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Truth clashes: caste atrocities, false cases, and the limits of hate crime law in North India

Sandhya Fuchs
Vrije Universiteit (VA) Amsterdam

This article brings together theories of truth in legal anthropology and the anthropology of religion to highlight how legal institutions can co-opt hate crime laws and reproduce patterns of sociopolitical oppression. Drawing on extensive ethnographic research on the social life of India's only hate crime law – the 1989 Prevention of Atrocities Act (PoA), which punishes violence against Dalit (ex-untouchable) communities – the article argues that hate crime cases involve a clash between three different truth logics: attributive truth or credibility; formal juridical truth regimes defined by evidentiary technicalities; and a distinct mode of experiential-discriminatory truth, which is defined by its processual character. As Indian police and judiciary conflate these truth logics in practice, they publicly and legally erase realities of caste discrimination and (re)construct marginalized communities like Dalits as greedy and unreliable narrators.

On 20 March 2018, the Indian Supreme Court issued new guidelines to prevent what it deemed the rampant ‘misuse’ of the 1989 Scheduled Castes/Scheduled Tribes Prevention of Atrocities Act (The Economic Times 2019). The Prevention of Atrocities Act (PoA) aims to protect members of India's historically marginalized Dalit (ex-untouchable) and Adivasi (indigenous) communities against violence by other castes. It enhances punishments for certain crimes listed under the Indian Penal Code (IPC) when they are committed against these groups, and outlaws practices that reinforce untouchability (Rao 2009). Based on these legislative features, anthropologists have sometimes called the PoA India’s only hate crime law (Alongi 2017; Fuchs 2022). The term ‘hate crime’ describes symbolic acts of violence, which are perpetrated against members of historically oppressed groups to ‘keep them in their place’ (B. Perry 2001: 7). Recently, states have begun to introduce hate crime laws to prevent and punish these acts of identity-based aggression (B. Perry & Alvi 2012). However, as the discourses around the PoA and the 2018 Supreme Court judgment highlight, the biases hate crime laws are meant to address can also turn them against the communities they should protect.
The 2018 judgment passed by a two-judge Supreme Court bench proclaimed that 15-16 per cent of complaints filed under the PoA were fraudulent, and that this law made ‘itself readily available in the hands of … scheming [Dalit or Adivasi] complainants’ who issued ‘false allegations’ of caste discrimination against innocent upper castes (S.K. Mahajan v. the State of Maharashtra, 6 SCC 45, 2018, emphasis mine). Therefore, the apex court declared that preliminary investigations would have to be conducted before official complaints under the PoA could be filed. Further, it introduced anticipatory bail – which allows an accused to seek bail in anticipation of an arrest – into PoA proceedings. These amendments were a direct response to the appeal that formed the basis of the judgment. The Technical Education Director in the Government of Maharashtra, S.K. Mahajan, had been denied anticipatory bail by the Mumbai High Court after being accused of casteism by an employee. Mahajan appealed the decision in the Supreme Court, which suspended proceedings against him and decided to amend the PoA. However, protests broke out across India in response to the amendment. Critics highlighted that police investigations in PoA cases often suffer from interference by upper castes (Teltumbde 2018) and that the Supreme Court was conflating acquittals with false complaints (Guha & Chauhan 2018: 384). Afraid to lose the support of Dalit and Adivasi voters, India’s parliament restored the PoA to its former shape in May 2018 (Dutta 2018).

The controversy around ‘false’ PoA cases was intimately familiar to me. The Supreme Court judgment was announced weeks after I returned from eighteen months of ethnographic fieldwork on the social life of the PoA among Dalit communities in the North Indian state of Rajasthan. Rajasthan, which has a Dalit population of 18 per cent, registered the second highest number of caste atrocities in India between 2013 and 2015. From 2016 to 2018, I traced how caste atrocities among Dalits of the Meghwal sub-caste (jati) were translated from narratives of injury into PoA complaints at police stations and into court cases. I focused on the northeastern district of Jhunjhunu, where Dalits constitute a quarter of the population, and the dominant Jat caste controls agricultural resources. As a white European woman who grew up in India and spoke Hindi fluently, I had access to institutional and non-institutional actors. I lived alternately with two Meghwal families, a fact which inspired trust among Dalit complainants. Meanwhile, my Western background and academic credentials led judges, lawyers, and police to share their thoughts on the PoA candidly.

The opinion legal officials in Rajasthan expressed most consistently was that PoA complaints were usually ‘false’. As the original recipients of affirmative action programmes in India (Galanter 1989), Dalits were seen by many officials as a legally overprotected community that was too used to special treatment. A High Court Advocate of the high-ranking Brahmin caste was convinced that ‘real caste atrocities are rare. Most Dalits just complain and want favours. Therefore, the PoA is dangerous’. Conversely, Dalits were frustrated that they had limited access to institutions in charge of producing legal proof: hospitals and police stations. Many reported that police didn’t take their stories seriously, an observation that resonates with accounts from other Indian states (Jaoul 2015). Dalits also remarked that when PoA complaints were heard in court, judges usually failed to recognize experiences of discrimination.

This article takes the 2018 Supreme Court judgment as a starting point to propose that prejudices within legal institutions can systematically weaponize hate crime laws like India’s PoA against the communities they are meant to protect, while simultaneously painting them as ‘dangerous laws’ to the public eye. Within India’s
police and judiciary, this is done through acts of discursive equivocation, obfuscation, and decontextualization that are apparent in the Supreme Court judgment. These discursive moves conflate three different types of truth: attributive, juridical, and experiential-discriminatory. The 2018 judgment draws a problematic parallel between ‘false accusations’ and ‘false’ or untruthful people. Thus it analytically equates the idea of truth as an identity attribute with the idea of representational, legal case truth. Terms like ‘scheming complainant’ discursively map notions of identity-based (in)credibility – the perception that marginalized groups like Dalits are unreliable (legal) narrators (cf. Affolter 2021) – onto the idea of juridical truth, defined by a technical accuracy, which is produced through official documents (Suresh 2023). In a second step, this juridical truth is discursively conflated with the idea of experiential-discriminatory truth (Macia 2016) – the idea that PoA complainants can have a true lived experience of discrimination – through an act of decontextualization. The court draws on police data on ‘false accusations’ without discussing how officers on the ground come to classify complaints as ‘false’.

These obfuscations happen across India’s legal institutions, and the biases at their root are amplified by the unique features of hate crime law. While accusations of legal misuse also haunt other criminal complaints in India (see Baxi 2014 and Oza 2020 on gender violence), hate crime laws like the PoA facilitate discursive weaponization in two ways. First, they entrust police with a special investigative ‘burden’ of determining whether an offence is motivated by identity-based prejudice or whether it is a regular criminal offence (Boyd, Berk & Hamner 1996: 831). This discretion in classifying crimes impacts the production of evidence and, thus, juridical truth because biases within the police can lead to a refusal to register offences as hate crimes, and result in half-hearted investigations. Second, hate crime cases involve an encounter between two temporalities of truth: a presentist (Özkan 2019: 317) legal truth that operates according to the technical demands of powerful institutional regimes; and a gradual, progressive truth of discrimination (Bowling 1993), which is experienced by the marginalized, and only becomes visible to outsiders under specific interpretive conditions (Kok 2008).

To develop this argument, this article brings into conversation two anthropological approaches to truth that have hitherto remained separate: debates in legal anthropology, which discuss truth as a discursive system (Foucault 2000 [1976]) that causes certain statements to function as true (Coutin 1995), and theories in the anthropology of religion, which propose that different modes of experience in different cultural contexts can have different truth logics (Holbraad 2012).

The former strand of scholarship has highlighted that formal law, which is historically rooted in systems of political power (Derrida 1992), creates two problems for marginalized communities. First, the evidentiary procedures that formal law sanctions as capable of making truth visible (Eckert 2016), or of producing truth (Latour 2010; Merry & Coutin 2014; Riles 2005), are ill equipped to capture experiences of structural inequality (Povinelli 2002). Second, law creates issues of access for the socioeconomically disadvantaged, because successful aid from legal institutions is determined by a person’s perceived credibility as a probable narrator of authentic claims (Affolter 2021; Kelly 2012). This credibility relies on upper-class markers and ideas about deservingness (Gottlieb, Filc & Davidovitch 2012), which marginalized groups fail to perform.

However, legal anthropology has largely reduced truth to technologies of power and neglected to explore how it is differentially conceptualized and experienced by the
people concerned. These questions have been analysed by anthropologists of religion, who have enquired into the conditions under which religious claims reveal their truth. This article takes inspiration from Martin Holbraad’s work on Ifá divination in Cuba, which claims that so-called ‘divinatory truth’ is transformative and distinct from classic, Western notions of representational truth. Hence, it becomes visible under different conditions (Holbraad 2012: 87). Building on two aspects of Holbraad’s argument, this article moves legal analyses of truth forward and shows that experiential-discriminatory truth emerges under specific temporal and sociological conditions of interpretation, which are incommensurable with juridical frameworks of truth recognition. First, just like divinatory truth, experiential-discriminatory truth has a unique logic: it is cumulative and processual (Bowling 1993) rather than moment-focused and decontextualized like legal truth (Cheng 2017). Second, the veracity of discriminatory truth claims only becomes visible through a lens which engages with a deeper temporality of community interactions and a wider horizon of social and economic inter-community dependencies.

The social life of the PoA shows that in hate crime proceedings marginalized communities like Dalits in India are asked to convert their processual experiential truth of discrimination into moment-focused, decontextualized juridical truth. However, the clash between these truth logics, and Dalits’ lack of the right attributive truth or legal credibility, which itself derives from historical oppression, reproduces the cycle of prejudice: it amplifies police scepticism towards Dalit narratives and leads officers to erase caste discrimination from the legal record.

The cases in this article, which originate in Rajasthan’s Jhunjhunu district, reveal how this process can turn hate crime law into a fertile breeding ground for the reproduction of bias. First, we meet Birendra, a Dalit agricultural labourer of the Meghwal jati, who had his PoA complaint dismissed as false. Birendra’s complaint is doomed from the start because police perceive poor, illiterate Dalits like him to be unreliable narrators who ‘make’ cases about caste (Thorat 2018), while they view the upper-caste accused as people who represent truth and power. This view gives rise to investigative negligence, which hinders the assembly of documentary evidence for Birendra’s legal file. As files act as carriers of juridical truth in courts (Suresh 2023), Birendra’s lack of documentary proof becomes a lack of legal truth, and he himself is declared ‘untruthful’. We then encounter Rahil, a young Meghwal man who filed a PoA complaint which seems like a ‘false accusation’ on the surface as it appears to take liberties with facts of the immediate present. However, an ethnographic analysis reveals that against the backdrop of a longer temporal horizon (Chowdhury 2017), Rahil’s claims are factually accurate. Unfortunately, the legal truth regime within which his claims must be verified does not consider this horizon. Hence, Rahil’s truth of discrimination can’t be converted into legal truth: his claims remain unproved, and he is perceived as a Dalit who files ‘false’ cases.

What is ultimately at stake in these cases, and in the institutional discourses reflected in the Supreme Court judgment, is the potential benefit or harm of hate crime laws. Anthropologists and legal scholars have raised concerns that hate crime law could reinforce inequalities by allowing law’s normative categories to silence stories of hate (Bhat, Bajaj & Kumar 2020; Swiffen 2018). Yet Birendra and Rahil show us that these silencing effects are not inevitable: they are produced in everyday legal practice when institutions fail to evaluate how their own temporalities of evidence and interpretive procedures make narratives of discrimination illegible.
The PoA: police procedure and data politics of truth

A central aim of the Indian constitution of 1950 was to weaken the system of caste: a structure of social hierarchy (Srinivas 1962) whose ritual rules, economic modes of exclusion, and oppressive practices had systematically relegated Dalits (former untouchables) to the social margins (Ambedkar 1989 [1917]). Hence the constitution banned the practice of untouchability, whereby Dalits were ostracized based on notions of ritual impurity, and introduced reservation quotas for Dalits (Scheduled Castes) and Adivasis indigenous groups (Scheduled Tribes) in education and government service. Yet policy-makers soon realized that positive measures for social upliftment would not suffice to fight discrimination. Negative consequences through punishment would be equally important. After a series of less successful legislative measures, the PoA was introduced in 1989 to prosecute all violent practices against Dalit and Adivasis. Within India’s legislative framework, the PoA represents a special criminal law which creates a specific category of offences for a group or subject (Ambasta 2020). The PoA specifies over thirty offences – ranging from insult to land-grabbing and physical aggression – which, to be prosecuted under the act, must be committed by anyone who is not a Dalit or Adivasi against these groups. To ensure proper implementation, special PoA courts were established across India.

However, it soon became clear that for Dalits and Adivasis the key to a successful conviction under the PoA was the police. In Indian law, criminal complaints are registered by the police, who are responsible for noting the appropriate sections of the Indian Penal Code (IPC) in a so-called First Information Report (FIR). The FIR includes the complainant’s statement and personal details. While police are tasked with filing FIRs in all criminal complaints, they have an additional responsibility in PoA allegations: they must also register the claim under the corresponding section of the PoA. However, research has shown that in practice PoA investigations are delayed as police officers regularly refuse to add PoA sections to the FIR because they feel that an allegation is not motivated by casteism (Khan 2021; Mangubhai & Singh 2014).

If an FIR is filed, a Dalit survivor of caste aggression officially becomes a PoA complainant. The FIR lays the foundation for the subsequent police investigation, which, in PoA allegations, must be concluded within thirty days. Following the investigation, the superior investigating officer (who must hold the rank of Deputy Superintendent of Police or higher) has two options: under section 173 of the Code of Criminal Procedure (CrPC), he can either submit a ‘charge sheet’ to the district court, or issue an alternative form called a Final Report (FR). While the submission of a charge sheet in court implies that the police investigation has found enough evidence for the matter to be prosecuted in court, a Final Report essentially implies that a complaint is unsubstantiated through witness statements, medical and autopsy reports, and analyses of crime scene artefacts. Hence, the charge sheet acts as a stamp of legal legitimacy for complainants, while a Final Report implies an invalidation of a complainant’s account. Sthabir Khora remarks that this marks a ‘first line of (in-)justice delivery’ (2014: 17).

The CrPC specifies that Final Reports should be filed in three different instances: first, when there is a lack of evidence to prosecute the offences listed in the FIR; second, if the police conclude that no offence was committed; and, third, if a complaint was ‘falsely lodged’. However, in Rajasthan, as in many other North Indian states, it is the third category which is primarily used by the police to justify not forwarding PoA complaints to court. Rajasthan police officers habitually used the term ‘False Report’ when referring to Final Reports in PoA cases, even though ‘falsely lodged’ complaints
constitute only one of three Final Report categories. Police data on PoA allegations in Rajasthan from 2016 – the year the complaints discussed below were registered – reveals that out of 2,935 Final Reports, the police only recorded ‘insufficient evidence’ as a reason to dismiss a complaint in eleven instances, yet they categorized 2,632 PoA complaints as ‘falsely lodged’ (NCRB 2016).

These patterns are not just a local curiosity. Final Report data recorded by police stations is passed on to India’s National Crime Record Bureau (NCRB) to calculate the percentage of criminal complaints that are legitimate or ‘true’. These numbers are published in the bureau’s annual Crime in India Report. The way police officers categorize PoA complaints in Final Reports thus shapes public perceptions of, and the judicial and political discourses around, the PoA.

NCRB data on Final Reports in PoA cases formed the basis for the 2018 Supreme Court judgment which declared that 16 per cent of PoA complaints were ‘false’. Hence the linguistic conflation of Final Reports with ‘false accusations’ and how Final Report data is recorded actively reproduces police and judicial scepticism towards Dalit claims. The first PoA case I discuss here was closed with a Final Report and labelled ‘falsely lodged’. However, the life cycle of the complaint exposes the invisible channels through which police biases towards Dalit stories create the lack of legal evidence that makes this categorization possible.

**Landscapes of power and proof**

*Attributive truth and (in)credible narrators*

In March 2017, I was staying with one of my fieldwork families in Jhunjhunu town. One morning, Randeep, the eldest son, who regularly accompanied me on interviews, informed me that he had heard of a PoA complaint near his hometown. The complaint concerned the alleged murder of a Meghwal agricultural labourer in a village called Puranapura. And so we drove there.

Economically and socially, Puranapura is dominated by the Jat caste, a farming community that constitutes the single largest caste group in the village. Jats make up one-third of the village population but control almost 70 per cent of fertile agricultural land. A quarter of Puranapura’s population are Dalits, over half of whom are Meghwals. Many Meghwals make a living as agricultural labourers and have become increasingly dependent on Jat landowners, who control access to agricultural employment. One man had experienced the consequences of this dependency first-hand: Birendra Meghwal, son of the recently deceased Lakha Ram Meghwal.

In the early morning hours of 17 February 2016, Birendra got a phone call from a friend who informed him that his father, Lakha Ram, had been found dead on the field of his Jat employer, L. Katheria. The news came in the aftermath of a contentious wage dispute between Katheria and Lakha Ram. When Birendra and his younger brother reached their father’s deceased body, they saw that his face was swollen and bruised. There was dried blood on the back of his head. Panicked, Birendra called the nearby police station, but the officer who picked up seemed unimpressed, and although he promised that they would come ‘as soon as possible’, it was twelve hours before three officers finally arrived. They walked around the body once and told Birendra that they would send it to the nearby hospital for investigation. Then Birendra heard nothing.

There were witness statements to suggest that Katheria had been responsible for Lakha Ram’s demise. A Meghwal man called Vivek who worked for a Jat family that lived next to Katheria’s field had heard screaming in the middle of that fateful night. He
overheard Katheria verbally abuse someone over wage demands, followed by strange cries. The next day, when the news of Lakha Ram’s death crept though the village, Vivek wondered if there was a connection, especially since Katheria himself seemed to have disappeared.

Armed with this knowledge, Birendra decided to file a complaint at the local police station (thana), accompanied by his mother. He had not gone unprepared. Prior to visiting the police, Birendra had called a legal aid NGO in Rajasthan’s capital of Jaipur which assisted Dalits in their attempt to file complaints under the PoA. The lawyers at the NGO had told him exactly which sections of the Indian Penal Code (IPC) should be applied in his father’s case: sections 120, 320 and 302, which would accuse L. Katheria of conspiracy, grievous hurt, and murder. They also told Birendra that the complaint should be filed under sections 3(1)(s) and 3(2)(v) of the Atrocities Act (Chapter II). The first section refers to verbal abuse in public view, while the second specifies enhanced punishment when IPC offences punishable with a minimum of ten years’ imprisonment are committed against Dalits and Adivasis.

However, when Birendra gave his statement at the station, the police officer of the high-ranking Rajput caste who was meant to fill out the FIR seemed sceptical and disapprovingly eyed Birendra’s worn-out clothes. ‘So, you found your father’s body in the field?’, he reportedly barked at Birendra. ‘It is difficult to lose your father, but claiming murder seems too much!’ The officer was even more reluctant to register the complaint under the PoA. He told Birendra that if anything criminal had indeed happened to his father, it was the result of a simple wage dispute ‘gone wrong’, it had nothing to do with caste. Birendra and his mother left the police station discouraged and called the Jaipur-based NGO for help. After learning of his difficulties, the NGO connected Birendra with two Jhunjhunu-based activists, who accompanied him to the police station a few days later, where they encountered the same police officer. With the activists’ help, Birendra finally got his case registered, but the officer was angry: ‘There you go!, he snapped at Birendra. ‘Here is your FIR. You managed to make everything about caste’. 

After the FIR was registered, the police told Birendra that the local hospital would carry out a post-mortem investigation. However, two weeks later, he was informed that the police investigation had shown his father’s death to be of natural causes. Vivek, who had overheard the night-time argument between Katheria and Lakha Ram was too afraid to speak up and challenge this conclusion. ‘Are you crazy?’, Vivek told Birendra. ‘Katheria has respect (izzat), influence and money. I say something and my family finds my body in the fields! Who would believe me over Katheria anyway?’

Consequently, Lakha Ram’s case was closed with a Final Report. The police file that Birendra gained access to with the help of the legal aid NGO in Jaipur revealed that in the Final Report the police had categorized his complaint as ‘falsely lodged’ rather than as one that had been closed for lack of evidence. The police file contained a statement from the local hospital which blamed heart failure for Lakha Ram’s death. Birendra was incensed. After seeing his father’s bruised, bloody body, he knew that the medical report was a lie. He was sure that L. Katheria had something to do with his father’s death. Indeed, Birendra soon learned that Katheria had paid money to the Superintendent of Police to drop the investigation into the complaint.

However, Birendra told me that money wasn’t even necessary. ‘Katheria’s brother-in-law was a Member of the Legislative Assembly (MLA) and is well respected. Police don’t mess with that family’. A Dalit activist named Sonali whose family also lived in
Jhunjhunu had a similar opinion. ‘Here in Jhunjhunu, if you are a big Jat like Katheria, your word is truth to the law!’

Birendra has a mountain of documents relating to his father’s death: copies of the FIR; photos of his father’s wounded body; the dubious medical report; newspaper clippings; and letters about the autopsy. ‘Basically,’ Birendra laughed bitterly when he showed me his papers in March 2017:

I have tons of evidence that I have no evidence! People think Dalits don’t know anything about law, but I have learned a lot. The problem is that the evidence courts want is something a man like me can never get. Because proof (subut) is only available to the right people (sahi log)!

Lakha Ram’s case is now one of the many ‘false cases’ cited in the 2018 Indian Supreme Court judgment. His story is – to use the words of Mr Nairoth, the director of the legal aid NGO in Jaipur – ‘extremely typical in India. There are a million Birendras out there’ (pers. comm., 16 April 2016).

Birendra’s case thus highlights two ways in which an historical system of caste-based inequality undermines legal access and the search for proof and juridical truth for Dalits. On the one hand, Vivek’s statement that he will end up dead if he testifies indicates that the fear of raw upper-caste power stops witnesses from co-operating in PoA cases. On the other hand, Sonali’s statement that the word of men like Katheria is ‘truth to the law’ highlights that centuries of upper-caste control also shape Birendra’s case in a more subtle way: India’s system of caste inequality, which has relegated Dalits like Birendra to the bottom of the social hierarchy and excluded them from legal and political spaces, has produced public perceptions of what a legitimate criminal complainant looks and sounds like. Birendra, an illiterate Meghwal man, whose physical appearance betrays his life as a poor labourer, registers as the opposite of a credible, legal narrator to the police.

The history of caste inequality and violence the PoA is meant to address has thus created public and institutional discourses of identity-based attributive truth, in which legal actors assume upper-caste claims to be credible, while they see Dalit narratives as suspect. In everyday legal practice, the perceived incredibility of Dalits is reinforced through an intersectional dynamic of political disempowerment and a lack of appropriate legal ‘aesthetics’ (Cabot 2013). In Rajasthan, police officers regarded certain verbal and bodily performances and markers of class as indicators that a PoA complainant could be trusted. As one Additional Superintendent of Police in Jaipur told me during an interview in 2017:

A lot of these Dalits who file PoA complaints are illiterate (unpadhi). They are poor fellows, but how much do they always understand about what is happening? They have often not even been taught to talk properly.

Another police officer in Jhunjhunu was even more bluntly dismissive when I asked him about Birendra’s case specifically: ‘He doesn’t know how to read, dress, speak or act … Can he really know if this is a caste matter?’

The appearance and demeanour of illiterate rural Dalit complainants like Birendra hence invoke primary social categories of perceived secondary citizenship (Fuchs 2020: 179). By rendering the Dalit body and a habitus of poverty inferior and incredible overall, police officers declare Dalits like Birendra untruthful complainants who ‘make’ legal cases about caste.
Unfortunately, this scepticism and the raw power of influential upper-caste members like Katheria actively undermine the production of legal evidence in PoA cases. In Birendra’s case, the police show up at the crime scene twelve hours late and he must heavily mobilize to get his complaint registered. The investigation is conducted in an obscure way, and the medical report contradicts what Birendra has seen with his own eyes. The fact that Katheria’s word is truth to the law, while Birendra’s statements are dubious, ultimately means that Birendra fights a hopeless fight for legal recognition (see Povinelli 2002). He cannot transform his experiential truths of discrimination and violence into a transcript of juridical truth: a convincing legal file.

**Juridical truths and documentary politics**

Anthropologists have proposed that when assessing evidence, ‘judges … grapple with a file that acts upon them’ (Latour 2010: 192). In Indian criminal courts, specifically, the ‘right’ papers in the ‘right’ technical order act as official truth carriers and make accounts function as true (Suresh 2023). Unfortunately, Birendra’s file is never given a chance to ripen because he himself is the ‘wrong’ kind of person.

Two types of evidence are needed to prove that his father was murdered and that caste hierarchies were a motivating factor in this murder: first, a convincing medical or autopsy report that declares Lakha Ram’s death to be the result of outside influences; and, second, witness statements that tie Katheria to the crime scene and, ideally, prove Katheria’s casteist attitude towards Lakha Ram. This evidence would have to be carefully recorded and assembled in Birendra’s file by the investigating police authority for his case to go to court instead of being closed with a Final Report.

However, the production of these documents is held captive by the very systems of political power and credibility which the PoA aims to change (Baxi 2014). Police scepticism cuts Birendra’s legal quest off at the institutional production bases of documentary ‘evidence’: evidence which is a necessary condition to make his experiential truth visible within the juridical arena. This reflects what Dag-Erik Berg (2020) has referred to as the ‘conversion’ of anti-caste legislation by higher castes, who turn laws like the PoA into policies which affirm caste hierarchies, even though they are intended to destabilize them.

These dynamics reflect global challenges in the punishment of hate crimes. By their very definition, hate crime laws seek to mobilize the machinery of criminal law for the empowerment of historically oppressed groups (J. Perry 2020: 8). Yet, as studies of hate crimes in Britain also reveal, the same social hierarchies, as well as the identity-based affects (Ahmed 2004) that give rise to hate crimes, often hinder the ability of survivors to make their experiences legible within criminal truth regimes (Chakraborti & Hardy 2015). Pre-existing biases towards marginalized groups and exceptional levels of police discretion (Walters, Owusu-Bempah & Wiedlitzka 2018) can prevent the production of legal evidence for hate crime claims.

As Mr Srivastava, a Jaipur High Court Judge of India’s highest-ranking Brahmin caste, emphasized, ‘PoA complaints can only win in court by adhering to proper procedure using real evidence’ like autopsy reports and credible witness statements. But in so many PoA complaints there isn’t any real evidence. It makes you wonder how many are just made up’ (interview, 15 July 2017, emphasis mine). Unfortunately, he ignored the fact that police politics of power and credibility make ‘real evidence’ unattainable for most Dalits.
Hidden conditions of discriminatory truth
A true false case?

The conflation between legal truth and perceived credibility which occurs in the expanded interpretive space of police discretion is not the only feature which can facilitate the weaponization of hate crime laws against marginalized groups. As the following case shows, hate crime cases also involve a clash between two incommensurable truth logics. This clash legally obscures experiences of discrimination and reproduces oppressed communities as liars in the eyes of the law.

In late October 2017, my fieldwork village of Badrasar in Jhunjhunu witnessed an uproar when four young men, two Dalits and two Muslims, were unceremoniously arrested in a conflict with Badrasar’s wealthiest landowner of the Jat caste: Jataram. However, three weeks later, the boys were mysteriously released by the police and Jataram was strangely reluctant to discuss the matter. Sonali, a Dalit women’s activist, whose family I lived with in Badrasar, suggested we pay a visit to Bantu Meghwal, the Dalit lawyer who had represented the main accused, Rahil Meghwal, in the controversy.

On the day of the arrest, Rahil and three of his friends went to drink whisky in a large wheat field at the edge of Badrasar. The field belonged to Jataram. The young men quickly became intoxicated and began to disturb a family of the Kumhar caste (traditionally potters) that had been employed by Jataram and lived next to the field. The Kumhar family phoned Jataram, who promptly made his way over on his motorbike. When he arrived, the boys were engaged in drunken shenanigans. Jataram personally knew Rahil’s father, whom he had aided in obtaining a work visa for Qatar, and so he targeted Rahil first. He shouted at him to get off his land and screamed that Rahil was behaving like a ‘fallen man’ (girahua admi), disgracing his family. Rahil had long been resentful of the condescending way Jataram treated his father and himself. He was also angry because Jataram had a history of hurling casteist insults at his Meghwal agricultural labourers. Moreover, Rahil felt that the phrase ‘fallen man’ might allude to ideas of Dalit impurity. And so, drunk, as he was, Rahil picked up a stone and threw it at Jataram, leaving him injured.

Jataram’s tenants promptly brought him to the hospital. After he was discharged, he called the police. He was an influential man, so the police acted quickly. Within hours, Rahil and the others were arrested and kept in unofficial custody. This meant that they were simply held by the police and not brought before a magistrate within twenty-four hours of the arrest as is required under section 56 of the CrPC. The police also refused to provide further information on the boys’ arrest or a possible investigation. The situation soon proved detrimental for the boys’ families, who relied on them for personal protection and income while their fathers worked abroad. The Meghwals in Badrasar village became worried. ‘Rahil and the others would have spent their entire lives in custody without interrogation’, Sonali’s neighbour Bitu Aunty said, ‘something had to be done’.

Therefore, Bantu Meghwal, the Dalit lawyer to whom Sonali introduced me, told Rahil that if he needed to get out of jail, he could file a complaint under the PoA accusing Jataram of casteist insult. Jataram would be worried about his ability to secure Dalit votes in his upcoming run for a seat in Rajasthan’s legislative assembly. The sub-district of Jhunjhunu where Jataram and Rahil lived had a Dalit population of almost 20 per cent and Jataram was running against other candidates of the Jat caste who were more popular with the resident Dalit voter bank. The plan worked. Bantu Meghwal, a man...
who had studied law in Jaipur, spoke English fluently, and had worked for a legal aid NGO in Jaipur, was experienced in getting complaints registered under the PoA. As soon as Rahil approved, he got the local police to file an FIR against Jataram. When Jataram got wind of this, he agreed to have the boys released if they withdrew their PoA complaint and promised to not raise the matter again. And so Rahil’s complaint was closed with a Final Report and categorized as ‘falsely lodged’.

More than five years after these events, when I returned to Badrasar village for a follow-up visit in March 2023, a simple question still haunted the Meghwal community: had the complaint Bantu Meghwal and Rahil filed against Jataram been a ‘false’ PoA complaint? Unfortunately, they felt that the answer to this question was not simple at all.

Badrasar’s Meghwals remain of two minds about the case. On the one hand, they take issue with Rahil getting drunk and hitting Jataram; they concede it was a criminal action. They also admit that on the night in question – the night for which Rahil filed a PoA complaint – Jataram had not used any obvious casteist insults in his interaction with the boys. The term ‘girahua admi’ is not a phrase that exclusively invokes untouchability but is often used to reprimand drunkards. On the other hand, Badrasar’s Meghwals also felt that in the context of Jataram’s history of open hate speech towards Meghwals – a behaviour that declined after Rahil’s complaint – the phrase and his extreme way of yelling at Rahil were casteist. They argued that Rahil’s anger and subsequent PoA complaint had to be considered within a local system of inter-caste interactions that had long left Meghwals exposed to Jataram’s discrimination.

A closer look at economic and demographic patterns in Badrasar helps contextualize these reflections. In Badrasar village, Jats own approximately 60 per cent of village plots and have controlled the village panchayat (council) for the past decade. Meanwhile, Dalits make up over a quarter of the village population, but only control around 7 per cent of agricultural land. To this day, Meghwal livelihoods still primarily depend on agricultural employment by Jats, and Jataram was one of the biggest employers of Meghwal agricultural labourers in the area.

Popular Meghwal analysis of the situation thus draws attention to the unequal sociopolitical relationship between Jataram and Rahil. This inequality caused the boys to be held at the police station unofficially and indefinitely after Rahil hit Jataram, while Jataram himself had always escaped consequences for his treatment of Dalits. As Sonali explained, ‘Jataram employs half the Meghwals in the village, so no one ever filed a PoA complaint against him because they would have lost their job’. However, Rahil had little to lose since the power imbalance between him and Jataram had already resulted in difficulties for his family. Hence, filing a PoA case made sense.

**Temporalities and contextualities of experiential-discriminatory truth**

The voices of Badrasar’s Meghwals also emphasize a second aspect of Rahil’s ‘falsely lodged’ PoA complaint: it is only false when viewed through the moment-focused and decontextualized temporal lens of juridical truth regimes. As Seema Aunty, an elderly Meghwal woman whose house is next to Rahil’s home, reflected when I interviewed her in 2017:

> If you look just at that evening, you can say Rahil’s complaint is false. All Jataram did was scream, and the words he used were not clearly casteist. But Rahil is actually telling the truth. Jataram insults Meghwals all the time.
Sonali’s mother, whose home I was living in at the time, and with whom I discussed the case again in March 2023, even went a step further:

You can debate whether the words ‘girahua admi’ are about untouchability (chuachut). But Jataram yelling at Rahil how he did is casteism in itself (jatibadi). He would not have done that to a young Jat boy who was drinking on his field. He would have just said, ‘Come on boy, enough, let’s go!’ He would not have humiliated him.

These reflections highlight that the truth of Rahil’s claims becomes visible under different temporal and contextual conditions to juridical truth claims. Rahil’s allegation is only ‘false’ under two conditions: first, if one adopts a presentist (Özkan 2019: 317) temporal scale – if one sees the ‘facts of the moment’ and ignores the longer local history of interactions between Jataram and Badrasar’s Meghwals; and, second, if one sociologically decontextualizes Rahil’s claim and sees it in isolation from the complex web of economic inter-caste dependencies and habitual micro-aggressions that characterize Jat-Meghwal relations in Badrasar. However, if one widens the temporal horizon and analyses Rahil’s actions against the backdrop of the deeper past (Chowdhury 2017) of Jataram’s behaviour, and a wider landscape of Jat-Meghwal dynamics, Rahil’s complaint appears as true.

In short, Badrasar’s Meghwals argue that lived discrimination is a deeply contextual process, rather than a fact or event. In his study of Ifá Cuban divination, Martin Holbraad (2012) argues that certain cultural and religious experiences operate according to a particular truth logic which only becomes apparent if Western scholars suspend their own normative assumptions about representational, cross-culturally applicable truth. He proposes that for Ifá oracular diviners, truth is a transformative process, rather than representational fact. By telling someone ‘you are bewitched’, the diviner changes the meaning of ‘you’ and ‘bewitched’ and transforms reality, thus rendering the statement true (Heywood 2017).

Without diving too deeply into Holbraad’s ethnography, two aspects of his analysis are relevant to Rahil’s case. First, just like divinatory truth, the experiential truth of discrimination has its own logic, which runs counter to the representational, analytic, and technical regime that governs juridical truth recognition. Discriminatory truth is built up gradually through a process of ever-escalating (micro-)aggressions. Viewed cumulatively, these aggressions unveil the hate and discrimination which historically marginalized groups experience and articulate. Second, this logic must be engaged on its own terms. Legal professionals can only recognize the truth behind discrimination claims if they consider the actions socially powerfully groups commit against marginalized communities over time and within the frame of wider socioeconomic dynamics (Bowling 1993). Rahil’s story illustrates this: the truth of his claim is revealed only if one understands economic Jat-Meghwal dependencies in Jhunjhunu, considers Jataram’s history of behaviour towards Dalits, and acknowledges the process through which Rahil came to see Jataram’s actions as casteist on the evening in question.

However, Rahil’s processual, experiential truth of discrimination is rendered invisible by a juridical truth regime which takes decontextualized case snapshots as its starting point. Legal truth is defined by a moment-focused case format which emerges through a set of standardized, internally coherent procedures and files (Suresh 2023) that abstract from sociological and personal context (Cheng 2017) and interlink to form an impenetrable wall of legal technicalities (Latour 2010; Riles 2005). This truth regime
has been shaped by historically powerful communities and is not equipped to capture the distinct nature of experiential-discriminatory truth.

This encounter between two temporally distinct truth logics that have unequal power has two problematic effects in hate crime proceedings in India. First, it creates more ‘false’ hate crime complaints on paper and reinforces ideas about Dalits as (in)credible legal narrators. Second, it causes Dalits to doubt their own claims. Badrasar’s Meghwals know that Rahil did not lie. But they also understand that according to the rules of juridical truth, he didn’t make the right claim at the right moment. Hence, they do not know whether to label his complaint ‘true’ or ‘false’.

Ultimately, many Meghwals in Badrasar decided that perhaps Rahil’s PoA complaint had been accountable to a higher truth altogether: the truth of whom the PoA was intended to protect. When I met Rahil’s lawyer, Bantu Meghwal, for the final time in January 2018, he offered this interpretation of events:

The PoA is a special law that promises to fight for the truth of Dalits (hamari sachai) … We need to use the PoA to change caste power, even if that means we look beyond the facts of the moment, especially because police and judges often don’t believe Dalits. Rahil did something bad, but what was going to happen to him at the hands of police wasn’t proportional!

While these words could easily be disregarded as the justifications of a shrewd lawyer, Bantu’s interpretation of events, which was supported by other Meghwals in Badrasar, also reveals that Rahil’s complaint is an attempt to reverse a legal truth regime which contradicts the aims of the PoA as a hate crime law. Judges and officers refuse to accept that caste discrimination remains prevalent in India and refuse to see Dalits as credible complainants. Hence, Rahil’s PoA complaint represents a counter-transcript of truth which is accountable to marginalized Dalit realities. While no one in Badrasar explicitly said so, it seemed that many viewed Rahil’s actions as a way to chip away at the field of power that prevents the PoA from helping Dalits.

The circumstances behind Rahil’s case haunt Badrasar’s Meghwal community and Rahil himself to this day. They are particularly uncomfortable with the possible social and legal ramifications of his case. They know that his story can easily be retold and reappropriated in a way that reinforces police prejudice towards Dalit stories and makes the PoA seem like a dangerous law prone to misuse.

As an anthropologist who has been an intimate part of Badrasar village, I have hesitated to tell Rahil’s story out of fear that it could be misconstrued; that the temporal clash he encountered when trying to hold the PoA accountable to the reality of Dalit discrimination would further feed the ‘false case’ narrative. However, my research also suggests that a nuanced ethnographic juxtaposition between Rahil’s and Birendra’s stories is paramount from an ethical standpoint. Together they show that the claim that Dalits just want legal favours could not be further from the truth: instead, Dalits in Rajasthan actively reflect on, and struggle with, the different truth logics at work in hate crime cases. The struggle of Badarasar’s Meghwals to categorize and come to terms with Rahil’s case reveals them as a community in search of ethical legal engagement. They want their processual truth of discrimination to resonate within legal truth regimes. And they want to be seen as credible complainants. However, Rahil’s case highlights that the opposing logics of truth at work in hate crime cases make this task almost impossible. Rahil’s narrative intricately illustrates that juridical truth regimes must be reimagined if hate crime laws are to protect the people they claim to protect.
Conclusion
At the start, I proposed that there were two main issues with the 2018 judgment of the Supreme Court in *S.K. Mahajan v. the State of Maharashtra*. First, the term ‘false case’ obscures more than it reveals. In its verdict, the Supreme Court fails to interrogate what really constitutes a ‘false’ complaint by neglecting to engage with the different circumstances that could lead a PoA complaint to be closed with a Final Report. Second the judgment discursively conflates attributive, legal, and experiential-discriminatory truth. It flatly maps technical legal proof onto social reality, and undermines the credibility of Dalits and Adivasis a priori, by calling them ‘unscrupulous’ complainants in search of ‘vengeance’, their allegations a ‘concoction’ and ‘nothing but false’. The statement concludes by calling the PoA a ‘pawn’ in the hands of Dalits and Adivasis. By failing to engage with the idea of false cases in a nuanced way, the Supreme Court paints the PoA as a law that is haunted by an unusual level of illegal activity.

The stories in this article reveal that these acts of discursive decontextualization and equivocation, and the highly emotive language in the judgment, are not an aberration. They are part of a wider institutional and public conversation which systematically (re)produces Dalits as untruthful legal narrators, and thus portrays hate crime laws like the PoA as dangerous. Hence, the PoA – a law intended as a pragmatic tool of resistance for Dalits and Adivasis (Jaoul 2015) – becomes weaponized against these communities.

Birendra’s and Rahil’s stories show that the ‘false case’ discourse and the consequent weaponization of the PoA is facilitated by two features of the PoA that operate in tandem. First, as Birendra’s experience highlights, the interpretive discretion given to the police in registering PoA complaints allows officers to project their own assumptions about the untruthfulness of Dalits onto their narratives. These biases lead to half-hearted investigations, a lack of legal evidence, and, ultimately, a Final Report. As Mr Nairoth, the NGO founder from Jaipur, stressed, Birendra’s is the most typical fate of PoA cases in Rajasthan: attributive truth or credibility acts as a barrier for the production of legal truth, which reinforces the original bias toward Dalits. Legal credibility has been defined as the ‘consistency of the witness’s evidence with what is … shown by other evidence’ (Genn 2016: 2). However, Birendra’s ‘typical’ experience shows that the same structures that force Dalit engagement with the PoA often make ‘other evidence’ inaccessible.

Meanwhile, Rahil’s story unveils a rarer experience among Dalit PoA complainants which nonetheless highlights a second conceptual flaw in the framework of hate crime laws: discrimination-based truth logics and legal truth regimes operate according to different temporalities and contextualities that make it difficult to convert the former into the latter. While anthropologists agree that legal truth can never hope to fully represent any experiential truth (Latour 2010), discrimination is a particular challenging processual experiential truth which is socially normalized (Kok 2008), cumulatively recognized (Bowling 1993), and, per definition, belongs to communities who have historically lacked power. This incommensurability of legal and discrimination-based truth regimes gives certain narratives the outward appearance of ‘false complaints’. This again reinforces the ‘false case’ narrative and causes Dalits to question their own truth.

These stories, which highlight how marginalized communities are discursively reproduced as untruthful in legal documents, are relevant beyond the realm of caste.
violence, beyond the PoA, and beyond India. Anthropologists have argued that the self-referential nature of formal law, which is constituted by horizontal webs of interlinking, institutionally sanctioned evidence blocks, neglects to describe a reality outside its own documents (van Oorschot & Schinkel 2015). This produces temporal frameworks that fail to engage with deeper, complex pasts.

In the context of hate crime laws, these conditions of legal truth can be dangerous for protected communities. While the FIR as the primary way to file criminal cases might give the police exceptional discretion in India, sociolegal scholarship on North America has also highlighted how hate crime laws are torn from the hands of protected communities through police politics of credibility. This process systematically reinforces feelings of marginalization among these groups (Swiffen 2018). Meanwhile, scholars in South Africa have wondered if the documentary evidence formats of law can successfully capture gradual, normalized processes of discrimination (Kok 2008). These studies suggest that current hate crime laws run the danger of promoting anti-hate agendas in theory but subverting them in practice (Kagan 2003: 368).

However, I propose that these insights should present the start of the conversation rather than the end. Nuanced ethnographic analyses can help scholars and legislators interrogate which processes of criminal truth production must be reconceptualized to shield historically oppressed communities from further violence when they stand up for their rights.

Birendra and Rahil help us do this in two ways. First, they show that for hate crimes to make themselves less available for institutional weaponization, standardized police guidelines and monitoring procedures are necessary. In India, street-level police work is supervised sparingly (Fuchs 2022). Meanwhile, countries like Canada have inconsistent police guidelines for hate crime registration across different districts (Etherington 2024). Some districts only allow police to register a complaint as a hate crime if hate is the only motivator to the crime, while others allow hate as a contributing motivator. Police decisions in these matters are not systematically scrutinized. Hence, a standardization of police procedures and targeted police monitoring is a first step towards more potent hate crime laws.

Moreover, the temporal incommensurability between legal and discrimination-based experiential truths cannot simply be treated as an unfortunate yet inevitable fact. Instead, legislators could try to reduce its impact in several ways. First, local, contextual surveys could be introduced as necessary evidence in hate crime cases to understand the backdrop of particular interactions. Second, some disputes about bias and discrimination may be moved into the arena of civil law, which has a lower standard of proof than criminal law. Finally, a different approach to punishment for certain hate crimes might make institutional actors less reluctant to register such complaints. In South Africa, civil anti-discrimination laws like the Promotion of Equality and Prevention of Unfair Discrimination Act of 2000 have introduced court-mediated apologies and settlements as a resolution in some discrimination cases (Krüger 2011). While this is hardly an option in severe cases like Birendra’s, it could be introduced in conflicts around hate speech or – in the case of India – for untouchability-based disputes.

These suggestions are imperfect. However, they take ethnographic insights as a starting point to try to bring legal truth formats in line with social realities, rather than the other way around. Thus, they are a first step to make hate crime laws more potent for marginalized communities.
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NOTES
1 Anticipatory bail is defined by section 248 of the Code of Criminal Procedure.
2 In 2006 a Dalit employee for the Government of Maharashtra, named B.K. Gaikwad, filed a PoA complaint against his supervisors, following a negative performance review. He argued that the negative evaluation was rooted in caste prejudice. However, the director of the department, Dr S.K. Mahajan, blocked efforts at prosecuting the supervisors. Therefore, Gaikwad registered a new complaint against Mahajan in 2016.
3 Rajasthan became the Indian state with the highest rate of atrocity crimes against Dalits in 2020 (Shakil 2020). The highest number of cases was registered in Uttar Pradesh.
4 All interlocutors have been anonymized.
5 If the police refuse to file an FIR, complainants can approach the court to direct the police to do so. However, this implies additional time and cost.

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**Conflits sur la vérité : atrocités entre castes, faux litiges et limites de la loi sur les crimes discriminatoires dans le Nord de l’Inde**

**Résumé**

Alliant les théories de la vérité en anthropologie légale et en anthropologie de la religion, cet article montre comment les institutions juridiques peuvent coopter des lois sur les crimes discriminatoires et reproduire des schémas d’oppression sociopolitique. À partir de vastes recherches ethnographiques sur la vie sociale du 1989 *Prevention of Atrocities Act* (PoA), la seule loi indienne sur les crimes discriminatoires qui sanctionne les violences visant les Dalits (les anciens Intouchables), l’auteur avance que les cas de crimes discriminatoires impliquent un conflit entre trois logiques différentes de la vérité : la vérité attributive, ou crédibilité, les régimes de vérité juridique formels définis par les techniques de preuve, et une modalité distincte de vérité expérientielle et discriminatoire qui est définie par son caractère processuel. En hypertrophiant ces logiques de la vérité dans la pratique, la police et les tribunaux indiens effacent, publiquement et en toute légalité, les réalités de la discrimination entre castes et montrent (à nouveau) des communautés marginalisées telles que les Dalits comme des narrateurs vénaux et indignes de confiance.

Sandhya Fuchs is Assistant Professor in Anthropology at Vrije Universiteit (VU) Amsterdam. Her first monograph, *Fragile hope: seeking justice for hate crimes in India*, will be part of the series ‘South Asia in Motion’ at Stanford University Press.

*Department of Social and Cultural Anthropology, Vrije Universiteit (VU) Amsterdam, De Boelelaan 1105, 1081 HV Amsterdam, The Netherlands. s.i.fuchs@vu.nl*

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