one pensioner passes on, there is going to be a dramatic fall in the amount of money that circulates in that village. There was nobody there who had a government job, which basically meant that one point of security vis-à-vis which you were going to bring into village certain resources is beginning to vanish.

So when we talk about reducing government jobs, the public sector becoming privatized, not having generation of new jobs we need to keep in mind these circumstances. Government jobs and PSUs are relevant because the kind of training that these people have does not fit many of the other agencies. When you become more and more hi-tech, when the service industry becomes big, many of them will find themselves unable to fit in. Their ability to reach the government is much greater than their ability to reach what the private sector needs.

Now these are phenomena, there are so many other instances like this – for instance, when PDS is given to everybody,<sup>15</sup> we found that some people got excluded due to the UID.<sup>16</sup> The PDS reaches everyone eligible for it and due to this, the idea of core dependency within a village has changed over the years. Now, when the state policies or practices exclude some of those people, they have to resurrect from many decades ago the idea that it is a core dependent relationship in a village. They have to revive traditions of behaviour which have been disrupted by a decent state policy. This is not to say that the state policy was bad but we need to acknowledge this because if we don't, the effect of exclusion on the rural people is extraordinary and we aren't even aware of it.

The way we learn is through statistics of various kinds – many of these people don't even reach statistics. For instance, if we collect data on those who are out of work, we need to be able to reach various places in order to be able to collect that data and to make that a part of policy. Additionally, that policy has to reach back to where you collected the data from. That 'to-ing' and

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<sup>15</sup> See K.R. Venugopal, *Deliverance from Hunger: The Public Distribution System in India* (1992).

<sup>16</sup> The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

‘fro-ing’ has come down dramatically. If we didn’t have civil society’s organization in these places and mass mobilization of people on the ground, there are many things that we wouldn’t even know about.

Think about this: there is a website now known as Land Conflict Watch<sup>17</sup> where you find that there are spots all around the country where there is conflict over land. Why is there so much conflict over land? Because the people there if they lose their land, they’ll have nowhere else to go to. Now these people who are going to lose land, also lose that area. So even people who do not own land are concerned about the kind of developments that happen. And these are not even the poorest among the rural – we don’t even know this, so we are not really seeing and understanding extreme poverty.

Since the year before last, people started dying out of starvation (now I’m told that the figure has crossed 55).<sup>18</sup> The fact that people are dying because of starvation is atrocious but we just pass by this event like it is not even to be paused at. So, we don’t pause when these things happen. That’s the problem with rural poverty – if it is not within reach and if it is not able to reach the tactile part of a human, then it doesn’t acknowledge it. That’s one of the big problems we have because I don’t know of any institution which is focusing on knowing what is actually happening in the rural area, except maybe some institutions which are working on rural studies. How can law be made without knowing the rural? I don’t know.

**SLR:** *In particular, do you see any connection between the rise of Hindutva and increasing income inequality? And do you think that Hindutva has changed the narrative?*

**UR:** I think one thing that has definitely happened with the idea of Hindutva is that the focus has shifted to nationalism. So, the duty that is being cast on everybody is to valorise the nation. The idea of democracy, especially during the 80s, was that everybody needs to be included in the sense that those being denied rights must get their rights. So, the idea of the nation, didn’t come from the nation, it came from the people. The responsibility then, was for the state to make sure that nobody got left out and it was our responsibility to make sure that inclusivity worked. It got beaten out much too fast. It still survives among many groups of people and I’m still surprised very often when I chance upon this that there are people who really care and are concerned to ensure everyone is included. However, for Hindutva, since the agenda is different, that being about the nation, people become subservient to the idea of

<sup>17</sup> <<https://www.landconflictwatch.org/>> (accessed April 22, 2019).

<sup>18</sup> “Starvation Deaths in 2018”, *The Indian Express*, available at <<https://indianexpress.com/article/opinion/columns/starvation-deaths-in-india-global-hunger-index-unicef-poverty-national-health-mission-5276194/>> (accessed April 22, 2019).

nation. I think that is making a difference and we do need to worry about it. So, for them, it is about the nation and not the people who make up the nation.

**SLR:** *Do you think the shift in conversation from poverty to inequality in recent times has made the situation better or worse?*

**UR:** Actually, the conversation on inequality is so dire that it can have very little to do with poverty except to say that many people are being left in poverty. If we look at what inequality tells us, that you are creating more and more billionaires who are usurping large chunks of whatever resources are being created or exist. The year before last, you had the figure which said that 73% of all wealth that is being created is going to 1% of the people.<sup>19</sup> So, it's no longer about poverty, poverty is far away from all of this. It is about the legitimacy of any state practice which can allow for this kind of concentration of wealth. One of Directive Principles states that you should not allow a concentration of wealth in a few hands to the common detriment. We are seeing that this kind of taking over of wealth by a few, is itself to the common detriment and there is very little doubt about that.<sup>20</sup>

Over the past 10 years a few more things have happened, for instance the idea of CSR. This is a hugely problematic issue because the company law is being changed.<sup>21</sup> Companies are now being told, that you take that 2% of your profits and plough that into social welfare activities with a list of things that these profits need to be invested in. The problem with this is, the companies are not equipped. Whether it is in the forest rights discourse where you're talking about compensatory afforestation, or where they want land and rehabilitation has to happen, they say that they don't have the ability to do it. Therefore, they ask the state do it and just pay the money. So, the first point is about competence of companies being able to do this.

The second thing is - what are the issues that people have? The problems include the takeover of land, the takeover of resources, the displacement of people. Many of the issues that people have are with the companies and to ask these companies to come and deliver those services makes no sense at all. The third, and a very significant thing, is that this is really an abdication by the State. The State is saying, "Don't give it to us as tax, we don't want to do any of this work. You keep it and you see what you can do with the people." It is in effect stating that we, the State and the people, have created this intermediate entity called the corporation which on the one hand, gets various kinds of concessions from the State, including dilution of labour laws and demands

<sup>19</sup> "Richest 1% Cornered 73% of the Wealth Generated in India: 2017 Oxfam Survey", The Wire available at <<https://thewire.in/economy/richest-1-cornered-73-wealth-generated-india-2017-oxfam-survey>> (accessed April 22, 2019).

<sup>20</sup> Art. 39(c), Constitution of India.

<sup>21</sup> S. 135, Companies Act, 2013; Companies (Corporate Social Responsibility Policy) Rules, 2014; Sch. VII, Companies Act, 2013.



for self-certification. The State does not even come and monitor the work that that is done. We know that a lot of this has resulted in issues connected with people, connected with environment and various other kinds of resources and resource conflicts. While this is happening, on the other hand, the State has said no, you deal with what the people need, whether it is education or health. This is abdication by the state, by converting something that should have been a general tax which goes across a population on the basis of what is seen as necessary for that population. It is abdication to the corporations asking them to do things by giving them a list of things to do. I think this is a serious issue which simply hasn't been even recognized sufficiently.

**SLR:** *In light of this, how do you think local movements and civil society should participate in the inequality debate and how do you think poverty as a concept should be articulated in this context?*

**UR:** Civil society is actually already there and has multiple roles to play, depending on where they are and what is happening. One of the major things that happen in the context of poverty and impoverishment is that state policy impoverishes people, not just keeps people in poverty. Poverty is not a static concept, people work to get themselves out of it and state policies sometimes push people into poverty or don't allow them to rise above it.

I mean, take a classic case of urban dwellings where slum dwellings are demolished. These are communities which would have worked to rise above where they were and want the next generation to rise above where they themselves are. After you send them to the schools and they are studying either just before exams or even at any another time you just demolish the housing and throw them out. It is not only a loss of a habitation, it is a loss of community and all that goes with it.

However, there is a way in, and civil society has been very active on many of these issues. For instance, the farmer's issues, I think the interaction and relationship that is developed between farming communities and civil society. Infact, even farming communities are emerging as a very significant civil society force. Therefore, when we say civil society, it is not just any one category, there are various ways in which people learn to engage with issues around them and with the State. That's one way of understanding civil societies and we are seeing the importance of this especially with the shallowing out of the understanding of people in our country.

With the State making policies and people contributing to their making, whether it is from NITI Aayog or the earlier planning commission or from one economic advisor, whose understanding of what is happening is limited. So, people feel like speaking and it's very important for people to speak. The point about it though is that when people speak, they need to be heard and not be

punished for speaking. It is that distinction between the importance of speaking, being heard and being responded to.

Very often there are breaks in this system. For instance, many people get picked up and put away under sedition law. We've been seeing this happen from Kudankulam<sup>22</sup> and now sedition has become about affection for the state, that's all. That's not what independent people are supposed to have. So, the speech and representation of one's own issues is especially important in a polity where the dominant policy makers seem to have a shallow understanding of what people are facing. I think this, the idea of a civil society movement is definitely very, very significant.

About how the idea of poverty should be articulated, I don't think I can say how it should be articulated, generally, because we are all learning in the process but some things have definitely come in. One, this word poverty and the poor, make it seem like these are a static community of people and we need to treat them as the poor and as people of poverty. The issue of poverty, that I think is a misconception in law and Professor Baxi had made the first move away from this in his poverty critical essays, to say that they are not a class and it is not a status.<sup>23</sup> It is a process that either keeps them there or sends them there and that process, he calls impoverishment. The understanding has developed since and we now also acknowledge that there is, for instance, a third way of looking at this which has come which we may call, induced vulnerability which also leads to impoverishment and it leads to many of the incidents of impoverishment.

For instance, when tribal communities live in proximity to the resources that they use, have those resources cut off or fenced off, you are inducing vulnerability through policy and that policies don't seem to acknowledge this. So, it's not about just private rights being handed over, our understanding of property cannot be on the basis that property is about ownership. It is about land in this country, it is not about property. In land you have resources and these resources stand between vulnerability and the people. So, when people have these resources, they are not in a dire situation because they know they're able to use these resources. Cutting them off from that resource induces vulnerability and that's the process, that then results in deepening of poverty, a deepening of poverty and of powerlessness. So, how do we think about poverty? This is one way.

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<sup>22</sup> See "8,856 'Enemies of State': An Entire Village in Tamil Nadu Lives Under Shadow of Sedition", *The Indian Express* available at <<https://indianexpress.com/article/india/india-news-india/kudankulam-nuclear-plant-protest-sedition-supreme-court-of-india-section-124a-3024655/>> (accessed April 22, 2019); Vidya Venkat, "The Story of Kudankulam: From 1988 to 2016", *The Hindu* available at <<https://www.thehindu.com/news/national/The-story-of-Kudankulam-From-1988-to-2016/article14564027.ece>> (accessed April 22, 2019).

<sup>23</sup> Upendra Baxi, *Law and Poverty: Critical Essays* [N.M. Tripathi (ed.), 1988].

There are other phenomena that we have seen emerging and becoming a part of the way we seem to conduct our lives. One is the idea of marginalization. Marginalization was recognized in the third 5-year plan.<sup>24</sup> It was not called marginalization but the plan stated that in the development project which the state had undertaken, some people were being made to pay the price. They were getting marginalized in that development project and it was acknowledged that those who were being marginalized need to be included in that development. But the idea of development has so overtaken all other imagination that you find the emergence of a larger and larger number of people and of communities who get marginalized in the process of this development and the margins have been growing. Normally when you think of the margins you think of the corners. Here you find that the marginalization is producing a new mainstream. So, that's one phenomenon.

The second is redundancy and this is a very serious phenomenon because of our focus or lack of focus on education, on health or on the kind of development model that we take. Redundancy is a serious phenomenon because it is very closely linked with the ability and the capacity to be relevant either to an economy or to a polity. You might have heard people say "oh the poor are just used as vote banks", it's one of our tragic statements. Not that they just get used when elections come along, but that they don't seem to have any other relevance to a system. We find redundancy, for instance, where projects are located and the local population is irrelevant for the project. We just want what the local population has but not the local population itself, because the kind of industry being built cannot accommodate their paucity of either skills or education.

Redundancy is also created by the system of education. A liberal education is required as the basis before you go on to any other kind of learning but the relevance of this education to anything they can do further, isn't paid enough attention to. There are a few projects - for instance, Eklavya or Agastya which are organisations working on science education- but this isn't widespread. These organisations are taking this education to the people and to different places where you understand science in the world around you, because you're living where you are.

Now with Artificial intelligence, we're being openly told that most of you are irrelevant. The State is telling us that we'll create bank accounts and put money into your account so that you'll take the money and keep quiet. So this universal basic income is actually a statement saying that we don't have use for most of the people.<sup>25</sup> We want to carry on with our development process but you are all irrelevant to it. So we will put money in your accounts so you

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<sup>24</sup> See Mr Narasimham, India's Third Five Year Plan, 9(3) Staff Papers (International Monetary Fund), pp. 381-427 (1962).

<sup>25</sup> *Supra* note 4.

can come and spend it in the markets, and we won't be accused of having left you without any provision. This idea of people becoming redundant to systems, to the state and even to the courses of development and growth, which is seen as the ambition of the state and of companies and corporate interests is a very significant phenomenon when it comes to persons in poverty.

It is very difficult for the poor to be able to create their own relevance so that they don't become redundant because whatever they stand for is under attack today. So the third thing is dispensability, which is linked with redundancy. These populations have become dispensable, so you can imagine the consequences that come with it. And the fourth thing is invisibilising. This is a phenomenon that we're seeing all the time, where you don't even see the poor. Physically, of course, you keep trying to invisibilise them. Statistically you try to invisibilise them, so that they and their problems won't get reflected very often.

What we now increasingly hear is that data is not going to be collected on the unemployed. If their data isn't collected, the problem doesn't exist. This makes it very difficult to establish that the problem does exist and it needs to be addressed. So even invisibilising, which is an act, is not something that happens, it is made to happen. That is a very significant phenomenon that we will need to address. One of the things that is attempted to be invisibilised is the idea of caste. Every day we hear about how caste plays havoc in people's lives and every day we hear somebody else, who has more clout, say that caste is not an issue in India at all.

**SLR:** *Can poverty ever be a point of mobilisation in a country like India or can it only ever be discussed in terms of caste and other identities?*

**UR:** I find this question a little odd because caste is a very significant element of poverty. They are not two distinct entities altogether. There are poor people who may be of higher caste, but what is borne as poverty by untouchables or scheduled castes (the Dalit community) is what the economic and social system produces. So I don't think we should even try to talk about poverty without acknowledging the caste basis that plays a significant role in that.

We've been talking about invisibilising and one of the things which we're reading about now, which means it has attained visibility is manual scavenging. For the longest time nobody acknowledged manual scavenging. It's been the practice for years and years and it just continues. It took the beginning of a movement and a few people who were in policy-making positions to say we need to have a law for the eradication/elimination of this practice (of manual scavenging and of dry latrines). This was in 1993.<sup>26</sup> So you have the law which

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<sup>26</sup> The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.

no one even bothers about and there is not even a step taken, to eradicate this practice. Till 2003, nothing happened.

In 2003, the community went to the Supreme Court.<sup>27</sup> If you read the history of that case,<sup>28</sup> you'll find repeatedly, that denial is the response of governments to being told that there is manual scavenging and dry latrines in your state. They say no. So you have to produce evidence to show that exists. This leads to the process of production of that evidence and the process of the mobilisation of the community, and the emergence of various icons of various types, you know Bezwada Wilson got the Magsaysay award.<sup>29</sup> So that's also a process of visibilisation, where you can't hide or say that it doesn't exist anymore.

We come to 2013 where another law gets passed,<sup>30</sup> but the Government has still not done what was needed to be done under the law. It is the movement that is pushing for any kind of action. When one reads the court proceedings, one realizes the extent of tolerance of those who do not act under the law. For instance, if the collector is supposed to act under the law and the collector does not act, there is a kind of empathetic forgiveness for a person who does not act. There is not a concomitant acknowledgement that this practice of manual scavenging is so inhumane, that if there is no urgency for it, then the legitimacy of the State power itself can be questioned.

In 2014, we have a Supreme Court judgment, which held that entering the sewer line is a part of this manual scavenging practice.<sup>31</sup> Every day we see people dying in sewer lines. It must be the worst kind of death that we send people to. This is another case where we see that invisibilisation has changed, because the community has produced visibility. However, dispensability has not changed. So it is not wrong to send a person to the sewer line, and they are likely to die, but this is what the system is.

Going back to the question, I do not think it is wise to talk about caste and poverty as two separate entities. They overlap in many cases. There is poverty beyond that which is only caused by caste, which is the economic poverty and that is what we have been talking about till now, i.e., systems which do not acknowledge the poor. I would say that in the 1960s and 1970s, we could recognise poverty visibly: when you saw a person you knew they were poor. In most tragic terms, I would say that their stomachs would be touching their backbones. This situation had disappeared for a few decades but in the past ten

<sup>27</sup> A petition was filed in the Supreme Court: *Safai Karamchari Andolan v. Union of India*, (Writ Petition No. 583 of 2003).

<sup>28</sup> See Abhishek Gupta, "Manual Scavenging: A Case of Denied Rights", *ILI L. REV.*, 37 (2016).

<sup>29</sup> "Iconic Changemaker: Bezwada Wilson", *The Hindu Business Line* (March 15, 2019) available at <<https://www.thehindubusinessline.com/blchangemakers/iconic-changemaker-bezwada-wilson/article26547294.ece>> (accessed April 22, 2019).

<sup>30</sup> The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

<sup>31</sup> *Safai Karamchari Andolan v. Union of India*, (2014) 11 SCC 224.

years, I have observed its return. We need to act now since return to extreme poverty will be cruel.

Someone once asked me about social security pension. They said, “Why are people so resistant to their idea of social security pension being given to those in economic poverty?” When somebody works in government or in an office, and are in a pension plan, they get money for not working. So if we calculate the actual number of days they work, and we look at the pension that they get; and if we compare this to a social security pensioner who just has to stay alive, we will realize just how much the latter category of people have to work in order to merely survive. They do not have any of the security that the organized sector has. But why do we grudge against it so much when we have to give it to the poor?

So the perception of who is a poor person and who does not work needs to change. When we were working on a paper on this, and I asked if we should integrate this into the system, Wilson said, “Don’t worry about this now. We will deal with it later.” I asked why, to which the response was, “Most of them don’t even live upto pensioning age.” It is stark statistics and it needs to be addressed. We need to do something. Currently, ‘poverty’ is merely another word for us.

**SLR:** *Just a follow-up on that. The way we sometimes see linguistic groups or religious groups being mobilised, do you think in that manner poverty will really be a mobiliser in this country?*

**UR:** By statutory acknowledgment, we say that a certain number of people need state support. In a country like India, if we keep people affected by poverty out of political reckoning, how long will such a state last? This is not about a particular political party but about the State. When most of the population is impoverished, it is difficult for a state to retain power, let alone gain legitimacy. I do not think that poverty is not a mobilizing factor now. It is a question of how we understand poverty. There are people who are on the margins even within poverty. For instance, persons in beggary are outcasted even amongst the poor. The only thing that can draw them in is compassion. It is extremely difficult for them to fight their own battles and it is problematic if we do not acknowledge that this is destitution, and not crime. In my opinion, in many other parts of the country, the idea of impoverishment and dispossession are already the mobilizing factors.

**SLR:** *How do you see the emergence of new social movements as opposed to labour movements and class-based division and how has it complicated the idea of poverty?*

**UR:** I think the new social movements have introduced us to various things which are relevant for a person to live as a full human being. Be it the question of identity, as in the LGBT movement, or the question of security and freedom for women, or the question of freedom and liberty as in the civil

liberties movement, or the question of transcending the idea of caste and being able to emerge as a source of their own salvation as in the Dalit movement; I think each of these is producing ways in which we have to recast ourselves and the way in which we recognize the world around us.

If you take the labour movement, it is a product of the Industrial Revolution. The power structures were those between the employer and the workers, and one had to find ways of making that relationship more equal than it would otherwise be. In this sense, the idea of the collective becomes very important. Thus, the labour movement is about the working classes getting together and organizing themselves. Because, one finds the strength in the collective, that the employer finds in capital and in State power.

There is not as much negotiation in the movement now, rather, it is more in the nature of demands of acknowledgement, recognition, and relevance. So, all the things that they have been saying now is actually asserting that they are not invisible. They are saying that here we are, these are our issues and you need to address it, we are not going to allow vulnerability to be part of our lives, we are not redundant to the system, we've got to revise the system to make us relevant, if that's what you want. So, each of those things that we were talking about earlier are being engineered by all these movements. These movements are very important for that because they are challenging the various ways in which we might let people fall out of a system. So, the dominance of dominant interest is challenged by these movements.

In this way, I see these movements as different. The other interesting thing about these movements is that some of them are about one's own issues. However, they are done by creating collectives that go beyond them. For instance, I think all of us are part of the LGBT Movement. Similarly, we all partake in the Dalit movement. However, it is important to be conscious that one can be a supporter, but cannot become a part of it. One can be an empathiser, and can do what one can to contribute to it, as is asked of one but the politics is of the Dalits. Many people who presume that leadership is their right have had to learn that leadership is not their birth right, in relation to the Dalit movement. It is a very interesting way in which we all learn to re-imagine ourselves.

**SLR:** *Has the feminist movement in India taken up the issue of poverty? How do you think they can do so and bring out the intersectionality of gender and poverty?*

**UR:** The Women's Reservation Bill<sup>32</sup> was sought to be delegitimized in multiple ways. One side of the debate is whether such a Bill should exist and whether there should be 33% reservation. However, one way in which it was

<sup>32</sup> The Constitution (108th Amendment) Bill, 2008.

sought to be delegitimized was to say that it will only be elite women who will benefit, and, that in any case, feminist politics is only about the elite. There is certainly one part of the feminist and women's movement that deals with the issues of the elite or the middle classes or the urban woman. At the same time, there is a consciousness that there are many other parts to the women's movement.

If we take where this movement started from, one of the early iconic moments was the Mathura case.<sup>33</sup> Mathura was a tribal woman. The movement was about violence and it did matter that it was Mathura because we are looking at various parts of vulnerability, and from that, we are recognising the problems that women have. So the women's movement derived its understanding of what was happening by looking at Mathura and what happened to her. That is just one aspect of it.

The feminist movement is not always cognizant of the issues of poverty. In fact, very often, it may not be but it does not exclude persons in poverty. The effect of the feminist movement has been very interesting. For instance, even a jhuggi<sup>34</sup> resettlement site, has to be given in the name of the woman. This idea did not come from anywhere other than the women's movement. Thus, the movement has all kinds of impacts. It is not as if the women in the women's movement trying to feminize the State are not aware of this.

The 33% reservation for women in Panchayats did not come from nowhere. Similarly, the conception of Self-Help groups and the women forming collectives is an extraordinary thing. The idea of focus group discussions where women speak about what is worrying them, are all a result of feminization of the State, State practices, polity, and the socio-economic scene. If we try to think in binaries and see what has the women's movement done in poverty and out of poverty, we may miss the complexity of the ways in which this spreads itself out.

**SLR:** *Similarly, how do we connect climate politics with its impact on the poor and policy and practice?*

**UR:** Environmentalism also, for the longest time, faced the criticism of it being 'elite environmentalism'. But when we look at the environmental movement and the impact that it has on the poor, we see that two kinds of things have happened. The classic case of the Borivali National Park in Bombay illustrates one of such impacts.<sup>35</sup> The environmentalists took the matter to the court, arguing that the squatter settlements inside the Park should be taken out. That resulted in violations of the rights of individuals who were already in poverty, being pushed into a further condition of poverty and exclusion. The

<sup>33</sup> *Tukaram v. State of Maharashtra*, (1979) 2 SCC 143 : AIR 1979 SC 185.

<sup>34</sup> It refers to shacks and other shelters made of temporary materials.

<sup>35</sup> See Hepzi Anthony, "SGNP Squatters' Relocation Held Up by Lack of Housing", *The Hindu* (March 14, 2017) available at <<https://www.thehindu.com/news/cities/mumbai/sgnp-squatters-relocation-held-up-by-lack-of-housing/article17458530.ece>> (accessed April 22, 2019).



environmentalists did not take responsibility for this violation of rights and were intent on ‘preserving the lung of Bombay.’

It is important that other environmentalists had pitched a battle with those environmentalists who took the matter to Court. There is no coherence in thinking that thatway about a squatter settlement inside the Borivali National Park- it was not just about having it demolished. If they did need to have the squatters moved, it should have been done in a way that was conducive to them continuing their lives too. Thus, there were two kinds of views on that. But the fact that one could use the environment as a reason to go to the Court and get the orders that one wanted tells us something about how Courts have also allowed environmentalism to be treated.

We have seen in the 1970s and 1980s, particularly the 1980s, that there were environmentalists who said that forests need to be preserved, therefore the people who are in forests need to get out of the forests. This has largely changed. It has come back in various forms in the tiger conservation discourse, but it is not accepted by most environmentalists. This is because these environmentalists see that human beings are not outside nature and if there are people who are living in different areas, it is because they have a relationship with that area. One can work with them on that relationship, but one cannot exclude them from there. Bureaucratisation of environmental resources is not the solution to the problems of environment.

The Forest Rights Act<sup>36</sup> is a classic example of how environmentalists and other civil society actors got together to see what was needed to be done in relation to forests. There is a case, which is pending in Court which sought for the Forest Rights Act to be struck down since it amounts to privatisation of land in forest areas.<sup>37</sup> Even those petitioners said, “We are not saying destroy the lives of the poor”. They felt that the forests needed to be preserved and privatisation of forest lands was not the answer. There are people working for forest rights who are of the opinion that giving forest dwellers private plots of land may not be the answer. This is because it will produce the vulnerabilities that we were talking about earlier.

Thus, we need other conceptions of rights and relationships but we have not developed them yet. In the meantime, this is a measure to stem the tendency to push people away without even acknowledging their existence. However, we need to brainstorm about land, resources, and the relationship between people and these resources. The fact that environment is something that various groups of population care about and depend upon, is something that we have not acknowledged sufficiently yet.

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<sup>36</sup> The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

<sup>37</sup> *Wildlife First v. Ministry of Forest and Environment*, Writ Petition (Civil) No. 109 of 2008 (SC) (Pending).

**SLR:** *Finally, on the Aadhar, most of the opposition has been around the privacy aspect or the inconveniences in its implementation. How have the poor in India been affected by the UID project?*

**UR:** At the outset, I want to say that the UID case is not just about privacy. Privacy is one of the elements but there are a range of issues in it. Data-basing has become something that the technology world wants since data is the new oil, as they say. When we talk of artificial intelligence, its creation needs huge amount of data that can be relied upon. It is only because the State argued that privacy is not a fundamental right of the people, it became the predominant issue in the Aadhar case, and not because there were no other issues. For instance, companies that are close to the CIA or to the French Government have been allowed to hold data by UIDAI, which is a national security issue.

When we talk about privacy now, we are talking about the ways in which data can be manipulated, and profiling can be done as well as the ways in which our data can be used completely beyond our control. So, the debate around UIDAI should not be narrowed down to only privacy. The tragedy for the poor has been multi-fold. Firstly, the project was shot from the shoulders of the poor - by portraying this as a project for the poor, to give them an identity but when the identity started failing them, they had no remedy. What is the remedy that is offered now? If it fails as one's identity, then some local authority will step in and ensure that one receives their entitlement. However, one's identity is already lost if your biometric does not work and one then has to rely upon a person who does it at their discretion.

The basic premise of the Aadhar scheme is that it will give each person an identity. This is under question today because of the use of biometrics. It is also important to note that biometrics has been imposed on the poor in the first place as if they want the support of the state they have to use biometrics. If it does not authenticate through biometrics and fails it is not the system's responsibility but is a further burden on the poor.

One of the tragedies of the Supreme Court's majority judgment is that there is just a paragraph addressing the various reports put together by civil society actors about the ill effects of Aadhar.<sup>38</sup> The judgement just stated that the Government denied the content of these reports and it could not do anything about it. But what did these reports say? They said that people had died either because they had not been able to get an Aadhar. Alternatively, in most of the cases they had been able to generate a UID for themselves and had an Aadhar card, but they were not able to link it or their biometrics did not work, and therefore, they could not get their entitlement. In such a situation, it is a terrible tragedy for the Supreme Court to say that it cannot do anything because one is arguing for it and the other is denying it.

<sup>38</sup> See *K.S. Puttaswamy v. Union of India*, (2019) 1 SCC 1.

The third thing is that all these exclusions have been put into a general treasure house of savings which is emerging for the state. In Jharkhand, where the first death happened of an eleven-year old child, it was found that his family did have a UID number and had been enrolled but was not able to link it. So they got excluded. They would have been included in the list of savings that the State has made. It is, of course, not just that one family. At that point in time, it was being said that 11.5 lakh ration cards had been struck off in Jharkhand,<sup>39</sup> which means that about 50 lakh people had been struck off the rolls, because they had not linked their UID number. Not linking your UID number meant that you were fake. There was no investigation into why that linking did not happen. So, the idea that you can exclude the poor and use that to legitimise State practice is another of the big tragedies in this case.

The fourth thing that is really tragic in this case is that the judgment in effect said that we have two classes of people in this country. We have those who are reliant on State support and those who are not reliant on State support. For those who are reliant on State support for food or for health, they have to be in the Aadhar system and they can be mandated to use the system. Others can opt in or out of it. Indeed, they have also said that for the purposes of income tax and PAN card, one has to be on the system. However, the way in which the Court has said it, they have in effect said that the poor do not need privacy.

The poor need dignity, and for the poor, dignity is about getting their food and socio-economic rights. The Court has decided that the poor do not need the privacy that other classes may need. The Court has also decided that for the poor, dignity is only about getting basic needs. This is an assault on the dignity of the poor. In the dissenting judgement of Justice Chandrachud, he specifically takes the case of manual scavengers and says that privacy is about not allowing that identity to perpetuate.<sup>40</sup> If the State is going to insist on linking Aadhar number to everything, the manual scavengers will never be able to get out of that identity. The majority judgement was not aware of this. It is a tragedy of that judgement in relation to how it has considered persons in various conditions of poverty. It really brings back *Animal Farm*, to say that “*all people are equal but some are more equal than others*”.<sup>41</sup>

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<sup>39</sup> Usha Ramanathan, “UID is About Data for Surveillance, Profit, Not Serving Citizens”, *Deccan Herald* (December 9, 2017) available at <<https://www.deccanherald.com/content/647321/uid-data-surveillance-profit-not.html>> (accessed April 22, 2019).

<sup>40</sup> *Supra* note 38.

<sup>41</sup> George Orwell, *Animal Farm* (1945).