

# Environmental Public Hearings, Intersectionality and Women's Voices: Criticalities and Scrutiny from Gujarat, India\*

## Abstract:

This article applies an intersectionality framework to the Indian statutory institutional environmental public hearing (EPH) process that seeks to promote environmental justice. Intersectionality provides a framework to better understand the processes of gender marginalisation and exclusion. The article critically analyses how the required gender participation in the regulatory EPH process is failing rural women in the State of Gujarat, India, thereby exacerbating discrimination, exclusion and inequality. Looking into the “why” through the framework of intersectionality, the authors using their quantitative and qualitative data create an evidence-based “fresh dossier” reflecting the absent or limited participatory involvement of women as valuable stakeholders in the institutionalised EPH process. The evidence of lived experiences creates space for women's voices that are excluded within the societal system due to exclusivity of dominant powers and institutional structures. The authors support a corrective gendered framework that combines recognition with participation of rural women's local knowledge and role as crucial stakeholders thereby promoting environmental justice.

## 1. Introduction

The Indian Constitution commits to a democratic social order that includes the promotion of the rights and legitimate aspirations of women to be treated as equal citizens.<sup>1</sup> However, India demonstrates a legal duality - promising and reassuring in theory but of limited effectiveness in practice. This article presents the state institutionalised environmental public hearing (EPH) process as an illustrative example to evidence discrimination and inequality affecting Gujarati rural women thereby perpetuating environmental injustice. Tested through the framework of intersectionality, it demonstrates that the current engagement of women as key stakeholders in the EPH process is restricted, unequal and falls short of the constitutional commitment. Women's environmental voices remain weak or commonly absent despite India's seventy-six years of independence.

India has a strong agricultural economy with eighty percent of rural women engaged in the agriculture sector.<sup>2</sup> Rural Indian women make crucial contributions to environmental resource usage

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<sup>1</sup> Equality is a cornerstone of Indian democracy. The Constitution of India 1950, articles 14 (equality before law and equal protection of laws), 15 (prohibition of discrimination on grounds of religion, race, caste, sex or place of birth), 39 (equal pay for equal work for both men and women), 42 (securing just and humane conditions of work and for maternity relief) and 43 (equal living wages, and social and cultural opportunities). See also, Government of India, Ministry of Women and Child Development, *National Policy for Women 2016: Articulating a Vision for Empowerment of Women* (2016); and Government of India, *Mission Shakti: G 20 Empower*, at <https://g20empower-india.org/en/home/mission-details/shakti>.

<sup>2</sup> N. Patel and T. Sethi, 'Rural women: Key to India's Agrarian Revolution' *NITI Aayog* (2021), at <https://www.niti.gov.in/rural-women-key-new-indias-agrarian->

and its management by using their local knowledge and skills, thereby supporting the rural economy. Local, including indigenous knowledge, is defined as the 'cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment.'<sup>3</sup>

Indian traditions and customs reflect the women-environment nexus.<sup>4</sup> It is one of reciprocity, symbiosis, harmony, and interrelatedness.<sup>5</sup> In particular, the interdependence of rural women is indicative of an emotional and intellectual bond, the long-standing relationship with their environment, and the holistic knowledge accumulated over centuries to govern social-ecological systems. Recognising and promoting this relationship is crucial for effective environmental governance. Indian rural women's sensitivity to the environmental processes and their roles as producers, managers, income-generators and educators is firmly established.<sup>6</sup> For example, women are traditionally responsible for many conservation activities, such as protecting the soil, water, forests and promoting reclamation of land previously damaged by poor husbandry.<sup>7</sup> Similarly, women are particularly knowledgeable in matters of non-timber forest products (NTFPs) including medical plants, building materials, leaf collection and materials for household usage. NTFPs are crucial in sustaining livelihoods, income generation, food and nutritional security, providing fuelwood, fodder, and traditional medicine as subsistence support to rural communities.<sup>8</sup> It is

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[revolution#:~:text=In%20India%2C%20Agriculture%20employs%20about,paradigm%20shift%20towards%20economic%20growth.](#)

<sup>3</sup> F. Berkes, *Sacred ecology* (2018) 8.

<sup>4</sup> The Hindu traditions and customs view the earth as distinctly feminine - living being, a mother, a woman, a Goddess who is to be loved, respected, and nurtured, as she (earth) nurtures humanity. In Hindu traditions, Mother Earth has a name: Bhumi Devi. In Sanatana Dharma, the dual issues of respecting the -way of nature and women are inseparable. For instance, the peepul tree, known for being sacred and antique is worshipped by village women as it is considered a symbol of fertility and progeny. Similarly, tulsi plant, an ancient variety of basil, is grown in Hindu households and women offer daily prayers for protecting the family against danger and difficulties.

<sup>5</sup> V. Shiva, *Staying Alive: Women, ecology and development* (1988).

<sup>6</sup> Ministry of Child and Welfare Development Government of India, *Report of the High Level Committee on the Status of Women in India* 4 (2015) 1212-1215; V. Shiva and M. Mies, *Ecofeminism* (2014); G. N. Gill, 'Feminisation of poverty: Indian rural women and the environment' (2012) 63(2) *Northern Ireland Legal Quarterly* 291, at 295-297; B. Agarwal, *Gender and green governance: The political economy of women's presence within and beyond forestry* (2010); K. Michael et al, 'A two-step approach to integrating gender justice into mitigation policy: examples from India' (2020) 20(7) *Climate Policy* 800, at 801.

<sup>7</sup> For example, see K. Marathe and D. Nandi, "Resistance, autonomy and reclaiming forests: how Baiga women transformed a marginalised Indigenous community in India" in the *62<sup>nd</sup> Forest Cover Issue on the Impacts of tree plantations on women and women-led resistance to monoculture* Global Forest Coalition (2020) 1, at 20-21. There was a strong resistance from the Baiga indigenous community especially women (Chhattisgarh state) towards the monoculture trees (eucalyptus and jatropha plantation) drive regarding biofuel cultivation by the state forest department. It meant losing their land, access to forests and traditional practice of swidden agriculture. This resulted in a movement for self-governance, reclaiming forests, traditional practices and community-governed conservation and biodiversity protection. The women have grown bamboo and fruit trees, developed seed banks and prepared a biodiversity register. See also P. Rakesh, "Communities revive traditional water springs" (2010) *Leisa India* 1, at 14-15. Women of the Bajeena village in Almora district (Uttarakhand) used their local knowledge and skills to revive depleted underground water resources that had decreased because of the reduction in forest cover. Consequently, they became involved in tree plantation and built water-harvesting structures. Recharge ponds were also built that increased the water resources threefold.

<sup>8</sup> P. Mipun, 'Non-timber forest products and their contribution to healthcare and livelihood security among the Karbi tribe in Northeast India' (2019) 8 41 *Ecological Processes* 1; D Endamana et al, 'Contribution of non-timber forest products to cash and non-cash income of remote forest communities in Central Africa' (2016) 18 (3) *The International Forestry Review* 280, at 281.

estimated that the value of NTFPs in India is in the range of US\$ 60-100 billion wherein 60-70 percent of this specialised NTFP workforce are women.<sup>9</sup> A feature of women as managers is their ability to work together for effective action. Although rural women are not a homogenous group, examples of informal environmental movements including Chipko<sup>10</sup>, Stree Mukti Sangharsh Calval<sup>11</sup> and Mahuva Andolan<sup>12</sup> demonstrate women's ability to unite in common cause despite differences in caste, class, language, and education. The protests were a catalyst to develop strategic alliances and support for women's leadership. Simply put, they know what works and what does not within their local environment. However, women's positions and roles are not static. They can be negatively affected by developmental, infrastructure and industrial projects and market-led growth that have deep and far-reaching implications. It is well-documented that women face gender-specific vulnerabilities, constraints promoting deep inequalities and inequities that exacerbate the feminisation of poverty, deprivation and exclusion.<sup>13</sup> These include increased workloads both in

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<sup>9</sup> For instance, see Ministry of Environment and Forests, *Asia Pacific Forestry Sector Outlook Study-II Country Report India Outlook Study 2020* (Government of India, 2020) at 32, <https://moef.gov.in/wp-content/uploads/2019/06/Pacific.pdf> ; and A. Thapa and K. Singh, (2021). "Women's Role in Non-Timber Forest Products Management: A Review" paper presented at the National Conference on Role of Women in Nation Development [NCRWND-2020] available at [10.47531/MANTECH.2021.13](https://www.mantech.org/2021/10/47531/MANTECH.2021.13). See also R. Das, "Role of Women in Environmental Protection, Management and Development: A Study in North East India" (2022) 2 (1) *Society and Culture Development in India* 149, at 157-160. Das highlights the role of Bodo tribal women from Assam in the North East India. Influenced by their socio-cultural and religious beliefs, Bodo women conserve about 48 different plants (leaves, stems and tubers) for healing wounds/pains and other diseases. *Erianthus* spp (poaceae engkur) plant is used to construct their kuchha (temporary mud) house.

<sup>10</sup> The well-known Chipko Movement of 1974 began in Uttar Pradesh's Chamoli district. The movement saw the active involvement of village women to preserve Himalayan ecology by using Gandhian techniques of protest. Women encircled and hugged trees to save them from commercial timber operators' axes, thereby ensuring long-term gains of saving the forest and the environment. The women told the tree-cutters that they would first have to cut off the -women's heads. Scholars have interpreted the Chipko Movement either as an example of women's special relation to nature or in the context of peasant movements.

<sup>11</sup> Stree Mukti Sangharsh Calval (Women's Liberation Struggle Movement) had its genesis in the Mukti Sangharsh Movement, a peasant movement aimed at eradicating drought by constructing a small dam, the Bali Raj Memorial Dam, in Sangli district, South Maharashtra. The peasants, including women, demanded the right to use the sand in their area in a non-damaging way to finance the dam. Gradually, Stree Mukti Sangharsh became a broad platform of ecological movement from 1990, advocating hirvi dharti, stree shakti, manav mukti (green earth, women's power, human liberation).

<sup>12</sup> The Mahuva Andolan was against the construction of a cement plant by Nirma Industries in the state of Gujarat. Part of the project site was in the ecologically sensitive Samadhiyala Bandhara reservoir, and its catchment, spread over 100 hectares. The community members especially women felt that their concerns including - livelihoods, easier access to drinking water for animals, increased vegetable farming and recharging of subsurface water- were not being heard or addressed. This resulted in a parallel collective action of 170-km foot march protest from the village of Doliya to Gandhinagar involving 5,000 people. The women made cement rotis, onions and coconuts as a symbolic gesture to question the validity of the project.

<sup>13</sup> United Nations General Assembly Human Rights Council, *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, (A/HRC/52/33) (2023): S. Bala, 'India's rural women are 'bearing the brunt' of climate shocks' *CNBC Equity and Opportunity*, 9 March 2023, at <https://www.cnbc.com/2023/03/10/india-gender-gap-discrimination-women-bear-brunt-of-climate-change.html> ; N. Jamwal, 'Environmental degradation affects poor rural women', *DNA India*, 5 March 2017, at <https://www.dnaindia.com/india/column-environmental-degradation-affects-poor-rural-women-2342717>; Ministry of Child and Welfare Development, op. cit., n.6, p. 1215-1217; N. Broeckhoven, 'Biodiversity Loss and Climate Change: Gender Issues in International Law and Policy' (2014) 1(2) *Journal of Diversity and Gender Studies* 23, at 24; J. Kishwaria, R. Aruna and S. Sood, 'Work pattern of hill farm women: a study of Himachal Pradesh' (2009) 3(1) *Studies on Home and Community Science* 67; International Fund for Agricultural Development (IFAD), *Enhancing the Role of Indigenous Women in Sustainable Development: IFAD experience with indigenous women in Latin America and Asia, Third Forum on indigenous issues* (IFAD 2004); B. Agarwal, *Gender, Environment and Poverty Interlinks in Rural India: Regional Variations*

terms of time and labour, scarcity of resources, food insecurity, and increase the number of victims of environmental and climate related shocks.

Another critical issue relates to gender-engaging strategies that acknowledge, recognise and ensure women's engagement and participation in decision-making to achieve environmental justice. Amid a constantly changing political climate and environmental priorities, defining environmental justice is challenging and debatable. However, as an important entry point for enquiry with a shifting base, the environmental justice discourse discerns, analyses and calls for the distribution of environmental benefits and burdens<sup>14</sup>, the recognition of oppressed individuals and communities in political and cultural realms<sup>15</sup>, procedural dimensions focusing on participatory mechanisms<sup>16</sup>, and social justice elements including environmental inequalities, exclusion, discrimination, distribution, access and rights, and their relevance to specific social groups.<sup>17</sup> Over time, environmental justice discourse is being re- contextualised within numerous jurisdictions to include issues of fairness, equity, standing, rights of disadvantaged populations in developing countries, trade agreements, transfer of waste, climate change, and the rights of nature.<sup>18</sup> For this article, we view environmental justice from a procedural perspective that involves 'coming to voice and to participation'.<sup>19</sup> In a democratised system, the state institutionalised process, including EPH, demands procedural parity that ensures local knowledge recognition, inclusion and participation for both individual and community identity (herein rural women) and a place in environmental decisions. As repositories of traditional knowledge and related skills, there should be representation of the interests and needs of rural women seeking to achieve environmental justice. Our position is best summed by Young's emphasis on procedural issues of participation and decision-making in the institutions and political processes. Young states 'for a norm to be just, everyone who follows it must in principle have an effective voice in consideration and be able to agree to it without coercion. For a social condition to be just, it must enable all to meet their needs and exercise their freedom; thus justice requires that all be able to express their needs.'<sup>20</sup>

Women's involvement contributes to a more inclusive and plural understanding of environmental challenges thereby acknowledging local responsibility which in turn enhances self-respect and independence. This promotes environmental justice by 'gaining recognition from others, and mutual respect of various communities, identities and culture...such recognition is also clearly tied to participation and self-determination.'<sup>21</sup> Connected to this is the procedural element of participation- 'speaking of ourselves [women], a 'place at the table,' equal, informed, respectful ...'<sup>22</sup> - to enable meaningful engagement.

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*and Temporal Shifts 1971-1991* Discussion Paper (Geneva United Nations Research Institute for Social Development (1995).

<sup>14</sup> M Walzer, *Spheres of Justice* (1983) 6; H. Brighouse, *Justice* (2004) 2; L Pulido, *Environmentalism and Economic Justice* (1996); B Chavis, 'Foreword' in R D Bullard, *Confronting Environmental Racisms* (1993).

<sup>15</sup> P. Taylor, *Respect for Nature* (1986); I. Young, *Justice and the Politics of Difference* (1990); A. Honneth, 'Integrity and disrespect: principles of morality based on the theory of recognition' (1992) 20(2) *Political Theory* 187

<sup>16</sup> D Schlosberg, *Defining Environmental Justice* (2007) 25-29; R Holifield et al, *Spaces of Environmental Justice* (2011) 10.

<sup>17</sup> A Dobson, *Justice and the Environment* (1998); R Bullard, *Dumping in Dixie: Race, Class, and Environmental Quality* (2000); M. Sharma, 'Caste, Environment Justice, and Intersectionality of Dalit-Black Ecologies' (2022) 13 *Environment and Society: Advances in Research* 78, at 81.

<sup>18</sup> K Shrader- Frechette, *Environmental Justice: Creating Equality, Reclaiming Democracy* (2002) 8-12; Holifield, op. cit. n.16, p. 6.

<sup>19</sup> Scholsberg, op. cit. n. 16, p. 65.

<sup>20</sup> Young, op. cit. n. 15, p. 34.

<sup>21</sup> Scholsberg, op. cit. n. 16, p. 64.

<sup>22</sup> Id. p. 66.

In this context, the article critically examines gender engagement in the EPH that is an integral part of the environmental impact assessment (EIA) process. Indian environmental law mandates the use of EIA, a fact-finding public process that helps decision-makers identify potential environmental impact and avoid or mitigate adverse changes caused by developmental and infrastructure projects.<sup>23</sup> The EPH is an essential element of the EIA process that ascertains the views of local affected persons including women. Public hearings contribute to general understanding and explore ways to reduce the negative impact of development and industrial projects. However, there is a failed or limited gender-engagement that produces greater disparities and inequalities. This is emblematic of deeper social structural intersectionality barriers that include patriarchy, illiteracy, poverty, and caste faced by Indian rural women.

The novelty of this article lies in the application of the intersectionality framework to the institutional EPH process that seeks to promote environmental justice.<sup>24</sup> It critically analyses how gender participation in the regulatory EPH process is failing rural women in the State of Gujarat thereby exacerbating discrimination and inequality. Intersectionality provides a framework to better understand the processes of gender marginalization and exclusion because of discriminatory social and legal norms. The article creates an evidence-based “fresh dossier” on the issue of ‘disenfranchisement-the combination of misrecognition and political exclusion’<sup>25</sup> through the intersectionality framework that records the lived experiences of women’s ‘language... feeling, humiliation and [no]dignity’.<sup>26</sup>

The article is structured as follows. Section 2 summarily covers the importance of EIA (with the focus on EPH) and the engagement of women. Section 3 briefly addresses the theoretical framework of intersectionality and how experiences are shaped by multiple social constructs, processes and systems. Section 4 describes the methods (quantitative and qualitative) employed in this research from 2018-2022 in the state of Gujarat, India. Section 5 examines women’s participation in the EPH process and associated social and structural challenges in real time. It first uses the quantitative data collected from the official reports of the Gujarat Pollution Control Board. This is followed by analysing the qualitative data through an intersectionality framework. Section 6 is the conclusion.

## 2. Engendering Environmental Public Hearing

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<sup>23</sup> The EIA Notification was officially introduced in 1994 by the Ministry of Environment and Forests (MOEF) in exercise of its power to protect and improve the environment as provided under Section 3 of the Environment Protection Act, 1986 read with Rule 5(3) of the Environment (Protection) Rules, 1986 (Ministry of Environment and Forests, EIA Notification, 1994, S.O. 60(E), 27 January 1994). Since the 1994 Notification, 12 amendments were made in the EIA notification requirements up to 2006, at [https://environmentclearance.nic.in/report/EIA\\_Notifications.aspx](https://environmentclearance.nic.in/report/EIA_Notifications.aspx). In March 2020, a draft notification to replace the 2006 notification was issued for public comments. Since then, there have been many protests seeking a reevaluation of the draft proposal (Ministry of Environment, Forest and Climate Change, Draft Environment Impact Assessment Notification, 2020, S.O. 1199(E) The Gazette of India: Extraordinary Part II Section 3(ii), 23 March 2020, at [http://environmentclearance.nic.in/writereaddata/om/6998FGGHOI\\_Gaztte\\_EIA2020\\_Comments.pdf](http://environmentclearance.nic.in/writereaddata/om/6998FGGHOI_Gaztte_EIA2020_Comments.pdf).

<sup>24</sup> Intersectionality emphasises interconnectedness of race, class, gender, sexuality, and other social identities that perpetuates discrimination and disadvantage. This is subsequently discussed in detail in the later part of this article.

<sup>25</sup> Schlosberg, op. cit. n. 16, p. 68.

<sup>26</sup> Sharma, op cit. n. 17, p. 79.

Environmental Impact Assessment (EIA) is described as 'the most widely emulated environmental policy innovation of the twentieth century.'<sup>27</sup> As an 'anticipatory, participatory environmental management tool, EIA provides systematic evaluation of the effects likely to arise from a major project (or other action) significantly affecting the environment.'<sup>28</sup> Principally, the objective of any EIA requirement is to promote and ensure that planning decisions take into account environmental costs and benefits.<sup>29</sup> The ability to incorporate affects analysis of alternatives for an EIA can minimise negative cumulative effects, promote resource sustainability and make room for future development. The proximate purposes of the EIA include an aid to decision-making,<sup>30</sup> the formulation of development actions,<sup>31</sup> a vehicle for stakeholder consultation and participation,<sup>32</sup> and an instrument of sustainable development.<sup>33</sup> International environmental laws have institutionalised the process for its application to address societal challenges due to earth's environmental crisis and its capacity to sustain human well-being.<sup>34</sup> Despite its wide acceptance and legal integration, EIA's function and degree of influence has generated a body of active but discordant opinion and literature.<sup>35</sup> However, this article does not address this challenging issue but accepts that EIA is an internationally recognised and established tool for environmental management.

In India, EIA as a process started in 1976-77 with central government given the administrative power to approve projects, such as river-valley development and investments.<sup>36</sup> The legislative support for

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<sup>27</sup> B. C. Karkkainen, 'NEPA and the curious evolution of environmental impact assessment in the United States' in J. Holder and D. McGillivray (editors) *Taking Stock of Environmental Assessment: Law, Policy and Practice* (2007) 45, at 45.

<sup>28</sup> S. Jay et al, 'Environmental impact assessment: Retrospect and prospect' (2007) 27(4) *Environmental Impact Assessment Review* 287, at 287.

<sup>29</sup> The Monitoring and Assessment Research Centre, *Environmental Impact Assessment: An Analysis of the Methodological and Substantive Issues Affecting Human Health Considerations* (1987) 5.

<sup>30</sup> J., Riki Therivel and A. Chadwick, *Introduction to Environmental Impact Assessment* (2012) 7. For the decision-makers, EIA provides systematic examination of the environmental implications of a proposed action, and sometimes alternatives, before a decision is taken.

<sup>31</sup> *ibid.* For the developers, EIA aids to the formulation of development actions, indicating areas where a project can be modified to minimize or eliminate its adverse impacts on the environment.

<sup>32</sup> *ibid.* EIA promotes engaging with communities and stakeholders, helping those potentially affected by a proposed development to be informed and involved in the planning and development process.

<sup>33</sup> *ibid.* EIA is being increasingly positioned within the broader context of sustainability and sustainable form of development.

<sup>34</sup> For example, see Convention on Wetlands of International Importance 1971; Convention on Transboundary Environmental Impact Assessment 1991; Convention on Wetlands of International Importance 1971; United Nations Framework Convention on Climate Change 1992; and Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters 1998.

<sup>35</sup> This includes less influential impact than its originators anticipated, uncertain substantive outcomes, poor implementation of what is seen as an essentially adequate means of environmental protection, and constraints on effectiveness relate to issues of purpose rather than inadequate legislative provisions. See M. Cashmore et al, 'The interminable issue of effectiveness: substantive purposes, outcomes and research challenges in the advancement of environmental impact assessment theory' (2004) 22 (4) *Impact Assessment and Project Appraisal* 295; C.M. Wood, *Environmental impact assessment: a comparative review* (2003); Y. Deelstra et al, 'Using knowledge for decision-making purposes in the context of large projects in the Netherlands' (2003) 23 *Environmental Impact Assessment Review* 517; T. Nitz, and I. Holland, 'Does environmental impact assessment facilitate environmental management activities?' (2000) 2 (1) *Journal of Environmental Assessment Policy and Management* 1; B. Sadler, *Environmental assessment in a changing world: evaluating practice to improve performance, final report of the international study of the effectiveness of environmental assessment* Canadian Environmental Assessment Agency and International Association for Impact Assessment. Ottawa (1996); L.K. Caldwell, 'Analysis—assessment—decision: the anatomy of rational policymaking' (1991) 9 *Impact Assessment Bulletin* 81.

<sup>36</sup> Down to Earth, 'Understanding EIA' Centre for Science and Environment, 12 October 2011, at <https://www.cseindia.org/understanding-eia-383>.

formally institutionalising the EIA process was through the 1994 notification by the Ministry of Environment and Forests. The notification mandated environmental clearance for expansion or modernisation of any activity or for setting up new projects listed in Schedule 1.<sup>37</sup> In 2006, a new EIA notification<sup>38</sup> was introduced with the aim to ensure that the process was 'more streamlined, transparent and independent of politicking'.<sup>39</sup> The notification not only expanded the coverage of environmental clearances for developmental projects but also gave power to the state government depending on the size/capacity of the project to approve the projects.<sup>40</sup> Presently, the 2006 notification governs the environmental clearance landscape for thirty development categories that include inter alia, thermal, hydro, and nuclear power projects, mining, oil and gas exploration projects, industries, infrastructure and construction projects.<sup>41</sup> It provides for a four stage process for obtaining environmental clearance that includes screening, scoping, public hearing and appraisal.<sup>42</sup> The notification has undergone amendments with nearly forty interventions in the last fourteen years.<sup>43</sup> This article, however, focuses on the institutionalised EPH as a means to achieving environmental protection, sustainable development and environmental justice.

EPH is incorporated as an indispensable requirement of the 2006 notification.<sup>44</sup> It involves understanding and collating the grievances and objections of project-affected communities and addressing their concerns. A public hearing for an environmental project is not simply a procedural formality but is meant to ensure that the decision is based on a comprehensive assessment, evaluation of the pros and cons including costs and benefits and considers the needs and living conditions of local people and communities<sup>45</sup>. It ensures that 'governed should engage in their own governance...[and] proposed developments are compatible with, and do not compromise, the environment and interests of those affected.'<sup>46</sup> The requirement of a public hearing is a sine qua non not only for environmental matters but it also reflects good governance that includes transparency

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<sup>37</sup> EIA Notification, op. cit., n.23.

<sup>38</sup> Ministry of Environment and Forests, EIA Notification, 2006, S.O. 1533, 14 September 2006, at [https://environmentclearance.nic.in/writereaddata/EIA\\_Notifications/1\\_SO1533E\\_14092006.pdf](https://environmentclearance.nic.in/writereaddata/EIA_Notifications/1_SO1533E_14092006.pdf).

<sup>39</sup> N. Chowdhary, 'Environmental Impact Assessment in India: Reviewing two decades of Jurisprudence' (2014) 5 *IUCN Academy of Environmental Law e-Journal* 28, at 29.

<sup>40</sup> Down to Earth, op. cit., n.36. It was mandatory for projects such as mining, thermal power plants, river valley, infrastructure (road, highway, ports, harbours and airports) and industries including electroplating or foundry units to get environment clearance.

<sup>41</sup> id, Schedule.

<sup>42</sup> EIA Notification 2006, op. cit., 23, clause 7.

<sup>43</sup> U. Jha-Thakur and F. Khosravi, 'Beyond 25 years of EIA in India: Retrospection and way forward' (2021) 87 106533 *Environmental Impact Assessment Review* 1, at 2.

<sup>44</sup> S. Jolly and S. Singh, 'Environmental Impact Assessment Draft Notification 2020, India: A Critique' (2021) 5(1) *Chinese Journal of Environmental Law* 11, at 15; A. Rajvanshi, 'Promoting public participation for integrating sustainability issues in environmental decision-making: the Indian experience' (2003) 5(3) *Journal of Environmental Assessment Policy and Management* 295, at 299; R. Paliwal, 'EIA practice in India and its evaluation using SWOT analysis' (2006) 26(5) *Environmental Impact Assessment Review* 492.

<sup>45</sup> G. N. Gill, *Environmental Justice in India: The National Green Tribunal* (2017) 98.

<sup>46</sup> U. Etemire, 'Public Voices and Environmental Decisions: The Escazú Agreement in Comparative Perspective' (2023) 12 (1) *Transnational Environmental Law* 175, at 177 and 179. See also L. H. Berry et al, 'Making space: how public participation shapes environmental decision-making' (2019) Stockholm Environment Institute, at <https://www.sei.org/wp-content/uploads/2019/01/making-space-how-public-participation-shapes-environmental-decision-making.pdf>; J. Newig, 'Does public participation in environmental decisions lead to improved environmental quality?: Towards an analytical framework' (2007) 1(1) *Communication, Cooperation, Participation International Journal of Sustainability Communication* 51; J. A. López Cerezo and M. González, 'Lay knowledge and public participation in technological and environmental policy' (1996) 2(1) *Philosophy and Technology* 36.

and accountability.<sup>47</sup> As a critically important element, EPH strengthens citizen engagement, legitimises decision-making through valuable local knowledge, and generate trust and fairness thereby promoting environmental justice.

The Indian EPH (oral and written) procedural requirement includes the following provisions- publishing notice indicating date, time and venue for the public hearing, to be published thirty days prior to the date of hearing in at least two newspapers one of which to be in the vernacular language; all persons including residents, environmental groups and other persons located at the project site or the sites of displacement or the sites likely to be affected in any other way can participate in the public hearing; the affected persons should be provided access to executive summary of the project at the offices of the official representatives of the hearing panel; the public hearing should be at the project site or in close proximity for ascertaining concerns of the local affected people; videography of the entire proceedings; the attendance of persons present at the venue shall be noted; every person at the venue shall be granted the opportunity to seek information or clarification from the project proponent; and the concerns expressed shall be recorded by the competent authority and read over to the audience at the end of the proceedings explaining the content in the vernacular language.<sup>48</sup>

Global instruments call for an engendering EPH process. The 1992 Rio de Janeiro United Nations Conference on Environment and Development (UNCED)<sup>49</sup> and Agenda 21 stress the need for effective participation of women in sustainable development and the elimination of obstacles to their equal and beneficial participation, particularly in the decision-making process.<sup>50</sup> The Beijing Declaration and Platform for Action 1995, considered as the most progressive blueprint for advancing women rights, called for their empowerment, and full participation on the basis of equality including participation in the decision-making process and access to power.<sup>51</sup> Importantly, Article 14 of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) read with the General recommendation No. 34 (2016) on the rights of rural women is the only provision in an international human rights treaty that specifically pertains to rural women and their empowerment, self-determination and position in decision-making and governance processes.<sup>52</sup> The State parties should develop action plans that envision and articulate recognition,

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<sup>47</sup> *Jan Chetna v MoEF*, NGT Judgment 9 February 2012; *Prafulla Samantray v Union of India*, NGT Judgment 30 March 2012; *Lower Painganga Dharan Virodhi v State of Maharashtra*, NGT Judgment 10 March 2014.

<sup>48</sup> EIA Notification 2006, op. cit., n. 23, clause 7 and Appendix IV. Despite Indian legal provisions, there are limitations in the EPH process that include 'low quality reports, lack of consideration of alternatives, poor public engagement processes, lack of gender as a unit of analysis and deficient monitoring mechanisms... and being gender neutral.' For details see B. Gallant, 'Values matter Gender-based exclusion from environmental impact assessments in Mahuva, Gujarat' in A. Diduck, K. Patel, A. Kumar Malik (eds) *Advancing Environmental Justice for Marginalized Communities in India Progress, Challenges and Opportunities* (2021) 137, at 138.

<sup>49</sup> Principle 20 of the Rio Declaration recognised that "women have a vital role in environmental management and development"

<sup>50</sup> Chapter 24 of Agenda 21, entitled Global action for women towards sustainable development, contains several commitments with specific recommendations. These included reviewing policies and increasing the proportion of women as decision-makers, managers, planners; strengthening women's NGOs; eliminating illiteracy among females by providing education; supporting and strengthening equal employment opportunity and equitable remuneration for women; facilitating and increasing rural women's access to credit and agriculture inputs; eliminating negative images, attitudes and prejudices against women; establishing and strengthening preventive and curative health practices.

<sup>51</sup> Principle 13 Beijing Declaration and Platform for Action; UN Women, *Beijing Declaration and Platform for Action, Beijing +5 Political Declaration and Outcome*, at <https://www.unwomen.org/en/digital-library/publications/2015/01/beijing-declaration>.

<sup>52</sup> United Nations Convention on the Elimination of all forms of Discrimination against Women <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> and General recommendation No. 34



inclusion and participatory involvement through effective and gender-responsive rural decision-making processes such as EIAs to mitigate possible environmental impacts.<sup>53</sup> The benefits of active involvement of women in the participatory process are ‘better decision-making, economic development, equal distribution of resources, and improved planning’.<sup>54</sup> An active engagement of women supports gender-equitable sustainable development. It avoids the risk of ignoring their traditional knowledge and competence, and advances redistribution of power and status.

India, being a signatory to these global instruments, is committed to acknowledge the voices of women and encourage them to participate in decision-making thereby promoting their advancement and empowerment. However, the reality is disturbing. Most environmental policies and laws have taken a ‘single-pronged, bird eye approach’<sup>55</sup> that does not include women as indispensable stakeholders. Whilst recognising that under the Indian EPH law, the procedure requires local affected persons to be consulted, it is disheartening to note that there is legislative failure that recognises women as a “separate and valuable group” of stakeholders. Further, social norms (patriarchy, caste, and class) mutually intersect and reinforce the norms that create and contribute to women’s exclusion. There are deep-rooted patriarchal and caste prejudices that work against rural women, thereby exacerbating poverty and discrimination, and placing them in a position of subservience.

Presently, the Indian Environmental Impact Assessment Regulation 2006 does not identify women as “separate and valuable group” in the EPH process. However, in a different but related context, the Indian Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act (LARR Act) 2013 addresses gender-engagement issues. The LARR Act recognizes that widows, divorcees, and women abandoned by their families are entitled to compensation and other benefits including compensation to female-headed households because of compulsory land acquisition. A ‘gender balance framework’<sup>56</sup> could facilitate structural and discursive changes thereby improving the law at the national level. Examples from other jurisdictions including Canada<sup>57</sup>

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(2016) on the rights of rural women (CEDAW/C/GC34) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/061/90/PDF/N1606190.pdf?OpenElement>.

<sup>53</sup> Id, Article 14 paras 2(a) and 2(f) read with Article 7 of the CEDAW.

<sup>54</sup> S. K. Singh and V. Wankhede, *Inclusion of gender in environmental impact assessment* (Centre for Science and Environment 2018) 14.

<sup>55</sup> V. Singh, ‘Women’s empowerment- the missing piece of environmental policies’ *Feminism in India*, 12 June 2020, at <https://feminisminindia.com/2020/06/12/womens-empowerment-missing-piece-environmental-policies/>.

<sup>56</sup> See, Impact Assessment Agency of Canada, *Guidance: Gender-Based Analysis Plus in Impact Assessment* (2021); D. Hoogeveen et al, *Gender Based Analysis Plus: A knowledge synthesis for the implementation and development of socially responsible impact assessment in Canada Report* (2020); Gallant, op. cit., n. 48, p. 138. The Voisey Bay Nickel Mine project and Kudz Ze Kayah project are illustrative examples of employing gender balance framework within impact assessment process.

<sup>57</sup> Section 22 (s) of Canada’s Impact Assessment Act 2019 that states that sex, gender, and other identity factors must be considered during impact assessment processes

and Africa<sup>58</sup> would be helpful by ‘offer[ing] better solution in given time and place’.<sup>59</sup> An active membership of women would bring additional perspectives, foci, and aims concerning social and environmental considerations, and emotional as well as spiritual connections with nature.

We argue that the EPH process needs gender mainstreaming and an engagement that supports both law and its implementation. The gendered difference in the concerns, priorities, values and knowledge of women and men reflects the need for a broad evidence spectrum during the EPH process. A wider perspective generates hypotheses about environmental events and challenges and provides options to identify and mitigate risks for the community and the local environment. Thus, by addressing gender differences and engaging women, the public hearing would facilitate ‘recognition and inclusion of a variety of perspectives, knowledge and understandings that fully represent local experiences and diversity.’<sup>60</sup> Gender voices inclusion would result in ‘increased productivity...and the strengthening of the social fabric of societies...’<sup>61</sup>

### 3. Intersectionality: A Methodological Framework

This section briefly introduces the intersectionality literature relevant to the empirical data analysed in this paper. From the outset, we see the need to reflect on our own relatively privileged positions as we engage with the theoretical framework of intersectionality.<sup>62</sup> One of the authors recognises her position as a British-Indian working in a western academic environment, but still in a learning process (as all such privileged people should be). We clarify the intellectual basis for applying intersectionality in the specific context of EPH. In centring the theoretical framework of intersectionality, we are influenced by the scholarship that recognises intersectionality as useful to expose both overtly and subtly at different levels the complexity and multiplicity of intersectional group and differential power dynamics in places where a one dimensional approach might result in

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<sup>58</sup> See Singh and Wankhede, op. cit., n. 54, pp. 15-18. They provide examples from African countries where gender has been mainstreamed in the environmental legislation. For example, Kenya’s The Environmental (Impact Assessment And Audit) Regulations, 2003 (Regulation 2- “social analysis” means, assessing the social consequences from specific policy actions or project development which includes gender desegregation); South Africa’s National Environmental Management Act 1998 and Environmental Impact Assessment Regulations 2014 (Section 2 (4)(q): The vital role of women and youth in environment management and development must be recognized and their full participation therein must be promoted. Section 4: National Environmental Advisory forum shall be composed of representation from women, youth and persons disadvantaged by unfair discrimination); Tanzania’s The Environmental Impact Assessment and Audit Regulations 2005 (Regulation 3: “Social analysis” means assessing or estimating in advance the social consequences from specific policy actions or project development including gender desegregation. Under Schedule 2, the project screening criteria of the regulations inquiries about the impact a project may bear on a social group or gender). See also, The Equator Principles 2020 and the Food and Agriculture EIA Guidelines that are illustrative of gender analysis approach in public hearings

<sup>59</sup> See K. Zweigert and H. Kötz, *A n Introduction to Comparative Law*, translated by T Weir (1998) 15.

<sup>60</sup> Gallant, op. cit., n. 48, p. 137.

<sup>61</sup> Singh and Wankhede, op. cit., n. 54, p. 8.

<sup>62</sup> We are aware of the extensive literature on reflexivity and intersectionality, but we do not address it in this article. See generally, J. K. Rodriguez and M. Ridgway, ‘Intersectional reflexivity: Fieldwork experiences of ethnic minority women researchers’ (2023) 30 *Gender Work Organ.* 1273; M. Adams, ‘Intersectionality and Reflexivity: Narratives From a BME Female Researcher Inside the Hidden Social World of Prison Visits’ (2021) 20 *International Journal of Qualitative Methods* 1; K. Fuller, ‘The “7 Up” Intersectionality Life Grid: A Tool for Reflexive Practice’ (2020) 5 (77) *Frontiers in Education* 1.

those operations becoming invisible.<sup>63</sup> As a methodological framework, intersectionality is ‘complicit in the subordination of black and other women of colour as well... by addressing the multifarious ways in which ideologies of race, gender, class, and sexuality reinforce one another, reading intersectionally can illuminate the diverse ways in which relations of domination and subordination are produced.’<sup>64</sup> It seemed a good starting point for our work, keeping in mind our focus on environmental justice, to foster transformations toward just, equitable, and sustainable futures. The authors believe that applying an intersectional framework to their research enables them to capture the multiple positions and the power inequalities that create discrimination through the women’s lived experiences. It also increases our understanding of how the reproduction of discrimination and inequality occur in an institutional forum. Within the broader framework of environmental justice, intersectionality exposes women’s exclusion and discrimination in institutional systems and political economies thereby highlighting recognitional and participatory injustices.

Intersectionality, as a critical framework, was developed by Kimberlé Crenshaw to expose ‘how single-axis thinking undermines legal thinking, disciplinary knowledge production, and struggles for social justice.’<sup>65</sup> Crenshaw argued that the tendency to treat race and gender as mutually exclusive categories contributes to marginalisation of Black women in the USA. Intersectionality, as the multidimensionality of Black women’s experiences, would be a ‘a prism for seeing the way in which various forms of inequality often operate together and exacerbate each other.’<sup>66</sup> Collins described intersectionality as a framework for understanding the experiences of marginalized individuals within a ‘matrix of domination characterized by intersecting oppressions.’<sup>67</sup> However, some scholars have not employed the term intersectionality but prefer alternative terms that shape oppression. These include interlocking, multiple jeopardy, discrimination-within-discrimination, multiple consciousness, multiplicity, multiplex epistemologies, trans-locational positionality, multidimensionality, inter-connectivities, synthesis and compound injustices.<sup>68</sup>

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<sup>63</sup> L. McCall, ‘The Complexity of Intersectionality’ (2005) 30 (3) *Signs*, 1771; J. C. Nash, ‘Re-Thinking Intersectionality’ (2008) 89 (1) *Feminist Review* 1; V. Smith, *Not Just Race, Not Just Gender: Black Feminist Readings* (1998); A. Hancock, ‘When Multiplication Doesn’t Equal Quick Addition: Examining Intersectionality as a Research Paradigm’ (2007) 3(1) *Perspectives on Politics* 63; J. Puar, ‘I’d Rather Be A Cyborg Than a Goddess: Becoming Intersectional in Assemblage Theory’ (2012) 2(1) *Philosophia* 49; A.E. Boyd, ‘Intersectionality and reflexivity—decolonizing methodologies for data science process’ (2021) 2 *Patterns* 1.

<sup>64</sup> B. Cooper, ‘Intersectionality’ in L. Disch and M. Hawkesworth (eds), *The Oxford Handbook of Feminist Theory* (2015) 385, at 402.

<sup>65</sup> S. Cho, K. W. Crenshaw and L. McCall, ‘Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis’ (2013) 38(4) *Signs: Journal of Women in Culture and Society* 785, at 787; K. Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’, (1989) 8(1) *University of Chicago Legal Forum* 139.

<sup>66</sup> UN Women, ‘Intersectional feminism: what it means and why it matters right now’ UN Women, 1 July 2020, at <https://www.unwomen.org/en/news/stories/2020/6/explainer-intersectional-feminism-what-it-means-and-why-it-matters>. It is interesting to note that the intersectionality-like framework had early adopters challenging the international women’s rights movement particularly in the global south. For discussion, see J. Bond, *Global Intersectionality and Contemporary Human Rights* (2021), 8. Bond summarises three overlapping parallel critiques: ‘reactions against universalism and notions of addition and severability; reactions against “savior” narratives; and reactions against colonialism and ongoing North/ South power differentials.’

<sup>67</sup> P. H. Collins, *Black feminist thought: Knowledge, consciousness, and the politics of empowerment* (2000) 23. See also, V. M. May, *Pursuing intersectionality, unsettling dominant imaginaries* (2015).

<sup>68</sup> R. K. Dhamoon, ‘Considerations on mainstreaming intersectionality’ (2011) 64(1) *Political Research Quarterly* 230, at 231-232. See also S. Razack, *Looking white people in the eye: Gender, race, and culture in courtrooms and classrooms* (1998); D. K. King, ‘Multiple jeopardy, multiple consciousness: The context of a black feminist ideology’ (1998) 14 (1) *Signs* 42; A. Phoenix and P. Pattynama, ‘Editorial’ (2006) 13(3) *European Journal of Women’s Studies* 187; V. Kirkness, ‘Emerging Native women’ (1987-1988) 2 *Canadian Journal of Women and Law* 408; D. L. Hutchinson, ‘Identity crisis: intersectionality, multidimensionality, and the development of an

Intersectionality commands an important place in academic discourse as a diverse and generative critical framework examining 'multiple between-group differences, charting shifting configurations of inequality along various dimensions.'<sup>69</sup> Nevertheless the definitional complexity as a - 'buzzword', 'theory', 'concept', 'heuristic device', 'method', 'analytical tool', 'metaphor', 'ideograph' or 'knowledge project'- has generated a body of active but discordant opinion and literature.<sup>70</sup> However, there is general consensus that intersectionality analyses positions, and individual and relational experiences as 'reciprocally constructing phenomena'<sup>71</sup> within race, class, gender, sexuality, ethnicity and related structural systems of oppression that perpetuate social inequalities.

As a 'fast travelling concept'<sup>72</sup>, the flexibility and breadth of intersectionality has led to its introduction into other disciplines including sociology, anthropology, psychology, political sciences, law, education, health studies, public policy, criminology, history, humanities, and queer studies. The focal point within intersectionality's insistence is dealing with social inequalities and identities that focus on issues of 'power, positionality and difference.'<sup>73</sup> Consequently, intersectionality contributes crucially to highlighting the interplay of sameness and difference in academic disciplines thereby offering new insights and pathways to address 'disparities, imbalances, mistakes, and failures.'<sup>74</sup> Intersectionality's creativity within and across disciplines has its own benefits and challenges. Collins argues that the benefits include the 'development of dynamic language of intersectionality associated with strong narrative traditions, productive avenues of investigation, a value-laden subject, and theoretical and methodological contributions'.<sup>75</sup> On the other hand, the challenge is that intersectionality could lose 'originality and critical stance'<sup>76</sup> in relation to 'misrepresentation of its initial intent, or being misrecognized and misappropriated within contemporary academic politics.'<sup>77</sup> Despite the challenges, intersectionality's emergence in different academic disciplines suggests a consensus to 'recenter discrimination discourse at the intersection... the goal of this activity should be to facilitate the inclusion of marginalized groups for whom it can be said: "When they enter, we all enter".'<sup>78</sup>

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adequate theory of subordination' (2001) 6 *Michigan Journal of Race and Law* 285; H. Shue, *Climate Justice: Vulnerability and Protection* (2014) 5-6.

<sup>69</sup> D. Atewologun, 'Intersectionality Theory and Practice' *Oxford Research Encyclopedia of Business and Management* (2018) 1, at 1.

<sup>70</sup> H. Lutz, 'Intersectionality as Method' (2015) 2(1-2) *DiGeSt. Journal of Diversity and Gender Studies* 39; Kathy Davis, 'Intersectionality as a Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Successful' (2008) 9(1) *Feminist Theory* 67; Jenny K Rodriguez and et al, 'The theory and praxis of intersectionality in work and organisations: Where do we go from here?' (2016) 23(3) *Gender, Work, and Organization* 201; Nikol G Alexander-Floyd, 'Disappearing acts: Reclaiming intersectionality in the social sciences in a post-Black feminist era' (2012) 24(1) *Feminist Formations* 1; Wendy Hulko, 'The time- and context-contingent nature of intersectionality and interlocking oppressions' (2009) 24(1) *Affilia* 44.

<sup>71</sup> P. H. Collins, 'Intersectionality's definitional dilemmas' (2015) 41 *Annual Review of Sociology* 1, at 2.

<sup>72</sup> G. Knapp, 'Race, class, gender: Reclaiming baggage in fast travelling theories' (2005) 12(3) *European Journal of Women's Studies* 249, at 255.

<sup>73</sup> C. Rice, E. Harrison and M. Friedman, 'Doing Justice to Intersectionality in Research. Cultural Studies' (2019) 19 (6) *Critical Methodologies*, 409, at 412.

<sup>74</sup> id. p. 417-8.

<sup>75</sup> Collins, op. cit., n. 71, p. 6.

<sup>76</sup> id.

<sup>77</sup> Id.

<sup>78</sup> Crenshaw (1989), op. cit., n. 65, p. 167.

The 'insurrectionary and capacious'<sup>79</sup> engagement of intersectionality is categorised in three ways for knowledge production that helps detect the strands of inequality and oppression. Cho, Crenshaw, and McCall succinctly summarise the three approaches that have fluid divisions.<sup>80</sup> The first approach applies the intersectional framework to teaching and research projects. It investigates context-specific issues on multiple prevailing power relationships. For instance, race, gender, and class interaction in the labour market, and develop doctrinal alternatives to bend anti-discrimination law to accommodate claims of discrimination.<sup>81</sup> The second approach focuses on intersectionality as a theory and methodology that analyses contextual articulations and debates about kinds of subject, themes and approaches as a field of study. It employs intersectionality to identify and situate subjects in terms of 'identity, geography, or temporality within the social institutions and structures that are neither temporally nor spatially circumscribed.'<sup>82</sup> As a methodological tool, the intersectionality framework places emphasis on an intersectional reflexive mindset both in the qualitative<sup>83</sup> and quantitative methods.<sup>84</sup> A multi-level analysis that focuses on 'experience, intersubjective praxis, institutional regimes and representational stage'<sup>85</sup> helps understanding and interpret the structural and individual level effects of oppression and marginalisation in a given context. The third approach focuses on critical praxis that informs theoretical frameworks which in turn inform best practices and community organisation.<sup>86</sup> The inter-linkage between scholarship and practice advances phenomena's including justice (social and economic), and legal and policy advocacy for a transformational change.

Further, Collins<sup>87</sup> states that the systemic reproduction of discrimination and inequality can be analysed through three dimensions, being institutional, symbolic, and individual. Race, class, and gender have a fixed institutional presence, though often masked, but are nevertheless capable of creating dimensions of oppression. The commonly accepted social images that perpetuate domination and subordination constitute the symbolic dimension of oppression. Individual oppression is experienced within the institutions that we inhabit daily. Thus, the interlocking barriers of race, class and gender are 'squarely rooted'<sup>88</sup> in relations of domination and oppression within the arenas of institutional workings, images, and experience.

Thus, intersectionality 'makes clearer the arithmetic of the various forces—the offsetting, ameliorating, intensifying, accumulating, or deepening'<sup>89</sup> impacts of power, dominance, oppression, and inequality at individual and societal levels. Our qualitative research on intersectionality deals

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<sup>79</sup> Bond, op. cit., n. 66, p. 14

<sup>80</sup> Cho, Crenshaw and McCall, op. cit., n. 65, pp. 785-787.

<sup>81</sup> id. 785.

<sup>82</sup> id. 786

<sup>83</sup> L. Bowleg, 'When Black + lesbian + woman ≠ Black lesbian woman: The methodological challenges of qualitative and quantitative intersectionality research' (2008) 59(5) *Sex Roles* 312; S. A. Shields, Gender: An intersectionality perspective (2008) 59 (5-6) *Sex Roles* 301; M. Syed, Disciplinary and methodology in intersectionality theory and research (2010) 65(1) *American Psychologist*, 61; J. Abrams et al, 'Considerations for employing intersectionality in qualitative health research' (2020) *Social Science and Medicine* 1.

<sup>84</sup> G. Bauer, 'Incorporating intersectionality theory into population health research methodology: Challenges and the potential to advance health equity' (2014) 110 *Social Science and Medicine* 10; L. Bowleg, 'The problem with the phrase women and minorities: Intersectionality—an important theoretical framework for public health' (2012) 102 (7) *American Journal of Public Health* 1267.

<sup>85</sup> Lutz, op. cit., n. 70, p. 40.

<sup>86</sup> Cho, Crenshaw and McCall, op. cit., n. 65, p. 786.

<sup>87</sup> P. H. Collins, 'Toward a new vision: race, class and gender as categories of analysis and connection' (1993) 1(1) *Race, Sex and Class* 25, at 29-36.

<sup>88</sup> Collins, op. cit., n. 87, p. 39.

<sup>89</sup> P. McIntosh, 'Reflections and future directions for privilege studies' *Journal of Social Issues* (2012) 68(1) 194, at 198.

with the ‘complexity and messiness of lives, relationships, structures, and societies, so data collection and analysis methods must be responsive to contexts and serve liberatory objectives.’<sup>90</sup> Accordingly, by centring ‘environmental justice’, the research examines intersectionality in an institutionalised EPH through recognition, inclusion and participation. It uncovers the mutually reinforcing connections between gender, patriarchy, socio-economic conditions, caste, and illiteracy as categories of analysis. By giving voice to rural Gujarati women through focus groups and narrative interviews it provides wider representations of intersectional marginalized experiences. As Collins states, utilising intersectionality as an ‘analytical strategy’ helps us better understand gender, race, class, ethnicity, and similar categories in relational terms rather than in isolation<sup>91</sup> to address interpersonal and structural systems of oppression.

In this context, unpacking intersectional discrimination and inequality creates an evidence-based “fresh dossier” in the institutionalised EPH process. In the context of environmental injustice, this contributes to exclusionary practices undermining women’s recognition and participation. Consequently, this exacerbates ‘socio-environmental inequalities, discrimination, harms, victimization, distribution, access and rights, and their relevance to specific social groups [women].’<sup>92</sup> Recognising that environmental justice is inclusive and participatory, we argue that strategic planning and effective implementation is needed to address women’s individual and relational experiences to prevent intersectionality’s misappropriation. However, this goal is yet to be achieved.

#### **4. Methods**

The Gujarat fieldwork project (2018- 2022) focuses on rural women’s participation in the EIA’s public consultation process through their recognition, inclusion and their local knowledge. The project investigates the provisioning of the Gujarat’s gender-inclusive approach in the institutionalised EPH process with the following objectives:

- 1) provide data evidence regarding women’s participation in the public hearing meetings; and
- 2) identify the trends and dynamics that restrict women’s participation through the framework of intersectionality.

This article through quantitative and qualitative methods analyses fresh evidence that addresses the complexities of absent or limited participatory involvement of women as valuable stakeholders in the EPH. The quantitative data was acquired from the Gujarat Pollution Control Board reports on public hearings.<sup>93</sup> The aim is to identify the number of women participants in the public hearing process and the issues raised regarding developmental and industrial projects as evidenced below in Tables 1 and 2. Assemblage of information from the reports provide useful records and analytical experience for evaluating strengths and weaknesses of the existing public hearing process and women’s participation. It is important to note that Covid restrictions resulted in the suspension of EPH especially during the latter part of 2020 and early 2021. Consequently, there is no available date for this period.

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<sup>90</sup> Rice, Harrison and Friedman, op. cit., n. 73, p. 418.

<sup>91</sup> Collins, op. cit., n. 71, p. 14.

<sup>92</sup> Sharma, op. cit., n. 17, p. 81.

<sup>93</sup> Gujarat Pollution Control Board at <https://gpcb.gujarat.gov.in/webcontroller/page/public-hearing-schedule-&-mom>.

The qualitative empirical data through purposive sampling was collected from various areas in Gujarat.<sup>94</sup> Semi-structured interviews involving 45 women through a narrative approach and interactive focus group meetings were adopted to record their lived experiences. Maximum variation sampling was employed to capture a wide range of perspectives and insights. The women were villagers belonging to different castes and socio-economic structures and included representatives from women self-help groups, housewives and agricultural labourers. The second author through her well-established grass-root activities is known to the local village women and she acted as our effective bridge-builder. Consequently, local women chose to participate in the research to share their experiences in the EPH process. Nevertheless, the collection of data had a rhythm that reflected initial caution of the rural women who had no experience of sharing their personal experiences with the first author who for them was an Indian “stranger” coming from the UK. Interviews were recorded mostly in Gujarati and sometimes in Hindi. The second author’s contribution was to organise, translate and transcribe the interviews. Individual permission to use all recorded material was obtained. All data obtained was anonymised except for those women interviewees who wished to be identified. However, Covid restrictions reduced the number of planned interviews with women. Further, efforts were made to interview the project proponents and regulatory authorities to gain their perspectives, but they did not provide access.

Our empirical fieldwork demonstrates how the institutionalised EPH process perpetuates discrimination and inequality through the intersectionality framework by interlocking multiple dimensions that include gender, patriarchy, illiteracy, poverty and caste. The authors focused on the lived experiences of the rural women. This ‘productively combined women, each with their own meanings, understandings, and lives, were envisioned as valuable, agentic subjects rather than passive research objects.’<sup>95</sup> The evidence of lived experiences creates space for voices that are excluded within the societal system due to exclusivity of dominant powers and institutional structures. These experiences of rural Gujarati women provide evidence of the failure of the EPH process to recognise and benefit from their knowledge as crucial stakeholders.

## 5. Main findings of the project

### 5.1 Quantitative data

The initial analysis is quantitative in nature. The Gujarat Pollution Control Board reports (2018- 2022) on environmental public hearing (EPH) were studied to analyse data about women’s participation in EPHs. This is shown in Table 1.

Year	NUMBER OF EPH HEARINGS	NUMBER OF IN-PERSON ATTENDEES (MEN AND WOMEN)	NUMBER OF IN-PERSON WOMEN ATTENDEES	Percentage	Women (Written representation)	Women (ORAL representation)
2018	80	4,825	128	2.65	20	14
2019	125	11,143	189	1.69	219	36
2020	34	2,564	16	0.62	03	13
2021	186	9,437	365	3.86	34	0

<sup>94</sup> The interviewees came from Sanand, Bavla, Padra, Rajula, Jagadia, Surendranagar, Panchmahal, Morbi, Padariya, Bera, Kutch, Modasa, Palanpur Rampara, Bhimasar, Anjar, Kalamsar, Bori, Khambhat, Amod, Jagadia, Moti Bhojan, and Munjpur.

<sup>95</sup> E. Whittingdale, ‘Becoming a feminist methodologist while researching sexual violence support services’ (2021) 48 (Suppl. 1) *Journal of Law and Society* S10, at S13.

2022	242	11,097	731	6.5	30	32
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**Table 1: Women participation including written and oral representations from 2018-February 2022; Source: Authors**

Women's participation in the decision-making process could have a transformative impact on their empowerment. Additionally, decentralisation of power towards the grassroots level would strengthen democracy and promote local responsibility. However, this data indicates that the level of women's participation is disproportionately low. If one goes by the official numbers, the public hearings appear to be a formality and a mere compliance assurance. This highlights that rural women remain on the margins. There is a need for a 'gender egalitarian' approach to be adopted for recognitional and procedural environmental justice. 'Parity of participation'<sup>96</sup> ensures equality whereby 'institutional and procedural norms guarantee all people equal opportunity... the right to participate as equal partners at every level of decision-making.'<sup>97</sup> This would help ameliorate issues of inequality, recognition, and those questions of participation linked to the capabilities approach.<sup>98</sup>

Further, the Table 2, as taken from the Gujarat Pollution Control Board reports (2018- 2022), below suggests women's very limited participation was driven by their personal interests, local perspective, and environment-livelihood nexus.

S.NO	YEAR	SECTOR-WISE INDUSTRY/INFRASTRUCTURE DEVELOPMENT (EXAMPLES)	REASONS FOR WOMEN ENGAGING IN PUBLIC HEARING
1	2018	Cement Laminate Chemical Metal Airport construction	Local employment opportunity; Water and soil pollution; Financial compensation for land acquisition
2	2019	Paper Cement Carbon Chemicals Metal Electricity Highway construction	Local employment opportunity; CSR activities including hospitals, and educational opportunities (schools) for children; Water, air and soil pollution; Financial compensation for land acquisition
3	2020	Chemicals Polymers Organic products	Water, air and soil pollution; Land (including agricultural and crops) contamination; Issues of health
4	2021	Chemical Metal Port and Infrastructure development	Water, air and soil pollution; Coal dust and fly ash deposits; Food and livelihood
5	2022	Chemicals Polymers Organic products	Local employment opportunity; Water, air and soil pollution;

<sup>96</sup> N. Fraser, Recognition without Ethics?' 2001 18(2-3) *Theory, Culture & Society* 21, at 29.

<sup>97</sup> Shrader-Frechette, op. cit., n.18, pp. 27-28.

<sup>98</sup> Schlosberg, op. cit., n. 16, pp. 29-33.



		Mining lease	Land (including agricultural and crops) contamination
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**Table 2: Sector-wise industries and women engagement; Source: Authors**

The data suggests that factors including local employment opportunities, health, financial compensation for land -acquisition, and ill-effects of pollution motivated women to participate in the written and/or oral hearings. This is evidenced in industries including cement, plywood, laminate, and developmental projects such as airport and highways, as illustrated in Table 2.

For example, one exceptional finding from the data is the involvement of an environmental NGO as a resource base for women's involvement and confidence building at the rural level. NGOs through their "women paralegals" are crucial to fostering a gender participatory approach by organizing rural women through the "sense of sisterhood" to be visible and voice their concerns in environmental matters. They are actively involved in encouraging and redesigning gender-responsive participatory involvement through dialogue and networking process. For example, in 2019, there were 219 written representations by women. However, of this number, 160 were filed with the support of Sanad Bavla Mahila Vikas Sangathan, a women's environmental NGO, against M/s Madura Carbon India Limited the producer of carbon black, a reinforcing material and filler in rubber products. The written representation "collectively" raised objections on the damaging effects of carbon black on the environment (contributes to climate change, affects the reflectivity, alters precipitation, and harms ecosystems)<sup>99</sup> and human health (respiratory and cardiovascular disease, cancer, and even birth defects).<sup>100</sup> It further stated that potable water will be unavailable to the villagers as the proposed company will daily draw significant amounts of water from the village pond. By submitting a written representation to the EPH the women expressed "solidarity" and "shared a common platform" to raise their concerns.

We argue that the current EPH requirements and their practice restrict women's participation in the public hearing process. An appreciative sense of place and values calls for acknowledging and recognising women's capabilities, knowledge and preferences in environmental matters. The inclusion, and participation of women, individually or collectively, would promote more equitable and inclusive spaces where women's voices and rights are duly recognized and exercised. Addressing gender equality is the key to protecting the environment, supporting sustainable development and promoting environmental justice.

## 5.2 Qualitative data

Women's experiences, obtained through semi-structured interviews, narratives and focus group interactions, support the quantitative data, and explain women's exclusion or limited engagement in EPH. Intersectionality focuses on a richer ontology and brings fresh perspectives to analyse social groups, relations, and contexts to understand the extent of discrimination and its impact on the lives on the marginalised. Intersections of power result in 'injustices in material conditions and normative expressions, within societal structures and institutions... and lived, expressed, and reproduced through social practices.' These create layers of complex inequalities found in relations of 'hierarchisation and stratification.'<sup>101</sup> However, we acknowledge that measuring intersectional and

<sup>99</sup> R. Choo, 'The damaging effects of black carbon' *State of the Planet Columbia Climate School*, 22 March 2016 at <https://news.climate.columbia.edu/2016/03/22/the-damaging-effects-of-black-carbon/>.

<sup>100</sup> U.S. Environmental Protection Agency, 'Black carbon research and future strategies: reducing emissions, improving human health and taking action on climate change' *Science in Action*, October 2011 at [https://www.epa.gov/sites/default/files/2013-12/documents/black-carbon-fact-sheet\\_0.pdf](https://www.epa.gov/sites/default/files/2013-12/documents/black-carbon-fact-sheet_0.pdf).

<sup>101</sup> F. Anthias, 'Intersectional what? Social divisions, intersectionality and levels of analysis' (2012) 13(1) *Ethnicities* 3, at 10. Anthias work highlights that the hierarchisation and stratification are 'outcomes of the

structural inequalities is a challenge owing to the nature of those who are excluded across the regions and areas.

In our research, positing social categorisation (identities, structures, processes, and systems)<sup>102</sup> helped us analyse intersectional constructions and outcomes within the regulatory institutionalised EPH process. Through the framework of intersectionality, we asked ourselves about the different but mutually reinforcing categories of marginalised identities and privilege, the meaning of intersect, and the process of intersection. We admit that the complexity of 'subject formations, differences, and vehicles of power'<sup>103</sup> made us appreciate Razack's seminal argument that 'systems of oppression (capitalism, imperialism, patriarchy) rely on one another in complex ways. The "interlocking" effect means that the systems of oppression could not be accomplished without gender and racial hierarchies; imperialism could not function without class exploitation, sexism, heterosexism, and so on.'<sup>104</sup>

We now move on to locate and review the lived experiences through the narrative of those Gujarati rural women involved in or excluded from the institutionalised EPH process and affected by intersectional environmental injustice. Their narrative was documented in their native Gujarati language and subsequently translated into English. The interviewees, classified as W with a corresponding number, felt social barriers create an unwelcoming arena in which to voice their opinions. Each category of analysis being, patriarchy and gender, illiteracy and poverty (socio-economic status), and caste, interlinked helped us understand the institutional, symbolic and individual dimensions of environmental discrimination, exclusion and inequality.

#### *Patriarchy and Gender*

In India's predominantly patriarchal society rural women endure experiential and relational discrimination. Patriarchy, both in the private and public sphere, refers to a social structure that is 'male-identified, male-controlled, male-centered'<sup>105</sup> with masculine traits of control, domination, and power. The narrative of patriarchal culture is deeply misogynistic, and through customs or laws allows men to dominate women and children within the family. Soman states that patriarchal norms are maintained by upbringing, discrimination, social arrangements, force, lack of facilities, and laws and policies.<sup>106</sup> The hegemonic type of masculinity in the Indian culture places women in a position of subservience, dependency, and vulnerability.

In the 'gender regime'<sup>107</sup>, for this article the EPH process, presumed male superiority and the deeply rooted patriarchal and conservative mindset results in the failure to recognise female environmental knowledge and limits the space for their opinions and participation. Patriarchal oppression and environmental injustice are inter-linked. Within the environmental interests between men and women in a patriarchal culture, the reality is that 'patriarchy justifies inequalities and injustices... and

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operation of power, underpinned by social categories that naturalise, collectivise and essentialise social relations, and through the workings of processes of inferiorisation (stigma, disgust, devaluation, disrespect), exploitation (commodification of persons and deriving interest and benefit from the exercise of power over them) and unequal resource allocation (entailing multiple forms of inequality of access and inequality of outcome).'

<sup>102</sup> For example, see Dhamoon, op. cit., n. 68.

<sup>103</sup> id. 235.

<sup>104</sup> Razack, op. cit., n. 68, p.335.

<sup>105</sup> M. Becker, 'Patriarchy and Inequality: Towards a Substantive Feminism' (1999) 1(3) *University of Chicago Legal Forum* 21, at 24.

<sup>106</sup> U. Soman, 'Patriarchy: Theoretical Postulates and Empirical Findings' (2009) 58(2) *Sociological Bulletin*, 253, at 253-254.

<sup>107</sup> id. 260. It refers to play of gender relations in specific institutional settings such as family or state.

supports male-dominated social structure.<sup>108</sup> For example, W1 said that male members of her family told her *“Take care of the house and children. There is no need to take part in outside problems. It is the men who will deal with these outside problems... only men can participate in such big meetings.”* For W2, the *“societal expectation and pressures do not allow women to take part in such hearings. Consequently, men in the family do not allow and hesitate to take their women along with them.”* Sometimes men due to *“employment opportunities do not prefer to raise any questions with the project proponents (industries) and direct women to stop talking about the issues.”* According to W3, where women accompanied their men to the EPH, *“their presence is to make up the required numbers. Women sit behind the men in segregated enclosures and do not take part in any discussion.”* According to W4 and W5, *“we go to the EPH because our husbands ask us to attend the meeting. But we are ordered not to speak... just remain quiet and keep our mouths shut. We [women] sit together and chit-chat about our families and children. We do not disobey our husbands.”* For W6, even where the Sarpanch (the head of a village) is a woman, she is only a *“puppet signatory. Her husband, father or brother speak on her behalf and take the decisions.”* The woman Sarpanch *“fears that her speaking might lead to fights in her home...best to avoid participating and become a mute spectator.”* Many times, the woman Sarpanch does not attend the EPH meeting, *“why should I attend when my husband is participating and deciding the matters.”*

Further, a male-dominated spatial experience during EPH leads to women’s exclusion. The statutory rules mandate that the public hearing should take place at the concerned site or in its proximity. However, the reality is different. EPH is mobilised by men, and it innately supports patriarchy through the inbuilt power structures. The regulatory authorities and project proponent (industries) organise EPHs subject to their convenience in terms of time and place. For instance, W7-10 felt that often EPHs are held at inconvenient times and inconvenient places that result in their non-participation. *“It is difficult for us [women] to travel long distances on foot especially if alone or when we have childcare and elderly family members responsibilities.”* W12 questioned as *“how do we attend the meeting organised far away from the village centre?”* Further, W13-17 experienced that the local space where EPH was being held was male dominant, rigid and unequal. At times, *“we had to sit on the ground whereas the men sat on the chairs.”* An “all men party” including villagers, project proponents and regulatory authorities created a claustrophobic atmosphere that discouraged women to speak and lead to participatory exclusion. In several EPHs, the meetings were chaired by the “male authority” such as the District Collector.<sup>109</sup> The presence of *“baada Saab (big boss-District Collector)”* makes women aware of the male power and patriarchal order. For instance, W 18-21 remarked *“how can a woman speak or stand in the meeting when the Collector is there.”*

### *Illiteracy and Poverty*

The binaries of male bias intersect with illiteracy and poverty (socio-economic status) thereby contributing to women’s exclusion. The interlocking of these factors structures institutional dimension of discrimination through repeated observance of patriarchal social norms and practices, attitudinal disparities and stereotyping. In India, illiteracy is a product of great disparities that create substantial inequality between different social identities including women. Though there is increasing recognition of the importance of education, rural women face continuing challenges. For example, rural women are less literate than men, and lower caste women are further disadvantaged. The statistics indicate that the literacy rate of rural women is 67.7% as compared to 84.1% in the urban areas.<sup>110</sup> The patriarchal gaze along with poverty pose challenges for women

<sup>108</sup> Becker, op. cit., n 105, pp. 21 and 34.

<sup>109</sup> The District Collector is the direct representative and highest functionary at the district level. It is at this level that the policies of the Government are translated into practice.

<sup>110</sup> Livemint, ‘Indian women literacy report increased by 68% since independence: Report’ *Livemint* 15 March 2023 at <https://www.livemint.com/news/india/womens-literacy-rate-increased-by-68-since-independence-report-11678863594186.html>.

regarding educational opportunities and attainment. The deprivation of encouragement and support from their families further restricts their participation in the EPH process. For example, W22 stated that being illiterate or with low levels of education place women in a position of subordination and exclusion in the EPH process. The men often pass comments *“you are illiterate and have no brains to understand the issues...it’s the men who understand these problems...do household chores and childcare.”* W23-25 expressed their frustration as being *“ignored”* and *“worthless”* in the EPH process. This was a result of being a *“poor illiterate woman.”* They attended the EPH to make up the required number. W23 shared her experience and stated *“I come from a poor family. When I was young, I was told to learn cooking and help my mother in the household work. The school and education was for my brother. Ultimately, I was to get married and serve my husband’s family. Men do not like women who can read and write. There was no need for me to even think about getting educated”*. This experience chimes with Soman’s argument that ‘in a patriarchal society, women’s pinnacle of achievement is marriage and motherhood, and they are left with the responsibility for childbirth and childcare.’<sup>111</sup> However, W23 felt this kind of conservatism placed her at a disadvantageous position as she cannot stand up for herself let alone environmental issues despite being knowledgeable about their local environment and needs. The dependence on the man and his family, and the lack of educational opportunities had pushed her into a discriminatory and oppressive system. W23-25 stated they have ensured their daughters go to the school and can read and write. The relative disadvantage of women in terms of education and opportunities results in their diminished or absent voice within the EPH process. For instance, the draft EIA reports submitted by the project proponent are mostly in English and they are less likely to be understood, explained, and discussed amongst women. W1 captured this point by saying *“we do not understand what is written in the reports. No support is provided to us by our village men in terms of explanation.”* On the other hand, W3, with a 12<sup>th</sup> grade school pass, told us that she engages in the EPH. She stated *“I know that being a woman has disadvantages. The men, especially the officers, conducting EPH either ignore me or do not take me seriously. However, I am providing the authorities pictures of the polluting industry next to my home. The industry is causing water and soil pollution that have severe impact on our health, crops, and livestock. I will keep fighting with the hope that the pollution will decrease, and the environment will improve. I usually inform other women in my village about the polluting industry and motivate them to raise the issues. However, it is not easy as women are often scared of their husbands due to their dominance and do not want disturbance in their family.”*

### *Caste and Poverty*

The intersection of caste prejudices, poverty and gender produce complex and irreducible hierarchisation, discrimination and systemic inequalities that are not easily remedied. In India, caste is an ancient Hindu system that dates back to 3,000 years and is tied to concepts of purity and social status.<sup>112</sup> A strong caste identity, such as Brahmins, produced feelings of ‘belongingness and esteem...and develop feelings of temporal continuity, positive distinctiveness, and heightened self-esteem from essentialisation of their caste identity.’<sup>113</sup> The Dalits, on the other hand, occupy the lowest place in society and were considered impure because their occupations involved butchering

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<sup>111</sup> Soman, op. cit., n. 106, p. 257. See also J. Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2006) and her argument on gender performativity.

<sup>112</sup> A. Rajvanshi, ‘How Seattle Became the First American City to Ban Caste Discrimination’ *Time* 23 February 2023 at <https://time.com/6257910/seattle-bans-caste-system-discrimination/>. As per the ancient Hindu texts, Hindu society has four classes known as the varnas: the Brahmins (priests), the Kshatriyas (warriors), the Vaishyas (merchants), and the Shudras (labourers). Those outside the system became known as the outcasts or “untouchables,” and later known as the Dalits.

<sup>113</sup> S. Sankaran, M. Sekerdej and U. V. Hecker, ‘The Role of Indian Caste Identity and Caste Inconsistent Norms on Status Representation’ (2017) 8 (487) *Frontiers in Psychology* 1, at 2.

animals and disposing human waste.<sup>114</sup> The social difference of caste has also been examined from racial angle. Chairez-Garza et al argue that ‘racism and racialization in India operate at the intersections of caste supremacy... and characterizes India’s...layering of prior unfinished histories of differential power into contemporary life in overtly and subtly racial terms.’<sup>115</sup> However, for this article, we examine caste as a social category. We are influenced by Ranganathan’s view that ‘racism and casteism have comparable effects; they are both processes of oppression that depend on the ‘naturalization’ of race and caste.’<sup>116</sup> The women are considered as the ‘gateways of caste system and it is the caste system which provides a structure for the subordination of women.’<sup>117</sup> The complexities of the caste system created discrimination and exclusion and members ended up poor with no or little access to education. However, post-colonial India formally abolished caste-based discrimination through constitutional mandate<sup>118</sup> and several affirmative legislations.<sup>119</sup> However caste-based discrimination exists in India.

Dalit women are the worst off as ‘caste is as an under-recognized marker of environmental discrimination and inequalities.’<sup>120</sup> In the EPH, the intersection of caste, poverty and gender highlight the ‘texture and consequence of inequalities experienced’<sup>121</sup> by women individually and within-group differences. Their lived experiences reflect the hierarchisation in the legal spaces that is the ‘outcomes of the operation of power... through the workings of processes of inferiorisation...exploitation...and unequal resource allocation...’<sup>122</sup> This suppresses Dalit women’s voices within the village or community thereby enhancing discrimination, segregation, and subservience. For example, W26-31 shared their experiences when the EPH was organised in a temple. They stated *“how can we go to a EPH meeting organised in temple? As we belong to the poor Dalit community, we were ordered by the upper caste people to stay away from the temple premises. Women like us from lower caste, are stopped from everything including praying in temple and attending the environmental meetings. We are constantly reminded of our caste and have no rights.”* W32- 36 as a group stated that *“they get no information about these hearings...no one tells them or involves them in this process simply because they belong to a lower caste, are poor and illiterate. We have no presence or existence.”* However, W37-40 felt agitated as they knew how the industries impact on their daily lives including water and soil pollution impacting on the crops but have no voice. They said *“we are always asked to keep quiet both inside the house and outside. Our husbands are scared of the upper caste due to the fear of losing their jobs. They tell us to manage the household chores and not get involved in these hearings. It is a matter for the upper caste to decide.”* W41-45 had a different experience. They were asked to attend a public hearing. In the meeting *“the women of upper-class made us sit separately in a corner and asked us not to speak a word. We were*

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<sup>114</sup> J. Khubchandani et al, ‘Caste matters: perceived discrimination among women in rural India’ (2018) 21(2) *Archives of Women’s Mental Health* 163, at 164.

<sup>115</sup> J. Chairez-Garza et al, ‘Introduction to the special issue: Rethinking Difference in India Through Racialization’ (2022) 45(2) *Ethnic and Racial Studies* 193, at 194.

<sup>116</sup> M. Ranganathan, ‘Caste, racialization, and the making of environmental unfreedoms in urban India’ (2022) 45(2) *Ethnic and Racial Studies* 257, at 260.

<sup>117</sup> A. Chauhan, ‘How The Caste System Subordinates The Lives, Bodies And Agency Of Women’ *Feminism in India*, 26 July 2021 at <https://feminisminindia.com/2021/07/26/how-the-caste-system-subordinates-the-lives-bodies-and-agency-of-women/>.

<sup>118</sup> Article 17 of the Constitution of India. It states ‘untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.’

<sup>119</sup> The Untouchability Offences Act of 1955 (renamed to The Protection of Civil Liberties Act 1955); The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989; and The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015.

<sup>120</sup> Ranganathan, op. cit., n. 116, p. 258.

<sup>121</sup> Atewologun, op. cit., n. 69, p. 5.

<sup>122</sup> Anthias, op. cit., n. 101, p. 10.

*given the assurance of getting “free lunch” that provided us one meal of the day in exchange for our ‘thumb’ signature of attendance. We followed their instruction as we were also able to get free food for our hungry children.”*

These illustrative quotes and experiences show that the principle "those who till the soil are the best avenue for feedback" is inapplicable to rural women in the institutionalise EPH process. We argue that the framework of intersectionality can reveal the causal processes of environmental discrimination and inequalities. The intersectional axis of patriarchal domination, illiteracy, poverty and caste within the state institutional system produces environmental injustices or what Ranganathan calls ‘environmental unfreedoms’<sup>123</sup> These lived experiences remind us that the intersectional analytic remains essentially intact in the Indian system. Women’s identities and capabilities as an individual and a collective group as repositories of environmental knowledge and related skills are eclipsed thereby amplifying discrimination and marginalisation and ‘that not infrequently, are death-dealing.’<sup>124</sup> We argue that in real terms the institutionalised EPH process perpetuates inequalities wherein the effects of privilege and discrimination are mutually reinforcing and relational.



**Picture 1 of some rural Gujarati women interviewees. Source: Authors**

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<sup>123</sup> Ranganathan, op. cit., n. 116, pp. 258-259. Environmental unfreedoms signify the ‘fundamentally humanity- and dignity-robbing traits of socioecological harm.’

<sup>124</sup> id.



**Picture 2 of some rural Gujarati women interviewees. Source: Authors**

## **6. Conclusion**

Gender parity is not simply "more women numbers" but is also about contextualising and integrating them at the point of constructing policies, programmes, and decision-making. It considers the socio-cultural relationship between the sexes and its effect and differentiating impact. Visibility and voice are important for women to express their opinion on projects that affect their daily lives, family and livelihood. Gender active engagement in the EPH helps in identifying and interpreting impacts and collaboratively develop mitigation and adaptation measures.

India needs to recognise and support fortissimo, polyphonic, women voices in the EPH by reconstructing formal procedures that promote environmental justice from the recognitional and procedural perspective. Environmental justice is inclusive both in terms of recognitional and participatory dimensions. Recognition as an element of justice is crucial to preserving diverse cultures and identities and respect them for their knowledge and skills. Lack of recognition results in 'insults, degradation, and devaluation at both the individual and cultural level, and inflicts to oppressed [women] individuals and communities.'<sup>125</sup> Participation in environmental controversies addresses issues of inequality, misrecognition and larger questions of capabilities and functioning of women as individuals and community.<sup>126</sup> However, Indian public policy and environmental legislation has failed to connect the dots that would comprehensively and mandatorily recognise gender experience and diversity in the EPH process thereby resulting in recognitional and procedural injustices. This negates India's international commitments as well as the right to equality under the Indian Constitution. Article 14 of CEDAW regarding rural women and its implementation in India remains unfulfilled as 'gender stereotyping within families and in public life, lower literacy rate,

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<sup>125</sup> Schlosberg, *op. cit.*, n. 16, p. 14.

<sup>126</sup> *id.*, pp. 25-29.

lower financial autonomy, lower social status...pose immense challenges for women's... participation.'<sup>127</sup>

Looking into the “why” of discrimination through the framework of intersectionality, we analysed the restraints that result in absent or limited engagement of rural Gujarati women in the institutionalised EPH process. The dominant narratives of patriarchy, illiteracy, poverty and caste, create complex tensions and are key drivers of exclusion and inequality. By employing an intersectionality axis, we captured the complex mutually reinforcing realities through their lived experiences that perpetuate discrimination and oppression. A critical analysis of the intersectional complexity reveals the causal pathways of marginalisation of women's voices in the EPH process by reinforcing hierarchisation and stratification that result in discrimination and inequality.

The authors support a corrective gender balance framework that combines recognition with participation to promote environmental justice. We were inspired by Schlosberg's work that links the institutionalisation and implementation of environmental justice to an active pluralist engagement.<sup>128</sup> Schlosberg positions himself as committed to an inclusive and integrated approach that calls for a 'convergence space', where pluralistic engagement leads to a 'heterogeneous affinity'.<sup>129</sup> This encompasses acceptance of rural women's voices and the validation of their knowledge and experiences. Respecting the diversity of interests and identities of women within institutionalised public spheres would enhance their engagement thereby promoting their recognition, participation, and capabilities. Integrating plurality and diversity based upon individual and collective women's experiences supports sustainability and empowerment.

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<sup>127</sup> National Human Rights Commission India, *Women's rights in India: An Analytical Study of CEDAW and the Indian Constitution, Legislations, Schemes, Policies and Judgments* (2021), p. 36.

<sup>128</sup> Schlosberg, op. cit., n. 16, pp. 180-184.

<sup>129</sup> id., p. 184.



