SIVARAJAVEL IAS ACADEMY
AN IDEAL INSTITUTE FOR CIVIL SERVICE EXAMS

# THE SOCIAL FACT

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## SELF AND IDENTITY

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Sivarajavel IAS Academy 's

THE SOCIAL FACT

is a monthly bulletin for sociology current affairs which tries to give aspirants a new dimensions in their sociology preparations. The Magazine has been designed in such away that the reading experience is enriching and insightful for the readers.

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INSIDE THIS SOCIOLOCIAL BULLETIN

**Connecting the dots :**
Sociology is a process in making. Everyday newspapers and weekly have many important news, which have sociological angle in subtle form. This chapter helps you to connect those dots and give a clear picture of the reality.

**Beyond Basics :**
Going beyond basics in studies for examinations is crucial to foster a deeper understanding of the subject matter, enabling more comprehensive and critical thinking. It allows students to tackle complex questions with confidence and adapt to evolving exam formats.

**Perspectives :**
Beauty of Sociology, as a social science, is its capacity to offer different perspectives of a same topic. This chapter analyses a current topic with an unique social perspectives.

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# CONNECTING THE DOTS

- *An all-woman shift starts at Tata Steel's iron ore mine. This initiative, India's first, underscores the company's unwavering commitment to creating an equitable workplace and empowering women in traditionally male-dominated industries," the company said in a statement. :* ***The all-woman shift at Tata Steel's mine signifies breaking gendered occupational roles, aligning with Harriet Martineau's focus on gender equity in industrial spaces. It reflects structural changes promoting inclusivity and women's empowerment in traditionally patriarchal domains.***

- *The Information & Broadcasting Ministry has issued an advisory cautioning OTT platforms against streaming content "inadvertently promoting, glamorising, or glorifying" the use of drugs, stating that any violation of the related guidelines might result in further regulatory scrutiny :* ***The advisory aligns with Émile Durkheim's theory of moral regulation, emphasizing the role of institutions in maintaining collective conscience. It reflects society's concerns about media's influence on shaping behavior and normalizing deviance, highlighting the need for responsible content creation in digital spaces.***

- *Puvarti, a Maoist violence-affected village in Chhattisgarh's Sukma district, received TV sets under a govt. initiative; children, women, and the elderly watched programmes for hours, says Collector:* ***The introduction of TV sets in Puvarti reflects Antonio Gramsci's concept of cultural hegemony, where media serves as a tool for ideological integration and countering alienation in marginalized regions. It symbolizes the state's effort to use technology for social cohesion and awareness in a conflict-affected area.***

- *Women will get monthly assistance of ₹2,500 under Mai-Behan Maan Yojana if party is voted to power next year: ex-deputy CM Tejashwi Yadav; pledges scheme within a month of govt. formation. BJP also promised similar kind of scheme in Delhi. DMK is doing it in TamilNadu :* ***The proposed scheme reflects Amartya Sen's capability approach, emphasizing empowerment by enhancing women's economic freedom. Such welfare initiatives also align with Feminist Theory, addressing structural inequalities and aiming to reduce gender disparity by fostering financial autonomy for women in patriarchal societies.***

- *Taliban ban on women's medical training threatens Afghan health sector. doctor Najmussama Shefajo predicts a rise in maternal mortality rates "within three or four years", following the latest restrictions on women's education:* ***The Taliban's ban exemplifies Patriarchy Theory, highlighting how gender-based restrictions perpetuate systemic oppression and limit women's agency. It also aligns with Pierre Bourdieu's concept of symbolic violence, where cultural norms legitimize inequality. The ban threatens societal well-being by curbing women's contributions to vital sectors like healthcare, intensifying structural inequities.***

- *From plastic surgery clinics to tour firms and hotel chains, South Korea's hospitality sector is wary of the potential impact of a protracted political crisis, as some overseas travellers cancel trips following last week's brief martial law :* ***From Ralf Dahrendorf's perspective, the political crisis in South Korea highlights the role of authority in shaping social structures and disrupting economic stability. Authority, concentrated in political institutions, influences societal functions such as tourism and hospitality. The martial law episode reveals how power conflicts, rather than economic determinism, can destabilize societal order and create uncertainty in interconnected sectors.***

- *ILO has recommended the governments to uphold fundamental principles and rights at work, especially freedom of association and the effective recognition of the right to collective bargaining. It found that countries' compliance with freedom of association and the effective recognition of the right to collective bargaining had deteriorated by 7% between 2015 and 2022 :* ***Marxism says that rather than protecting workers' rights, bureaucracy often enforces policies that suppress labor movements, ensuring capital accumulation for the ruling class. This aligns with Marx's view that the state, under the guise of welfare, perpetuates class domination and maintains capitalist exploitation.***

- *The Supreme Court on Wednesday vowed to go to "any extent possible" to ensure that manual scavenging and hazardous manual cleaning of sewers and septic tanks are wiped out, saying the issue dealt with the question of human dignity :* ***The Supreme Court's stance reflects Ambedkar's critique of caste-based oppression, where manual scavenging symbolizes structural inequality and dehumanization. It also aligns with Goffman's concept of stigma, as such practices perpetuate social exclusion and deny human dignity, highlighting the need for systemic reform to achieve equality and justice.***

- *A German property developer has sparked outrage with a plan to turn a Second World War tunnel system into a luxury bunker for rich survivalists who fear the outbreak of another 'world war :* ***The plan reflects Thorstein Veblen's theory of conspicuous consumption, where wealth is displayed even in survival scenarios, exacerbating class divides. It also aligns with Bauman's concept of liquid modernity, as the wealthy prioritize individual security over collective well-being, highlighting societal fragmentation and growing inequality.***

- *Close to 200 people were killed in brutal weekend violence in Haiti's capital, the United Nations said on Monday, with reports that a gang boss orchestrated the slaughter of voodoo practitioners. The killings were overseen by a "powerful gang leader" convinced that his son's illness was caused by followers of the religion, according to civil organisation the Committee for Peace and Development (CPD) :* ***The incident reflects Durkheim's view of religion as a source of collective consciousness, where misinterpretations can foster division rather than solidarity. It also aligns with Max Weber's analysis of theodicy, as the gang leader's belief in supernatural causation for suffering highlights how religion can be misused to justify violence, undermining its role in social cohesion.***

# BEYOND BASICS

## G.H. MEAD'S THEORY OF SELF AND IDENTITY

***"Why should we go beyond the basics?"***

G.H. Mead's theory of self and identity is foundational to understanding how individuals develop through social interaction and reflexivity. While extensive material exists on this subject, concise and lucid explanations are surprisingly rare. This version seeks to fill that gap, providing a clear and structured overview of Mead's revolutionary ideas.

From an exam perspective, understanding Mead's theory equips students with powerful analytical tools to address questions on symbolic interactionism, socialization, and human behavior. By mastering these ideas, students gain a unique ability to critically analyze complex sociological processes while appreciating the dynamic interplay between individual agency and social structure. This version ensures a concise, exam-oriented approach, helping students navigate intricacies of Mead's work with confidence.

George Herbert Mead (1863–1931) was an influential American philosopher, sociologist, and psychologist. He is best known for his work on symbolic interactionism, a perspective in sociology that emphasizes the importance of symbols and social interactions in shaping human behavior. Mead's contributions focus on understanding how the self emerges and evolves within the context of social interactions. His seminal work, Mind, Self, and Society (published posthumously), remains a cornerstone in sociological theory.

***Why is Mead's Theory of Self and Identity Important in Sociology?***

Mead's theory of self and identity is pivotal because it provides a framework for understanding how individuals develop their sense of self through social interactions. Unlike earlier perspectives that viewed the self as fixed or biologically determined, Mead introduced the idea that the self is a social construct. His work bridges individual psychology and societal structures, offering insights into how personal identities are shaped by larger social forces.

***This theory is foundational for understanding:***

1. Socialization – How individuals learn societal norms and values.
2. Role-taking – How individuals empathize with others by imagining themselves in their position.
3. Identity Formation – How interactions with others create and reinforce a sense of self.
4. Agency within Structure – How individuals navigate societal expectations while maintaining personal agency.

***Why Did Mead Choose This Concept?***

Mead's focus on self and identity stemmed from his interest in understanding human behavior from a social perspective. He was influenced by pragmatism, a philosophical tradition emphasizing the practical implications of ideas, and the works of Charles Darwin, William James, and John Dewey. Mead believed that the self could not be understood in isolation from society and that human beings are shaped by their interactions within a social environment.

His emphasis on self and identity was a response to the growing need in sociology to explore micro-level processes, such as everyday interactions, as opposed to macro-level theories like those of Marx or Durkheim.

***Detailed Analysis of the Concept***

1. Let's expand the Detailed Analysis of the Concept to add depth and reach your desired word count:

***1. The Self as a Social Process***

Mead emphasized that the self is not biologically pre-determined or isolated but emerges from a dynamic social process. Unlike earlier philosophical views that treated the self as inherent or static, Mead posited that the self is constructed through interactions with others. This idea situates human development firmly within social environments, making interpersonal relationships the foundation of identity.

Mead argued that individuals learn to see themselves through the eyes of others, a concept he called "reflexivity." Reflexivity allows people to evaluate their behavior, adjust to social norms, and integrate into society. This process, according to Mead, creates a feedback loop: as individuals act and observe others' reactions, they develop a deeper understanding of who they are and how society perceives them.

In Mead's view, society plays a dual role: it constrains individual actions by imposing norms and expectations, but it also enables personal growth by offering a platform for individuals to learn and express themselves. For instance, a child learning societal rules in a classroom is simultaneously internalizing social values and expressing their unique personality within these boundaries.

***2. Stages of Self-Development***

Mead's concept of self-development offers a sequential understanding of how individuals grow into social beings.

***The Preparatory Stage:***

During infancy, children imitate those around them without understanding the social meanings behind their actions. For example, a baby clapping its hands after seeing an adult do so lacks any comprehension of why this action may carry significance. This stage lays the groundwork for socialization as children begin to observe and replicate behaviors.

***The Play Stage:***

In this stage, children engage in role-playing and start to understand the perspectives of significant others, such as parents, teachers, or siblings. For instance, a child pretending to be a teacher demonstrates their growing ability to imagine and enact another person's role. This ability to "take the role of the other" fosters empathy and prepares children for more complex social interactions.

***The Game Stage:***

This stage marks a crucial development in socialization. Children learn to participate in organized activities that require understanding the roles and expectations of multiple individuals simultaneously. For example, in a game of soccer, a child must consider not only their own position but also how their actions affect teammates and opponents. Through such activities, children internalize the "generalized other," a collective awareness of societal norms and values.

The stages of self-development illustrate the gradual transition from individualistic, self-centered perspectives to a socially integrated understanding of the world. This process underscores Mead's belief that the self is inherently social and relational.

***3. The "I" and the "Me"***

One of Mead's most significant contributions is his distinction between the "I" and the "Me."

**The "I":**

The "I" represents the spontaneous, creative, and individualistic aspect of the self. It embodies personal agency and originality, driving innovation and individuality in human behavior. For instance, when an artist paints a mural in an unconventional style, they are expressing the "I."

**The "Me":**

The "Me" reflects the internalized expectations of society, acting as the socialized aspect of the self. It ensures that individuals conform to norms and maintain order within social contexts. For example, a person choosing formal attire for a job interview demonstrates the influence of the "Me."

The interplay between the "I" and the "Me" creates a balance between individuality and social conformity. This dynamic interaction ensures that while individuals contribute unique perspectives to society, they also adhere to collective norms, facilitating social cohesion.

***4. The Role of Symbols in Communication***

Language and symbols are central to Mead's theory, as they enable individuals to share meanings and develop common understandings. For Mead, communication is not merely an exchange of information but a fundamental process through which society is created and maintained.

***Significant Symbols:***

Mead defined significant symbols as gestures or words that evoke the same meaning in both the sender and receiver. For example, a handshake signifies greeting or agreement across many cultures.

***Role of Language:***

Language allows individuals to engage in complex forms of symbolic interaction, making it the primary medium for developing the self. Through conversations, individuals learn societal norms, express their thoughts, and negotiate identities. For instance, when a teenager uses slang with peers but formal language with elders, they are navigating different social identities through linguistic cues.

***Mind as an Internal Conversation:***

Mead argued that the mind itself is a product of social interactions. He described thinking as an internalized conversation between the "I" and the "Me," allowing individuals to evaluate their actions and anticipate the consequences. This process enables self-regulation and the alignment of personal behavior with societal expectations.

***5. Socialization and Identity Formation***

Mead's work provides a comprehensive framework for understanding socialization—the process through which individuals learn and internalize societal norms, values, and roles.

***Family as the First Agent:***

In early childhood, family members serve as significant others, shaping the child's initial sense of self. Parental expectations, sibling interactions, and cultural traditions all contribute to identity formation during this stage.

***Peers and Educational Institutions:***

As individuals grow, peer groups and schools become critical agents of socialization. Peer interactions teach individuals to navigate social hierarchies, while educational institutions reinforce societal norms and expectations.

***Media and Technology:***

In contemporary society, digital media plays a significant role in shaping identity. Social networking platforms allow individuals to perform and negotiate their identities in virtual spaces, exemplifying Mead's idea of the generalized other in a globalized context.

***6. The Generalized Other and Society***

The concept of the "generalized other" is central to Mead's theory, as it represents an individual's awareness of societal norms and expectations. This awareness enables individuals to act in socially acceptable ways, even in the absence of direct supervision.

For example, a person refraining from littering in a public park does so not because of immediate consequences but because they recognize it as a violation of societal values. The generalized other serves as a moral compass, guiding behavior in alignment with collective expectations.

***Critiques of Mead's Theory***

***1. Neglect of Power and Inequality:*** Critics argue that Mead's theory underemphasizes how power dynamics and structural inequalities influence identity formation. For example, gender, race, and class are critical aspects of identity that Mead did not thoroughly address.

***2. Overemphasis on Social Determinism:*** While Mead highlights the social nature of the self, some critics contend that his theory downplays individual agency and the capacity to resist societal pressures.

***3. Limited Empirical Application:*** Mead's abstract theorization lacks direct empirical evidence, which some sociologists find limiting for practical application.

***4. Simplification of the "Generalized Other":*** Mead's concept of the generalized other assumes a cohesive society with shared norms, which may not apply in diverse or fragmented societies.

***Contemporary Relevance of Mead's Theory:***

Despite critiques, Mead's theory remains highly relevant in modern sociology and psychology.

***1. Social Media and Identity***

In the digital age, Mead's concepts of self and identity are useful for understanding how individuals curate online personas. Platforms like Instagram or Twitter enable users to perform and negotiate their "I" and "Me" in a virtual context, often interacting with a "generalized other" shaped by global norms.

***2. Intersectionality***

Modern adaptations of Mead's theory incorporate insights from intersectionality, examining how multiple social identities (e.g., race, gender, class) interact and influence self-perception and social interaction.

***3. Mental Health and Therapy***

Therapeutic practices often draw on Mead's ideas by encouraging individuals to explore how societal expectations and interpersonal relationships shape their self-concept.

***4. Education and Socialization***

Mead's theory underpins many educational models that emphasize collaborative learning and the development of social skills through interaction.

***5. Cultural Shifts***

In increasingly globalized societies, Mead's emphasis on the generalized other helps explain how individuals adapt their identities to multicultural environments, balancing local norms with global influences.

George Herbert Mead's theory of self and identity is a cornerstone of symbolic interactionism and remains a vital framework for understanding human behavior in a social context. By emphasizing the interplay between individual agency and societal structures, Mead's work bridges the micro and macro aspects of sociology. While critiques highlight limitations in addressing power dynamics and diversity, contemporary adaptations ensure its continued relevance in a rapidly changing world. As societies evolve, so too does the application of Mead's ideas, providing enduring insights into the complexities of selfhood and social life.

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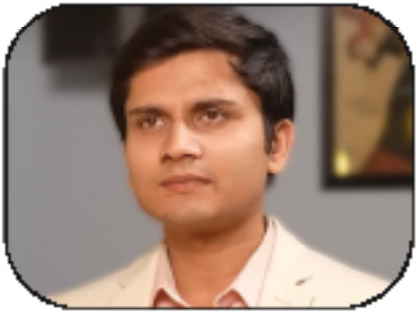

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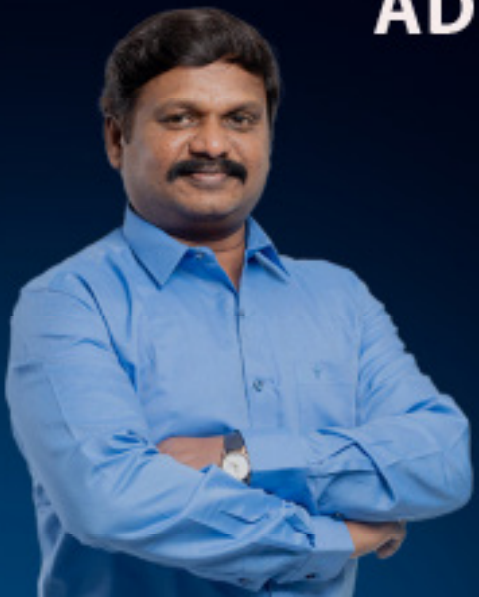

# TRANSNATIONAL FEMINIST SOLIDARITY IN A POSTCOLONIAL WORLD

This piece is an attempt to think through some of the ways in which feminists in the Global South, during the period of decolonisation, thought about difference and hierarchy, and how they imagined solidarity despite—and through—these realities. This is part of a larger project that looks at transnational feminist connections and disconnections during the moment of decolonisation in the twentieth century. I touch on moments of both disconnection and connection to show how postcolonial feminists articulated solidarity and how they negotiated coming together as well as understanding the complicated notion of identity and representation within movements that they highlight. I posit that many of the feminists I look at in this article understood feminist solidarity as possible only on the basis of certain shared assumptions about the world and how it works; a certain world-view that is anti-capitalist, anti-racist, anti-imperial and anti-patriarchal. Perhaps this is unsurprising, given the historical moment during which these connections and disconnections emerged; decolonisation was indeed a moment of radical rethinking and restructuring.

Today, faced with an intensifying capitalist, white supremacist, and patriarchal crisis, I wonder if this call to create solidarity through such political positionalities is more urgent than ever. We come together not because we may identity as women; rather, we come together because we believe that we can only be free and live better lives with the end of capitalism, white supremacy, Western empire, and patriarchy. As Mohanty and M. Jacqui Alexander write in their book Feminist Genealogies, Colonial Legacies, Democratic Futures, transnational means:

A way of thinking about women in similar contexts across the world, in different geographical spaces, rather than as all women across the world; an understanding of a set of unequal relationships among and between peoples; and taking critical antiracist, anticapitalist positions that would make feminist solidarity work possible.

The first moment I want to touch on is one of disconnection. This moment took place in Copenhagen in 1939, at the International Alliance of Women conference. This conference is notable because it marked a breaking point—or disconnect—in relations between Western and feminists of the Global South. There had been growing tensions within international feminist spaces, particularly around the devastating effects of European colonialism. Given the colonial context during which many of the early feminist debates began, women from colonised countries clearly articulated gender equality as tied to national liberation. In other words, they refused to separate the question of national independence from the question of gender equality—as many Western feminists insisted on doing. This soon produced confrontations between African, Asian, and Middle Eastern feminists on the one hand, and Western feminists on the other. The crux of these confrontations concerned the refusal of Western feminists to take seriously the problem of colonial rule that their own governments were invested in.

Much of my research has focused on Egypt, and through this I have come across fascinating archival material on how Egyptian feminists responded to confrontations in these spaces, including the conference in Copenhagen in 1939. It was this conference in particular that revealed to Egyptian feminists the myth of a global sisterhood, and a common thread is the accusation Egyptian feminists levelled at Western feminists of not upholding the democratic and equal principles they constantly spoke of. Egyptian feminists pointed out, for example, that countries such as Britain were never criticised for colonial rule or the giving away of Palestine, whereas countries deemed ***"undemocratic"*** such as Egypt were constantly criticised. There was a particular moment during which there was an explosive confrontation surrounding the myth of a "global sisterhood," pushing Egyptian feminist Huda Sha'arawi to state: "It had become

necessary to create an Eastern feminist union as a structure within which to consolidate our forces and help us to have an impact upon the women of the world."

These contradictions led feminists from the Global South to turn towards other African and Asian feminists to create separate conferences that focused on issues affecting colonised nations. The reluctance of Western feminists to speak out against the Balfour Declaration and the subsequent colonisation of Palestine was the final straw for many, who did not see a separation between gender justice and national liberation. In an instance of colonisation, they saw feminism's role as one of resistance; feminists were supposed to challenge all forms of oppression, rather than focus on gender as though it was neatly separable form other forms of oppression. Alongside this was the obvious problem of Western feminist support for these very colonial projects. We see that for women supporting colonial projects, colonised women simply were not deserving women. The category of ***"woman"*** has always been an already-racialized category that is far from universal, even as it was claimed to be so. This brings to mind our current moment, where again we see resistance from feminists in the Global North to take seriously colonisation in Palestine.

This shared analysis of imperialism connected women across different geographical and cultural spaces, and provided a means through which solidarity could be created. As Elisabeth Armstrong has written: ***"Fostered by the shared analysis of imperialism, women from newly independent and still colonised nations in Asia and North Africa honed what I call a solidarity of commonality for women's shared human rights, and a solidarity of complicity that took imbalances of power between women and the world into account."***

Similarly, Antoinette Burton has written that these conferences made visible the refusal by women in Asia and Africa to be dismissed or seen as developmentally backward in its demands, or mobilised without consultation into a Western-dominate feminist agenda. Solidarity then, is not about identification with gender, but about a shared belief in what freedom means and how to bring it about.

The growing momentum around transnational and anti-colonial feminist solidarity was heightened by the Afro-Asian Conference at Bandung in 1955. Laura Bier writes, "As new alliances were forged in the international arena, groups of women activists, writers, students, and politicians circulated within the milieu of international conferences, visiting delegations, summits, and committee meetings. The resulting exchanges and networks were part of what made possible the sorts of imaginings that overflowed the boundaries of the nation state." Throughout all of these meetings, the central articulation was around postcolonial agency and the importance of feminists in the Global South to speak on their own terms. Even before this meeting, however, feminists such as Amy Ashwood Garvey and Claudia Jones were engaging in internationalist activism around imperialism and gender.

Other conferences where women from across Africa and the rest of the Global South came together to discuss imperialism, capitalism, and gender include the 1947 Conference for the Women of Asia, held with the explicit aim of ***"opening a new chapter for Asian and also African internationalist leadership."***

The conference was held in Beijing, and was one of the first international events organised by the Chinese Communist Party, including 367 women from 37 countries. It became clear from the conference that what connected women from across Asia and Africa was anti-imperialism, mass-based organising, a membership dominated by rural women, and anti-capitalism. Conference reports such as the one based on this one entitled The Women of Asia and Africa, emphasised the shared struggles women in both continents faced.

One fascinating point that was raised by women at this conference was the need to hold both their own states as well as imperial states to account. Indian feminist Jai Kishore Handoo, for example, led a campaign against the use of Indian troops to put down the independence movement in Indonesia, and a Vietnamese delegate appealed to African delegates at the conference to protest against Algerian, Tunisian, Senegalese and Moroccan soldiers being taken to Vietnam to "fight against a brother people, against whom they have no reason whatsoever to fight." What created solidarity, therefore, was a shared

commitment to fighting against imperial oppression, both at home and abroad. This is important to highlight today, where we face an increasing need for both external critiques of the Global North as well as autocritiques that hold postcolonial states and elites accountable for political, economic and social violence. Across the Global South today we see movements pushing back against both imperialism and local dictatorship, seeing the two as connected.

An example of this double critique, aimed at both Western feminism as well as at postcolonial states, was the focus on social reproduction, which posed a question to such states as to whether they were taking the gendered consequences of state-led capitalism seriously. In an incisive piece, Mai Taha reads debates Egyptian feminists had through the concept of the ***"social factory."***

She argues that projects such as Gamal Abdel Nasser's centered the factory and industrialization in the development of the modern Egyptian nation state while deflecting the question of social reproduction, largely being carried out by women. Some feminist debates, therefore, centered around this displacement, and argued for a postcolonial state formation that took seriously social welfare and social reproductive benefits. Similarly, Amy Ashwood Garvey addressed the Pan-African Congress in Manchester in 1945, focusing on the position of the Black woman and the postcolonial state:

In Jamaica, the labouring class of women who work in the fields, take goods to the market, and so on, receive much less pay for the same work than the men do…the Negro men of Jamaica are largely responsible for this, as they do little to help the women to get improved wages.

This double critique was central to the ways in which African, Asian and women of African descent imagined decolonisation. Decolonisation was never simply about men from these countries taking over political power; it was about liberation for both men and women.

These moments of disconnect (between Western feminists and feminists from the Global South) and connection (between feminists across the colonised and postcolonial world) highlight both the tensions and possibilities inherent in transnational solidarity. Above all, it suggests that the conditions for creating a truly transnational form of feminist solidarity based on anti-imperialism and anti-capitalism existed from the 1950s to the 1970s, and that this was very much based on a shared analysis and understanding of oppression and, by extension, liberation. This article has also tried to show that differences among women can be engaged productively. This matters for debates around representation because it centers questions of imagined futures rather than identity. Solidarity is about difficult conversations and unearthing uneven power relations; this is the political work that has to be done before feminists can act together. Transnational feminism allowed feminists to counter the simplistic notion of a universal sisterhood by pointing to the multiple divisions that separate women from one another while at the same time not seeing these divisions as barriers to solidarity. The way we understand the problems of our world affects the way we imagine liberation beyond them. This has, and continues to be, a crucial site of solidarity, internationalism, and hope.

This piece draws from the author's research commissioned by Post-Colonialisms Today, a research and advocacy project which recovers progressive post-independence alternatives for contemporary challenges. The project reserves prior rights to publish this research, including in a full paper which is forthcoming in an edited collection.

# THE KNOTTY PROMISE OF SECTION 69

As India enforces the Bharatiya Nyaya Sanhita, the new set of criminal laws that replace the Indian Penal Code, Section 69 faces questioning from legal eyes for its gender bias, potential misuse, and implications on modern relationships, finds Soibam Rocky Singh On July 31, a 25-year-old woman from Ramgarh, Jharkhand,filed an FIR accusinga man of engaging in a sexual relationship with her under the pretence of marriage. The woman claimedin her FIR that the man, 26, who she had known from college, had come home on multiple occasions and expressed the wish to marry her. In one instance, he allegedly told her mother explicitly not to consider any marriage proposals for her, as he intended to marry her himself.

The woman statedin her first information report (FIR) that she was introduced to his mother, who allegedly supported their union. She claimed that the man and his mother ***"backtracked on their commitments".*** She was therefore filing a case under Section 69 of the Bharatiya Nyaya Sanhita (BNS), the new set of criminal laws that replaces the colonial-era Indian Penal Code (IPC). While the trial is still pending, the man was granted bail by a local court in October.

Section 69 of the BNS, criminalises ***"sexual intercourse by employing deceitful means"*** and cites the ***"promise to marry…a woman without any intention of fulfilling the same",*** as grounds for imprisonment up to 10 years and the possibility of a fine. While it is not treated as rape, it is considered ***"inducement"*** and also applies to ***"false promise of employment or promotion, or marrying by suppressing identity".***

There are several cases in court that use Section 69 in their FIRs, opening the doors to public and legal discourse around it. Before the BNS came into being, up to 40% of all rape case allegations pertained to 'friend,' 'live in partners on pretext of marriage,' and 'separated husband', going by National Crime Records

Bureau (NCRB) data between 2016 and 2022. On December 5, the Gauhati High Court granted bail to a man after he was arrested when a woman claimed that she and the man had been in a relationship for nine years, during which period, they engaged in physical relationship regularly. The man also allegedly promised her to marry. However, she found out that he had become engaged to another women. When she asked for an explanation, the man allegedly cited parental pressure to marry the woman.

***"It is a settled position of law that a simple promise to marry without anything more does not give rise to the concept of misconception of fact. Therefore, under the given circumstances, the petitioner does not deserve to be detained in custody,"*** the High Court said.

**Based on the past**

Prior to the enactment of the BNS, such cases were registered under Section 376(2)(n) (commits rape repeatedly on the same woman) along with Section 90 (consent known to be given under fear or misconception), says Advocate K.S. Nanda, who represented the accused man in Jharkhand. Effectively, the two IPC Sections now form the base of Section 69.

Ravi Kant, advocate and country head of the Access to Justice Project, an international non-profit offering pro bono services, explains the difference between the previous law under IPC and the new provision in the BNS. ***"This is a new offence because they have used words such as 'deceitful means', 'inducement', 'false promise'. This is not rape,"*** he clarifies. Section 69 comes within Chapter 5 of the BNS: ***'Of Offences Against Woman and Child',*** under ***"sexual offences".*** The need for this Section, says Kant, was ***"because such cases were reported a lot in the courts during the IPC time".***

Another difference is that earlier, if a relationship lasted several years, and the woman claimed she was cheated on the pretext of marriage, the court typically dismissed such cases, he says. ***"It was reasoned that a long-term relationship implied mutual consent and understanding, making fraud difficult to substantiate."*** Now, even if the relationship is consensual, it is treated as an offence because it is taken as a false promise or a deception.

**Gender biased**

Deepika Narayan Bhardwaj, a journalist, filmmaker, and activist, calls the new law "inherently gender biased and discriminative" with the law suggesting that women do not have agency in decisions around sexual matters. On January 10 this year, she had started an online petition on Change.org to repeal Section 69 of the BNS, which has since garnered over 60,000 signatures.

Her contention in the petition is that ***"a consensual sexual relationship made on promise of marriage will be a crime only if a man reneges from it and not a woman".***

The petition also talks about the power equation, where **"*the law presumes a woman cannot be in position of power to induce a man into sex by false promise of job or promotion". She called the law "extremely regressive*"** and also said it ***"completely discards the concept of will and consent"*** around sexual matters. Since Section 69 is a recent addition, Bhardwaj uses past data recorded under Section 376 (rape) for context and comparison. Until 2015, the NCRB that compiles a yearly compendium of crimes across India in 'Offenders Relation to Victims of Rape' category under the 'Crime Against Women' chapter, the relationship between the accused and the survivor in rape cases was broadly categorised as a 'family member', 'neighbour', or 'stranger'. However, the growing number of cases involving 'false promises of marriage' led the NCRB to refine its classifications. In 2016, specific subcategories were introduced under the 'Offenders Relation to Victims of Rape', including 'friend', 'live in partners on pretext of marriage', and 'separated husband'.

NCRB data further reveals that the average conviction rate for all rape cases between 2016 and 2022 stood at 29.71%. However, the data does not include a sub-classification of conviction rates under the 'Offenders Relation to Victims of Rape' category. This makes it challenging to determine conviction trends specific to cases involving false promises of marriage or similar allegations.

**Parliamentary report**

The report no. 246 of the Rajya Sabha on the BNS, released by the Department-related Parliamentary Standing Committee on Home Affairs on November 12 last year, six months before the BNS came into force, had cautioned against reinforcing gender stereotypes. According to the report, it was difficult to prove whether a promise to marry had actually been made. It also said ***"intentions can change over time",*** alluding to the very nature of relationships.

The report stated that ***"criminalising a promise to marry"*** can intrude into an individual's right to privacy and autonomy. It said that ***"defining what constitutes a legally binding promise to marry can be vague and open to interpretation",*** which could lead to ***"inconsistencies in enforcement and judgments".*** Also, a verbal intention to marry could be a challenge when it came to evidence collection.

**Differing court views**

On November 26, the Supreme Court flagged a "worrying trend" of criminalising long-term consensual relationships after they turn sour. ***"If criminality is to be attached to such prolonged physical relationship at a very belated stage, it can lead to serious consequences,"*** the Bench of Justices B.V. Nagarathna and N. Kotiswar Singh said, while quashing an FIR against a man accused of rape by a woman who was in a relationship with him for over nine years,by her own account. In another judgment, the Gujarat High Court on September 19 commented: ***"In every case where a man fails to marry a woman despite a promise made to her, [he] cannot be held guilty for committing the offence of rape."***

The High Court's ruling came while quashing a February 2019 FIR for rape filed against a man, who had entered into a physical relationship with a woman on the promise of marriage. Cases registered before the BNS came into force are being tried on the old IPC. The woman in her FIR complaint alleged that she got pregnant and when she informed the man, he reneged on his promise.

During the pendency of the trial, a baby boy was born. However, when the DNA samples of the accused and the child were tested, it was proven that the accused was not the biological father. Meanwhile, the woman got married to another person and didn't show up for the court proceeding again.

***"He can only be held guilty if it is proved that the promise to marry was given with no intention to honour it and also that was the only reason due to which the woman agreed to have a sexual relationship,"*** the High Court said, adding that ***"cases of consensual sexual relationship being later converted into allegations of rape are rapidly increasing".***

On the other hand, in a separate case, the Kerala High Court in October declined to quash the criminal proceedings against a priest accused of raping a woman after promising to marry her. Dismissing the plea of the priest, the High Court observed that prima facie, the allegations warranted a trial, and that there was no reason to close the proceedings earlier.

Supporting the new law, advocate Gaurav Dudeja, Partner at law firm Phoenix Legal, in Delhi, says, ***"Section 69 of the BNS addresses the gaps and ambiguities in the previous law concerning sexual intercourse obtained under false pretences such as promises of marriage or other deceitful means."***

"The definition of rape revolves around the 'consent' of the woman, and courts have consistently held that sexual intercourse based on a false promise of marriage, where there was no genuine intent from the outset, falls within the scope of rape. By introducing Section 69, the BNS explicitly criminalises such acts and provides clear punishment for them," he explains.

The law is protective to women who operate in a male-dominated, patriarchal society, where marriage for women is often seen as a way of attaining personhood. Many women are consistently told in their childhood years that they belong in another home — that of their husband's and in-laws'.

Dudeja says the law broadens the legal framework by introducing the concept of sexual intercourse through deceitful means. "Moreover, it acknowledges that coercion is not limited to physical force, but can also be psychological or emotional — an aspect not explicitly addressed under the earlier law," he says.

***PIL in Kerala HC***

In September, a public interest litigation (PIL) was filed before the Kerala High Court challenging the constitutional validity of Section 69 of the BNS. The plea by a lawyer practising in the courts of Kerala contended that "the Section is derogatory and misogynistic to the extent that it views women as naive, gullible and incapable of making decisions pertaining to their life". The plea also contends that the Section would lead to "serious issues for people who are in live-in relationships and people in relationships in the nature of marriage".

"By omitting to include the LGBTQ community, it is violative of the equal protection clause. Further, it penalises a very basic human emotion, the right to have sexual union, a facet protected Under Article 21 of the Constitution," the plea stated. The High Court sought a response from the Central government on the issue.

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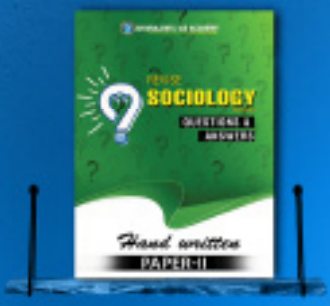


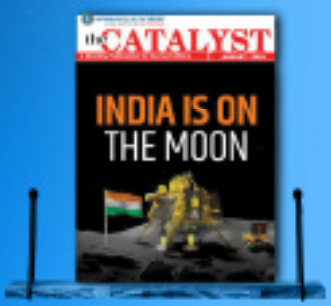






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