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**ORIGINAL ARTICLE**

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# Environmental public hearings and intersectionality: women's voices from Gujarat, India

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## Abstract

This article examines the application of the intersectionality framework to the Indian statutory institutional environmental public hearing (EPH) process that seeks to promote environmental justice. Intersectionality provides a framework to capture the processes of gender marginalization and exclusion. It critically demonstrates how the required gender participation in the regulatory EPH process is failing rural women in the state of Gujarat, India, thereby exacerbating discrimination and inequality. Building on the researchers' mixed-methods (quantitative and qualitative) data, the article creates an evidence-based 'fresh dossier' reflecting the non-existent or limited participatory involvement of women as valuable stakeholders in the EPH process. Drawing on the evidence of lived experiences creates spaces for women's voices that are excluded from the social system due to dominant powers and institutional structures. We argue that respecting the diversity of interests and identities of rural Gujarati women within the institutionalized public sphere would promote participation and recognition of their knowledge and role as crucial stakeholders.

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## 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-institutionalized environmental public hearing (EPH) process as an illustrative example to evidence the discrimination and inequality affecting rural women in the Indian state of Gujarat, thereby perpetuating environmental injustice. Testing the EPH process through the framework of intersectionality, the article demonstrates that the current engagement of women as key stakeholders in the process is restricted and unequal, and falls short of the constitutional commitment. Women's voices with respect to the environment remain commonly ignored or silenced despite India's 76 years of independence.

India has a strong agricultural economy, with 80 per cent of rural women engaged in the agricultural sector.<sup>2</sup> Rural Indian women make crucial contributions to environmental resource usage and its management by using their local knowledge and skills, thereby supporting the rural economy. 'Local knowledge', 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, a long-standing relationship with their environment, and the holistic knowledge accumulated over centuries to govern social-ecological systems. Recognizing and promoting this relationship is crucial for effective environmental governance. Indian rural women's sensitivity to environmental processes and their roles as producers, managers, income generators, and educators is firmly established.<sup>6</sup> For example, women are

<sup>1</sup> Equality is a cornerstone of Indian democracy. See Constitution of India 1950, arts 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 & Child Development, *National Policy for Women 2016: Articulating a Vision for Empowerment of Women* (2016), at <<https://wcd.nic.in/sites/default/files/draft%20national%20policy%20for%20women%202016.pdf>>; Government of India, 'Mission Shakti' *G20 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*, 3 March 2022, at <<https://www.niti.gov.in/rural-women-key-new-indias-agrarian-revolution>>.

<sup>3</sup> F. Berkes, *Sacred Ecology* (2018, 4<sup>th</sup> edn) 8.

<sup>4</sup> Hindu traditions and customs view the Earth as distinctly feminine – a living being, a mother, a woman, a goddess who is to be loved, respected, and nurtured, as she nurtures humanity. In Hindu traditions, Mother Earth has a name: Bhumi Devi. In Sanātana Dharma, the dual issues of respecting the way of nature and women are inseparable. For example, 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, the 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> Government of India Ministry of Child & Welfare Development, *Report of the High Level Committee on the Status of Women in India, Vol. 4* (2015) 1212–1215; M. Mies and V. Shiva, *Ecofeminism* (2014); G. N. Gill, 'Feminisation of Poverty: Indian Rural Women and the Environment' (2012) 63 *Northern Ireland Legal Q.* 291, at 295–297; B. Agarwal, *Gender and*

traditionally responsible for many conservation activities, such as protecting the soil, water, and forests and promoting the reclamation of land previously damaged by poor husbandry.<sup>7</sup> Similarly, women are particularly knowledgeable in matters of non-timber forest products (NTFPs), such as medicinal plants, building materials, leaf collection, and materials for household usage. NTFPs are crucial in sustaining livelihoods, generating income, ensuring food and nutritional security, and providing fuelwood, fodder, and traditional medicine as subsistence support to rural communities.<sup>8</sup> It is estimated that the value of NTFPs in India is in the range of US\$60–100 billion, and 60–70 per cent of this specialized NTFP workforce are women.<sup>9</sup> A feature of women as environmental managers is their ability to work together for effective action. Though rural women are not a homogeneous group, examples of informal environmental movements such as Chipko,<sup>10</sup> Stree

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*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 *Climate Policy* 800, at 801.

<sup>7</sup> See for example K. Marathe and D. Nandi, 'Resistance, Autonomy and Reclaiming Forests: How Baiga Women Transformed a Marginalised Indigenous Community in India' in *Forest Cover: The Impacts of Tree Plantations on Women and Women-Led Resistance to Monoculture*, ed. Global Forest Coalition (2020) 20, at <<https://globalforestcoalition.org/wp-content/uploads/2020/09/forestcover-62-EN.pdf>>. There was strong resistance from the Baiga Indigenous community, especially women, in Chhattisgarh state to the drive towards monocultural plantations of eucalyptus and jatropa trees 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* 14, at <[indiaenvironmentportal.org.in/files/water%20springs.pdf](http://indiaenvironmentportal.org.in/files/water%20springs.pdf)>. Women of Bajena village in Uttarakhand's Almora district 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 et al., 'Non-Timber Forest Products and Their Contribution to Healthcare and Livelihood Security among the Karbi Tribe in Northeast India' (2019) 8 *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 *International Forestry Rev.* 280, at 281.

<sup>9</sup> See for example Government of India Ministry of Environment & Forests, *Asia Pacific Forestry Sector Outlook Study II: Country Report* (2020) 32, at <<https://moef.gov.in/wp-content/uploads/2019/06/Pacific.pdf>>; A. Thapa and K. Singh, 'Women's Role in Non-Timber Forest Products Management: A Review' (2020), paper presented at the National Conference on Role of Women in Nation Development, at <[https://www.researchgate.net/publication/353016061\\_Women's\\_Role\\_in\\_Non-Timber\\_Forest\\_Product\\_Management\\_A\\_Review](https://www.researchgate.net/publication/353016061_Women's_Role_in_Non-Timber_Forest_Product_Management_A_Review)>. See also R. Das, 'Role of Women in Environmental Protection, Management and Development: A Study in North East India' (2022) 2 *Society and Culture Development in India* 149, at 157–160. Ranjan Das highlights the role of Bodo tribal women from Assam in North East India. Influenced by their socio-cultural and religious beliefs, they conserve about 48 different plants (leaves, stems, and tubers) for healing wounds/pains and other diseases. The plant *erianthus* spp. (poaceae engkur) is used to construct their *kuchha* (temporary mud) houses.

<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 in preserving Himalayan ecology by using Gandhian techniques of protest. Women encircled and hugged trees to save them from commercial timber operators' axes, thereby ensuring the 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.

Mukti Sangharsh Calval,<sup>11</sup> and Mahuva Andolan<sup>12</sup> demonstrate their ability to unite in a common cause despite differences in caste, class, language, and education. The protests were a catalyst to the development of strategic alliances and support for women's leadership. Simply put, women 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, infrastructural, and industrial projects and market-led growth that have deep and far-reaching implications. It is well documented that women face gender-specific vulnerabilities and constraints creating deep inequalities and inequities that exacerbate the feminization of poverty, deprivation, and exclusion.<sup>13</sup> These include increased workloads both in terms of time and labour, scarcity of resources, food insecurity, and increased vulnerability to environmental and climate-related shocks.

Another critical issue relates to gender-engaging strategies that recognize 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 definitions are contested. However, as an important entry point for enquiry, the environmental justice discourse discerns, analyses, and calls for the equitable 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

<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 Calval became a broad coalition of environmental movements from 1990, advocating 'hirvi dharti, stree shakti, manav mukti' ('green earth, women's power, human liberation').

<sup>12</sup> Mahuva Andolan opposed 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 over 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 a 170-kilometre-long protest march 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* (2023); S. Bala, 'India's Rural Women Are "Bearing the Brunt" of Climate Shocks' *CNBC*, 9 March 2023, at <<https://www.cnb.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>>; Government of India Ministry of Child & Welfare Development, op. cit., n. 6, pp. 1215–1217; N. Broeckhoven, 'Biodiversity Loss and Climate Change: Gender Issues in International Law and Policy' (2014) 1 *J. of Diversity and Gender Studies* 23, at 24; J. Kishitwaria et al., 'Work Pattern of Hill Farm Women: A Study of Himachal Pradesh' (2009) 3 *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* (2004); B. Agarwal, 'Gender, Environment and Poverty Interlinks in Rural India: Regional Variations and Temporal Shifts 1971–1991' (1995) Discussion Paper, Geneva United Nations Research Institute for Social Development.

<sup>14</sup> M. Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (1983) 6; H. Brighouse, *Justice* (2004) 2; L. Pulido, *Environmentalism and Economic Justice: Two Chicano Struggles in the Southwest* (1996); B. Chavis, 'Foreword' in *Confronting Environmental Racisms: Voices from the Grassroots*, ed. R. D. Bullard (1993) 3.

<sup>15</sup> P. W. Taylor, *Respect for Nature: A Theory of Environmental Ethics* (1986); I. M. Young, *Justice and the Politics of Difference* (1990); A. Honneth, 'Integrity and Disrespect: Principles of Morality Based on the Theory of Recognition' (1992) 20 *Political Theory* 187.

mechanisms,<sup>16</sup> and greater consideration of 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-contextualized within numerous jurisdictions to include issues of fairness, equity, standing, the 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 democratic system, state-institutionalized processes, including EPHs, demand procedural parity that ensures local knowledge recognition, inclusion, and participation for both individuals and communities (in this case, rural women) and a role in environmental decision making. As rural women are repositories of traditional knowledge and related skills, their interests and needs should be represented. Our position is best summed by Iris Marion Young’s emphasis on procedural issues of participation and decision making in 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 cultures ... [S]uch 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.

In this context, this article critically examines gender engagement in the EPH process, which is an integral part of the larger environmental impact assessment (EIA) process. Indian environmental law mandates the use of EIA, a fact-finding public process that helps decision makers to identify potential environmental impacts and avoid or mitigate adverse changes caused by developmental and infrastructural projects.<sup>23</sup> The EPH is an essential element of the EIA process, ascertaining the

<sup>16</sup> D. Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (2007) 25–29; R. Holifield et al., ‘Spaces of Environmental Justice: Frameworks for Critical Engagement’ in *Spaces of Environmental Justice*, eds R. Holifield et al. (2011) 1, at 10.

<sup>17</sup> A. Dobson, *Justice and the Environment: Conceptions of Environmental Sustainability and Theories of Distributive Justice* (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 et al., op. cit., n. 16, p. 6.

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

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

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

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

<sup>23</sup> The EIA notification was officially introduced in 1994 by the Ministry of Environment & 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 (Government of India Ministry of Environment &

views of local affected persons, including women. EPHs contribute to general understanding and explore ways to reduce the negative impacts of developmental and industrial projects. However, there is a failed or limited gender engagement that produces greater disparities and inequalities. This is emblematic of deeper and often intersecting social barriers faced by rural women in India, such as patriarchy, illiteracy, poverty, and caste.

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 capture 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 women’s lived experiences.

The article is structured as follows. Section 2 summarizes the importance of EIA (with a focus on the EPH process) 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, which was conducted between 2018 and 2022 in the state of Gujarat. 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 on EPHs, and then analyses the qualitative data gathered from interviews and focus groups through the intersectionality framework. Section 6 is the conclusion.

## 2 | A GENDERED ENVIRONMENTAL PUBLIC HEARING PROCESS

EIA has been described as ‘the most widely emulated environmental policy innovation of the twentieth century’.<sup>26</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>27</sup> Principally, the objective of any EIA requirement is to promote and ensure that planning decisions take into account environmental costs and

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Forests, EIA Notification, 1994, S.O. 60(E), 27 January 1994). After 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 comment. Since then, there have been many protests seeking a reevaluation of the draft proposal (Government of India Ministry of Environment, Forest & 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 emphasizes the interconnectedness of race, class, gender, sexuality, and other social identities that perpetuate discrimination and disadvantage. This is subsequently discussed in detail in Section 3.

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

<sup>26</sup> B. C. Karkkainen, ‘NEPA and the Curious Evolution of Environmental Impact Assessment in the United States’ in *Taking Stock of Environmental Assessment: Law, Policy and Practice*, eds J. Holder and D. McGillivray (2007) 45, at 45.

<sup>27</sup> S. Jay et al., ‘Environmental Impact Assessment: Retrospect and Prospect’ (2007) 27 *Environmental Impact Assessment Rev.* 287, at 287.

benefits.<sup>28</sup> The ability to incorporate effects analysis of alternatives for an EIA can minimize negative cumulative effects, promote resource sustainability, and facilitate future development. EIA can be an aid to decision making,<sup>29</sup> a formulation of development actions,<sup>30</sup> a vehicle for stakeholder consultation and participation,<sup>31</sup> and an instrument of sustainable development.<sup>32</sup> International environmental laws have institutionalized the process for its application to address social challenges due to the Earth's environmental crisis and its capacity to sustain human well-being.<sup>33</sup> Despite its widespread acceptance and legal integration, EIA's function and degree of influence has generated a body of lively but discordant opinion and literature.<sup>34</sup> However, this article does not address critiques of EIA; instead, it accepts that EIA is an internationally recognized and established tool for environmental management.

In India, EIA as a process started in 1976–1977, with central government given the administrative power to approve projects, such as river valley development and investments.<sup>35</sup> The legislative support for formally institutionalizing the EIA process was through the 1994 EIA notification by the Ministry of Environment and Forests, which mandated environmental clearance for the expansion or modernization of any activity or for setting up new projects listed in Schedule 1.<sup>36</sup> In 2006, a new EIA notification was introduced<sup>37</sup> with the aim of ensuring that the process

<sup>28</sup> F. C. Go, *Environmental Impact Assessment: An Analysis of the Methodological and Substantive Issues Affecting Human Health Considerations* (1987) 5.

<sup>29</sup> J. Glasson et al., *Introduction to Environmental Impact Assessment* (2012, 4<sup>th</sup> edn) 7. For decision makers, EIA provides a systematic examination of the environmental implications of a proposed action, and sometimes alternatives, before a decision is taken.

<sup>30</sup> Id. For developers, EIA aids the formulation of development actions, indicating areas where a project can be modified to minimize or eliminate its adverse impacts on the environment.

<sup>31</sup> Id. EIA promotes engaging with communities and stakeholders, helping to ensure that those who are potentially affected by a proposed development are informed and involved.

<sup>32</sup> Id. EIA is being increasingly positioned within the broader context of sustainability and sustainable forms of development.

<sup>33</sup> See for example Convention on Wetlands of International Importance 1971; Convention on Transboundary Environmental Impact Assessment 1991; United Nations Framework Convention on Climate Change 1992; Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters 1998.

<sup>34</sup> Criticisms and limitations of EIA include 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 related 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 *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 Rev.* 517; T. Nitz and I. Holland, 'Does Environmental Impact Assessment Facilitate Environmental Management Activities?' (2000) 2 *J. 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* (1996), at <<http://publications.gc.ca/site/eng/9.834209/publication.html>>; L. K. Caldwell, 'Analysis–Assessment–Decision: The Anatomy of Rational Policymaking' (1991) 9 *Impact Assessment Bulletin* 81.

<sup>35</sup> Centre for Science and Environment, 'Understanding EIA' *Centre for Science and Environment*, 12 October 2011, at <<https://www.cseindia.org/understanding-eia-383>>.

<sup>36</sup> EIA Notification 1994, op. cit., n. 23.

<sup>37</sup> Government of India Ministry of Environment & 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)>.

was 'more streamlined, transparent and independent of politicking'.<sup>38</sup> The new notification not only expanded the range of developmental projects requiring environmental clearance but also gave power to the state government to approve projects depending on their size/capacity.<sup>39</sup> Currently, the 2006 notification governs the environmental clearance landscape for 30 development categories that include thermal, hydro, and nuclear power projects, mines, oil and gas exploration projects, and industrial, infrastructural, and construction projects.<sup>40</sup> It sets out a four-stage process for obtaining environmental clearance: screening, scoping, public hearing, and appraisal.<sup>41</sup> The notification has undergone amendments, with nearly 40 interventions in the last 14 years.<sup>42</sup> However, this article focuses on the institutionalized EPH process as a means of achieving environmental protection, sustainable development, and environmental justice.

The EPH process is incorporated as an indispensable requirement of the 2006 notification.<sup>43</sup> It involves understanding and collating the grievances and objections of project-affected communities and addressing their concerns. An EPH is not simply a procedural formality but is meant to ensure that the decision is based on a comprehensive assessment and evaluation of costs and benefits and considers the needs and living conditions of local people and communities.<sup>44</sup> It ensures that 'the governed should engage in their own governance' and that 'proposed developments are compatible with, and do not compromise, the environment and interests of those affected'.<sup>45</sup> An EPH is not only a *sine qua non* for environmental matters but also reflects good governance, which includes transparency and accountability.<sup>46</sup> As a critically important element, an EPH is intended to strengthen citizen engagement, legitimize 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: a notice indicating the date, time, and venue for the EPH should be published 30 days prior to the

<sup>38</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>39</sup> Centre for Science and Environment, op. cit., n. 35. It was mandatory for projects such as mines, thermal power plants, river valley development, infrastructure (roads, highways, ports, harbours, and airports), and industries including electroplating or foundry units to get environment clearance.

<sup>40</sup> EIA Notification 2006, op. cit., n. 37, Schedule.

<sup>41</sup> Id., clause 7.

<sup>42</sup> U. Jha-Thakur and F. Khosravi, 'Beyond 25 Years of EIA in India: Retrospection and Way Forward' (2021) 87 *Environmental Impact Assessment Rev.* 1, at 2.

<sup>43</sup> S. Jolly and S. Singh, 'Environmental Impact Assessment Draft Notification 2020, India: A Critique' (2021) 5 *Chinese J. of Environmental Law* 11, at 15; A. Rajvanshi, 'Promoting Public Participation for Integrating Sustainability Issues in Environmental Decision-Making: The Indian Experience' (2003) 5 *J. of Environmental Assessment Policy and Management* 295, at 299; R. Paliwal, 'EIA Practice in India and Its Evaluation Using SWOT Analysis' (2006) 26 *Environmental Impact Assessment Rev.* 492.

<sup>44</sup> G. N. Gill, *Environmental Justice in India: The National Green Tribunal* (2017) 98.

<sup>45</sup> U. Etemire, 'Public Voices and Environmental Decisions: The Escazú Agreement in Comparative Perspective' (2023) 12 *Transnational Environmental Law* 175, at 177, 179. See also L. H. Berry et al., *Making Space: How Public Participation Shapes Environmental Decision-Making* (2019), 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 *Communication, Cooperation, Participation: International J. of Sustainability Communication* 51; J. A. López Cerezo and M. González, 'Lay Knowledge and Public Participation in Technological and Environmental Policy' (1996) 2 *Techné: Research in Philosophy and Technology* 36.

<sup>46</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.



date of the hearing in at least two newspapers, one of which should 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 EPH; the affected persons should be provided with access to an executive summary of the project at the offices of the official representatives of the hearing panel; the EPH should be held at the project site or in the vicinity for ascertaining the concerns of the local affected people; the entire proceedings should be video recorded; the attendance of persons present at the venue should be noted; every person in attendance should be granted the opportunity to seek information or clarification from the project proponent; and the concerns expressed should be recorded by the competent authority and read out to the audience at the end of the proceedings, explaining the content in the vernacular language.<sup>47</sup>

Global instruments call for a gendered EPH process. The 1992 Rio de Janeiro United Nations Conference on Environment and Development (UNCED)<sup>48</sup> and *Agenda 21* stress the need for the effective, equal, and beneficial participation of women in sustainable development and the elimination of obstacles to such participation, particularly in decision-making processes.<sup>49</sup> The 1995 Beijing Declaration and Platform for Action, considered the most progressive blueprint for advancing women's rights, called for women's empowerment and full participation on the basis of equality, including in decision-making processes and access to power.<sup>50</sup> Importantly, Article 14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) read with 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 participation in decision-making and governance processes.<sup>51</sup>

<sup>47</sup> EIA Notification 2006, op. cit., n. 37, clause 7 and Appendix IV. Despite the legal provisions, there are limitations to 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': B. Gallant, 'Values Matter: Gender-Based Exclusion from Environmental Impact Assessments in Mahuva, Gujarat' in *Advancing Environmental Justice for Marginalized Communities in India: Progress, Challenges and Opportunities*, eds A. Diduck et al. (2021) 137, at 138.

<sup>48</sup> Principle 20 of the Rio Declaration recognizes that 'women have a vital role in environmental management and development'. United Nations General Assembly, *Report of the United Nations Conference on Environment and Development: Annex I – Rio Declaration on Environment and Development* (1992), at <[https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf)>.

<sup>49</sup> *Agenda 21* is a non-binding comprehensive plan of action that identifies the role of major groups in shaping and implementing participatory democracy. Chapter 24, entitled 'Global Action for Women towards Sustainable Development', contains several commitments with specific recommendations. These include reviewing policies and increasing the proportion of women as decision makers, managers, and planners; strengthening women's non-governmental organizations (NGOs); eliminating illiteracy among women 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; and establishing and strengthening preventive and curative health practices. UN Sustainable Development, *Agenda 21* (1992), at <<https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>>.

<sup>50</sup> Beijing Declaration and Platform for Action (1995), Principle 13; UN Women, *Beijing Declaration and Platform for Action: Beijing +5 Political Declaration and Outcome* (2015), at <<https://www.unwomen.org/en/digital-library/publications/2015/01/beijing-declaration>>.

<sup>51</sup> United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1979), art. 14, at <<https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>; General Recommendation No. 34 (2016) on the Rights of Rural Women (CEDAW/C/GC34), at <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/061/90/PDF/N1606190.pdf?OpenElement>>.

States are expected to develop action plans that envision and articulate recognition, inclusion, and participatory involvement through effective and gender-responsive decision-making processes such as EIAs to mitigate possible environmental impacts.<sup>52</sup> The benefits of the active involvement of women in the participatory process are 'better decision-making, economic development, equal distribution of resources, and improved planning'.<sup>53</sup> The active engagement of women supports gender-equitable sustainable development, avoids the risk of ignoring their traditional knowledge and competence, and advances the redistribution of power and status.

As a signatory to these global instruments, India is committed to acknowledging the voices of women and encouraging them to participate in decision making, thereby promoting their advancement and empowerment. However, the reality is different and disturbing. Most environmental policies and laws have taken a 'single-pronged, bird eye approach'<sup>54</sup> that does not include women as indispensable stakeholders. While recognizing that, under Indian EPH law, the procedure requires local affected persons to be consulted, it is disheartening to note that women are not regarded as a separate and valuable group of stakeholders. Furthermore, 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, caste, and class prejudices that work against rural women, thereby exacerbating poverty and discrimination, and placing them in a position of subservience.

Currently, the 2006 EIA notification does not identify women as a 'separate and valuable group' in the EPH process. However, in a different but related context, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act (LARR Act) 2013 addresses gender engagement issues. It recognizes that widows, divorcees, and women abandoned by their families are entitled to compensation and other benefits, including compensation to women-headed households, because of compulsory land acquisition. A 'gender balance framework'<sup>55</sup> could facilitate structural and discursive changes, thereby improving the law at the national level. Examples from other jurisdictions including Canada<sup>56</sup> and Africa<sup>57</sup> could be helpful by 'offer[ing a] better solution in a given time and place'.<sup>58</sup> The active involvement of

<sup>52</sup> CEDAW, id., art. 14, paras 2(a), 2(f), read with art. 7.

<sup>53</sup> S. K. Singh and V. Wankhede, *Inclusion of Gender in Environmental Impact Assessment* (2018) 14, at <<https://www.nema.go.ke/images/Docs/Guidelines/Inclusion%20of%20Gender%20in%20Environment%20Impact%20Assessment.pdf>>.

<sup>54</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>55</sup> See Impact Assessment Agency of Canada, *Guidance: Gender-Based Analysis Plus in Impact Assessment* (2021), at <<https://www.canada.ca/content/dam/iaac-acei/documents/policy-guidance/gender-based-analysis-plus/guidance-gender-based-analysis-plus-impact-assessment.pdf>>; D. Hoogeveen et al., *Gender-Based Analysis Plus: A Knowledge Synthesis for the Implementation and Development of Socially Responsible Impact Assessment in Canada* (2020); Gallant, op. cit., n. 47, p. 138. The Voisey Bay Nickel Mine project and the Kudz Ze Kayah project are illustrative examples of employing a gender balance framework within the EIA process.

<sup>56</sup> Section 22(s) of Canada's Impact Assessment Act 2019 states that sex, gender, and other identity factors must be considered during EIA processes.

<sup>57</sup> See Singh and Wankhede, op. cit., n. 53, pp. 15–18. They provide examples from African countries where gender has been mainstreamed in the environmental legislation. See for example Kenya's Environmental (Impact Assessment and Audit) Regulations 2003 (Regulation 2); South Africa's National Environmental Management Act 1998 and Environmental Impact Assessment Regulations 2014 (Section 2 (4)(q) and Section 4); Tanzania's Environmental Impact Assessment and Audit Regulations 2005 (Regulation 3 and Schedule 2). See also the Equator Principles 2020 and the Food and Agriculture EIA Guidelines, which are illustrative of a gender analysis approach in EPHs.

<sup>58</sup> See K. Zweigert and H. Kötz, *An Introduction to Comparative Law* (1998, 3<sup>rd</sup> edn) trans. T. Weir, 15.

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 differences between the concerns, priorities, values, and knowledge of women and men reflect the need for a broad evidence spectrum during the EPH process. A wider perspective would generate hypotheses about environmental events and challenges, and provide options to identify and mitigate risks for the community and the local environment. Thus, by acknowledging gender differences and engaging women, the EPH process would facilitate the ‘recognition and inclusion of a variety of perspectives, knowledge and understandings that fully represent local experiences and diversity’.<sup>59</sup> The inclusion of women’s voices would result in ‘increased productivity ... and the strengthening of the social fabric of societies’.<sup>60</sup>

### 3 | INTERSECTIONALITY: A METHODOLOGICAL FRAMEWORK

This section briefly introduces the intersectionality literature relevant to the empirical data analysed in this article. We clarify the intellectual basis for applying intersectionality in the specific context of the EPH process.

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>61</sup> The first author recognizes 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).

In centring the theoretical framework of intersectionality, we are influenced by the scholarship that recognizes 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 those operations becoming invisible.<sup>62</sup> As a methodological framework, intersectionality

address[es] the multifarious ways in which ideologies of race, gender, class, and sexuality reinforce one another ... [and] can illuminate the diverse ways in which relations of domination and subordination are produced.<sup>63</sup>

<sup>59</sup> Gallant, op. cit., n. 47, p. 137.

<sup>60</sup> Singh and Wankhede, op. cit., n. 53, p. 8.

<sup>61</sup> We are aware of the extensive literature on reflexivity and intersectionality, but 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 & Organization* 1273; M. Adams, ‘Intersectionality and Reflexivity: Narratives from a BME Female Researcher inside the Hidden Social World of Prison Visits’ (2021) 20 *International J. of Qualitative Methods* 1; K. Fuller, ‘The “7 Up” Intersectionality Life Grid: A Tool for Reflexive Practice’ (2020) 5 *Frontiers in Education* 1.

<sup>62</sup> L. McCall, ‘The Complexity of Intersectionality’ (2005) 30 *Signs: J. of Women in Culture and Society* 1771; J. C. Nash, ‘Re-Thinking Intersectionality’ (2008) 89 *Feminist Rev.* 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 *Perspectives on Politics* 63; J. Puar, ‘“I Would Rather Be a Cyborg than a Goddess”: Becoming Intersectional in Assemblage Theory’ (2012) 2 *Philosophia* 49; A. E. Boyd, ‘Intersectionality and Reflexivity: Decolonizing Methodologies for Data Science Process’ (2021) 2 *Patterns* 1.

<sup>63</sup> B. Cooper, ‘Intersectionality’ in *The Oxford Handbook of Feminist Theory*, eds L. Disch and M. Hawkesworth (2015) 385, at 402.

It seemed a good starting point for our work, keeping in mind our focus on environmental justice, to foster transformations towards just, equitable, and sustainable futures. We believe that applying the intersectionality framework to our research enables us to capture the multiple positions and power inequalities that create discrimination through women's lived experiences. It also increases our understanding of how the reproduction of discrimination and inequality occurs in an institutional forum. Within the broader framework of environmental justice, intersectionality exposes women's exclusion from 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>64</sup> Crenshaw argued that the tendency to treat race and gender as mutually exclusive categories contributes to the marginalization of Black women in the United States. Intersectionality, as a recognition of the multidimensionality of Black women's experiences, is 'a prism for seeing the way in which various forms of inequality often operate together and exacerbate each other'.<sup>65</sup> Patricia Hill Collins describes intersectionality as a framework for understanding the experiences of marginalized individuals within a 'matrix of domination characterized by intersecting oppressions'.<sup>66</sup> However, some scholars have not employed the term 'intersectionality', preferring alternatives that include 'interlocking', 'multiple jeopardy', 'discrimination-within-discrimination', 'multiple consciousness', 'multiplicity', 'multiplex epistemologies', 'trans-locational positionality', 'multidimensionality', 'inter-connectivities', 'synthesis', and 'compound injustices'.<sup>67</sup>

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>68</sup> The definitional complexity of intersectionality – as a 'buzzword', a 'theory', a 'concept', a 'heuristic device', a 'method', an 'analytical tool', a 'metaphor', an 'ideograph', or a 'knowledge project' – has generated variant

<sup>64</sup> S. Cho et al., 'Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis' (2013) 38 *Signs: J. of Women in Culture and Society* 785, at 787. See also K. Crenshaw, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) 8 *University of Chicago Legal Forum* 139.

<sup>65</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. Johanna Bond summarizes 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>66</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>67</sup> R. K. Dhamoon, 'Considerations on Mainstreaming Intersectionality' (2011) 64 *Political Research Q.* 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 *Signs: J. of Women in Culture and Society* 42; A. Phoenix and P. Pattynama, 'Editorial' (2006) 13 *European J. of Women's Studies* 187; V. Kirkness, 'Emerging Native Women' (1987/1988) 2 *Cdn J. of Women and Law* 408; D. L. Hutchinson, 'Identity Crisis: Intersectionality, Multidimensionality, and the Development of an Adequate Theory of Subordination' (2001) 6 *Michigan J. of Race and Law* 285; H. Shue, *Climate Justice: Vulnerability and Protection* (2014) 5–6.

<sup>68</sup> D. Atewologun, 'Intersectionality Theory and Practice' in *Oxford Research Encyclopedia of Business and Management* (2018) 1, at 1.

academic views and texts.<sup>69</sup> However, there is general consensus that intersectionality analyses positions and individual and relational experiences as ‘reciprocally constructing phenomena’<sup>70</sup> within race, class, gender, sexuality, ethnicity, and related structural systems of oppression that perpetuate social inequalities.

As a ‘fast travelling concept’,<sup>71</sup> the flexibility and breadth of intersectionality has led to its introduction into a wide range of disciplines, including sociology, anthropology, psychology, political sciences, law, education, health studies, public policy, criminology, history, the humanities, and queer studies. Intersectionality is geared towards dealing with social inequalities and identities that focus on issues of ‘power, positionality and difference’.<sup>72</sup> Consequently, it 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>73</sup> Intersectionality’s application within and across disciplines has its own benefits and challenges. Collins argues that the benefits include the ‘development of a dynamic language of intersectionality associated with strong narrative traditions, productive avenues of investigation, a value-laden subject, and theoretical and methodological contributions’.<sup>74</sup> On the other hand, intersectionality could lose ‘originality and critical stance’ in relation to ‘misrepresentation of its initial intent, or being misrecognized and misappropriated within contemporary academic politics’.<sup>75</sup> Despite the challenges, intersectionality’s emergence in different academic disciplines suggests a consensus to ‘recenter discrimination discourse at the intersection ... [T]he 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>76</sup>

The ‘insurrectionary and capacious’<sup>77</sup> engagement of intersectionality is categorized in three modes of knowledge production that help to detect the strands of inequality and oppression. Sumi Cho, Kimberlé Crenshaw, and Leslie McCall succinctly summarize the three approaches that have fluid divisions.<sup>78</sup> The first approach applies the intersectionality framework to teaching and research projects. It investigates context-specific issues related to multiple prevailing power relationships – for example, the intersection of race, gender, and class in the labour market – and develops doctrinal alternatives to bend anti-discrimination law to accommodate claims of discrimination.<sup>79</sup> The second approach focuses on intersectionality as a theory and methodology that

<sup>69</sup> H. Lutz, ‘Intersectionality as Method’ (2015) 2 *DiGeSt: J. of Diversity and Gender Studies* 39; K. Davis, ‘Intersectionality as a Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Successful’ (2008) 9 *Feminist Theory* 67; J. K. Rodriguez et al., ‘The Theory and Praxis of Intersectionality in Work and Organisations: Where Do We Go from Here?’ (2016) 23 *Gender, Work, & Organization* 201; N. G. Alexander-Floyd, ‘Disappearing Acts: Reclaiming Intersectionality in the Social Sciences in a Post-Black Feminist Era’ (2012) 24 *Feminist Formations* 1; W. Hulko, ‘The Time- and Context-Contingent Nature of Intersectionality and Interlocking Oppressions’ (2009) 24 *Affilia* 44.

<sup>70</sup> P. H. Collins, ‘Intersectionality’s Definitional Dilemmas’ (2015) 41 *Annual Rev. of Sociology* 1, at 2.

<sup>71</sup> G. Knapp, ‘Race, Class, Gender: Reclaiming Baggage in Fast Travelling Theories’ (2005) 12 *European J. of Women’s Studies* 249, at 255.

<sup>72</sup> C. Rice et al., ‘Doing Justice to Intersectionality in Research’ (2019) 19 *Cultural Studies↔Critical Methodologies* 409, at 412.

<sup>73</sup> Id., pp. 417–418.

<sup>74</sup> Collins, op. cit., n. 70, p. 6.

<sup>75</sup> Id.

<sup>76</sup> Crenshaw, op. cit., n. 64, p. 167.

<sup>77</sup> Bond, op. cit., n. 65, p. 14.

<sup>78</sup> Cho et al., op. cit., n. 64, pp. 785–787.

<sup>79</sup> Id., p. 785.

analyses contextual articulations and debates about kinds of subjects, 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>80</sup> As a methodological tool, the intersectionality framework places emphasis on an intersectional, reflexive mindset with respect to both qualitative<sup>81</sup> and quantitative methods.<sup>82</sup> A multi-level analysis that focuses on 'experience, intersubjective praxis, institutional regimes and representational stage'<sup>83</sup> helps us to understand and interpret the structural and individual-level effects of oppression and marginalization in a given context. The third approach focuses on critical praxis that informs theoretical frameworks, which in turn inform best practices and community organization.<sup>84</sup> The interlinkage between scholarship and practice advances phenomena such as justice (social and economic) and legal and policy advocacy for transformational change.

Furthermore, Collins states that the systemic reproduction of discrimination and inequality can be analysed through three dimensions: institutional, symbolic, and individual.<sup>85</sup> Race, class, and gender have a fixed institutional presence; though they are often masked, they 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>86</sup> in relations of domination and oppression within the arenas of institutional workings, images, and experience.

Intersectionality 'makes clearer the arithmetic of the various forces – the offsetting, ameliorating, intensifying, accumulating, or deepening'<sup>87</sup> impacts of power, dominance, oppression, and inequality at individual and social levels. Our qualitative research on intersectionality deals 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>88</sup> Accordingly, by centring environmental justice, this research examines intersectionality in an institutionalized 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

<sup>80</sup> Id., p. 786.

<sup>81</sup> L. Bowleg, 'When Black + Lesbian + Woman ≠ Black Lesbian Woman: The Methodological Challenges of Qualitative and Quantitative Intersectionality Research' (2008) 59 *Sex Roles* 312; S. A. Shields, 'Gender: An Intersectionality Perspective' (2008) 59 *Sex Roles* 301; M. Syed, 'Disciplinarity and Methodology in Intersectionality Theory and Research' (2010) 65 *Am. Psychologist* 61; J. Abrams et al., 'Considerations for Employing Intersectionality in Qualitative Health Research' (2020) 258 *Social Science and Medicine* 1.

<sup>82</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 *Am. J. of Public Health* 1267.

<sup>83</sup> Lutz, op. cit., n. 69, p. 40.

<sup>84</sup> Cho et al., op. cit., n. 64, p. 786.

<sup>85</sup> P. H. Collins, 'Toward a New Vision: Race, Class and Gender as Categories of Analysis and Connection' (1993) 1 *Race, Sex and Class* 25, at 29–36.

<sup>86</sup> Id., p. 39.

<sup>87</sup> P. McIntosh, 'Reflections and Future Directions for Privilege Studies' (2012) 68 *J. of Social Issues* 194, at 198.

<sup>88</sup> Rice et al., op. cit., n. 72, p. 418.

and narrative interviews, it provides wider representations of intersectional marginalized experiences. As Collins states, utilizing intersectionality as an ‘analytical strategy’ helps us to better understand gender, race, class, ethnicity, and similar categories in relational terms rather than in isolation<sup>89</sup> and therefore to more effectively address interpersonal and structural systems of oppression.

In this context, unpacking intersectional discrimination and inequality creates an evidence-based ‘fresh dossier’ on the institutionalized EPH process. With respect to environmental injustice, exclusionary practices that undermine women’s recognition and participation exacerbate ‘socio-environmental inequalities, discrimination, harms, victimization, distribution, access and rights, and their relevance to specific social groups [women]’.<sup>90</sup> Recognizing that environmental justice is inclusive and participatory, we argue that strategic planning and effective implementation are 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 public consultation process through being recognized and included and sharing their local knowledge. The project investigates the provisioning of the gender-inclusive approach in the institutionalized EPH process with the following objectives: (1) to provide data evidence regarding women’s participation in the EPH meetings; and (2) to identify the trends and dynamics that restrict women’s participation through the framework of intersectionality.

Through quantitative and qualitative methods, this article analyses fresh evidence that underlines the complexities of the non-existent or limited participatory involvement of women as valuable stakeholders in the EPH process. The quantitative data was acquired from the Gujarat Pollution Control Board reports on EPHs. The aim was to identify the number of women participants in the EPH process and the issues raised regarding developmental and industrial projects, as evidenced below in Tables 1 and 2. Information drawn from the reports is useful for evaluating the strengths and weaknesses of the existing EPH process and women’s participation. It is important to note that COVID-19 restrictions resulted in the suspension of the EPH process, especially in the latter part of 2020 and early 2021. Consequently, there is no available data for this period.

The qualitative empirical data was collected through purposive sampling from various areas in Gujarat.<sup>91</sup> We conducted 45 semi-structured narrative interviews and several interactive focus group meetings to record women’s 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’s self-help groups, housewives, and agricultural labourers. The second author, through her well-established grassroots activities, is known to the local village women, and she effectively acted as our bridge-builder. Consequently, local women chose to participate in the research to share their experiences of the EPH process. Nevertheless, the collection of data had a rhythm that reflected the initial caution of the rural women, who had no experience of sharing their personal experiences with the

<sup>89</sup> Collins, *op. cit.*, n. 70, p. 14.

<sup>90</sup> Sharma, *op. cit.*, n. 17, p. 81.

<sup>91</sup> The interviewees came from Sanand, Bavla, Padra, Rajula, Jagadia, Surendranagar, Panchmahal, Morbi, Padariya, Bera, Kutch, Modasa, Palanpur, Rampara, Bhimsar, Anjar, Kalamsar, Bori, Khambhat, Amod, Bhoyan Moti, and Munjpur.

**TABLE 1** Women's participation in EPHs, including written and oral representations, 2018–2022

Year	Number of EPH hearings	Number of in-person attendees (men and women)	Number of in-person attendees (women)	Percentage of in-person attendees (women)	Number of written representations submitted by women	Number of oral representations submitted by women
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	3	13
2021	186	9,437	365	3.86	34	0
2022	242	11,097	731	6.5	30	32

**TABLE 2** Industrial, infrastructural, and construction development projects by sector and reasons for women's engagement in EPHs

Serial number	Year	Industrial, infrastructural, and construction development projects by sector	Reasons for women's engagement in EPHs
1	2018	Cement Laminate Chemicals Metals Airport construction	Local employment opportunities; water and soil pollution; financial compensation for land acquisition
2	2019	Paper Cement Carbon Chemicals Metals Electricity Highway construction	Local employment opportunities; corporate social responsibility 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; contamination of agricultural land and crops; health issues
4	2021	Chemicals Metals Port and infrastructure development	Water, air, and soil pollution; coal dust and fly ash deposits; food and livelihood
5	2022	Chemicals Polymers Organic products Mining lease	Local employment opportunities; water, air, and soil pollution; contamination of agricultural land and crops

first author, who for them was an Indian 'stranger' coming from the United Kingdom. Interviews were recorded mostly in Gujarati and sometimes in Hindi. The second author's contribution was to organize, translate, and transcribe the interviews. Individual permission to use all recorded material was obtained. All data collected was anonymized except for the comments of those women interviewees who explicitly wished to be identified. Unfortunately, COVID-19 restrictions prevented us from conducting as many interviews as we had planned. Furthermore, efforts were



made to interview project proponents and regulatory authorities to gain their perspectives, but they did not provide access.

Our empirical fieldwork demonstrates how the institutionalized EPH process perpetuates discrimination and inequality through the intersectionality framework by interlocking multiple dimensions that include gender, patriarchy, illiteracy, poverty, and caste. We focused on the lived experiences of the rural women. This meant that the women, ‘each with their own meanings, understandings, and lives, were envisioned as valuable, agentic subjects rather than passive research objects.’<sup>92</sup> The evidence of lived experiences creates spaces for voices that are excluded from the social system due to dominant powers and institutional structures. These experiences of rural Gujarati women provide evidence of the failure of the EPH process to recognize and benefit from their knowledge as crucial stakeholders.

## 5 | MAIN FINDINGS

### 5.1 | Quantitative data

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

Women’s participation in the decision-making process could have a transformative impact on their empowerment. Additionally, the decentralization 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, EPHs 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 recognition and procedural environmental justice. ‘Parity of participation’<sup>93</sup> ensures equality whereby ‘institutional and procedural norms guarantee all people equal opportunity’ and ‘the right to participate as equal partners at every level of decision-making’.<sup>94</sup> This would help to ameliorate issues of inequality, recognition, and those questions of participation linked to the capability approach.<sup>95</sup>

Furthermore, Table 2, also developed from the data taken from the Gujarat Pollution Control Board reports on EPHs (2018–2022), suggests that women’s very limited participation is driven by their personal interests, local perspective, and the environment–livelihood nexus. The data suggests that factors including local employment opportunities, health concerns, financial compensation for land acquisition, and the negative impacts of pollution motivate women to participate in the written and/or oral hearings. The EPHs in question relate to industries that

<sup>92</sup> E. Whittingdale, ‘Becoming a Feminist Methodologist while Researching Sexual Violence Support Services’ (2021) 48 *J. of Law and Society* S10, at S13.

<sup>93</sup> N. Fraser, ‘Recognition without Ethics?’ (2001) 18 *Theory, Culture & Society* 21, at 29.

<sup>94</sup> Shrader-Frechette, op. cit., n. 18, pp. 27–28.

<sup>95</sup> Schlosberg, op. cit., n. 16, pp. 29–33. Amartya Sen and Martha Nussbaum developed a ‘capability approach’, envisaging both the qualities and capabilities possessed by people and their ability to exercise those capabilities in a functioning life. ‘Capability’ refers to combinations of functions to which a person has effective access. These include political freedoms, economic facilities, social opportunities, transparency guarantees, and protective security. A. Sen, *Commodities and Capabilities* (1999); M. Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (2006); M. Nussbaum and A. Sen, ‘Human Rights and Capabilities’ (2006) 6 *J. of Human Development* 151, at 154.

manufacture cement, chemicals, and laminate, and developmental projects such as airport and highways, as illustrated in Table 2.

One striking 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. Through their 'women paralegals', NGOs are crucial to fostering gender participation by organizing rural women through the 'sense of sisterhood' to be visible and voice their concerns on environmental matters. They are actively involved in encouraging and redesigning gender-responsive participatory involvement through dialogue and networking processes. For example, in 2019, there were 219 written representations by women (see Table 1). 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. This collective written representation raised objections to the damaging effects of carbon black on the environment (it contributes to climate change, alters precipitation, and harms ecosystems)<sup>96</sup> and human health (it can cause respiratory and cardiovascular disease, cancer, and even birth defects).<sup>97</sup> Furthermore, it stated that potable water would be unavailable to the villagers as, according to the development plans, the company would 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 EPH process. An appreciative sense of place and values calls for acknowledging and recognizing women's capabilities, knowledge, and preferences in environmental matters. The genuine inclusion and participation of women, individually or collectively, would promote more equitable and inclusive spaces in which women's voices and rights would be 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 narrative interviews and focus group interactions – support the quantitative data and explain women's exclusion from or limited engagement in the EPH process. Intersectionality provides a rich ontology and brings fresh perspectives to analyse social groups, relations, and contexts with a view to understanding the extent of discrimination and its impact on the lives of the marginalized. Intersections of power result in 'injustices in material conditions and normative expressions, within societal structures and institutions ... [that are] lived, expressed, and reproduced through social practices'.<sup>98</sup> These create layers of complex inequalities found in relations of 'hierarchisation and stratification'.<sup>99</sup>

<sup>96</sup> R. Cho, 'The Damaging Effects of Black Carbon' *State of the Planet: News from the Columbia Climate School*, 22 March 2016, at <<https://news.climate.columbia.edu/2016/03/22/the-damaging-effects-of-black-carbon/>>.

<sup>97</sup> US 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>98</sup> A. Kaijser and A. Kronsell, 'Climate Change through the Lens of Intersectionality' (2014) 23 *Environmental Politics* 417, at 419.

<sup>99</sup> F. Anthias, 'Intersectional What? Social Divisions, Intersectionality and Levels of Analysis' (2012) 13 *Ethnicities* 3, at 10. Floya Anthias' work highlights that hierarchization and stratification are 'outcomes of the operation of power, under-

However, we acknowledge that measuring intersectional and structural inequalities is a challenge owing to the nature of those who are excluded across the regions and areas.

In our research, adopting a social categorization approach (identifying identities, structures, processes, and systems)<sup>100</sup> helped us to analyse intersectional constructions and outcomes within the regulatory EPH process. Through the framework of intersectionality, we asked ourselves about the different but mutually reinforcing categories of marginalized identities and privilege, and about the meaning and process of intersection. The complexity of ‘subject formations, differences, and vehicles of power’<sup>101</sup> made us appreciate Sherene 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>102</sup>

We now move on to locate and review the lived experiences of those Gujarati rural women involved in or excluded from the institutionalized EPH process and affected by intersectional environmental injustice. Their narratives were documented in their native Gujarati language and subsequently translated into English. The interviewees, classified as ‘W’ with a corresponding number, felt that social barriers created an unwelcoming arena in which to voice their opinions. That all three categories of analysis – patriarchy and gender, illiteracy and poverty (socio-economic status), and caste – are interlinked helped us to understand the institutional, symbolic, and individual dimensions of environmental discrimination, exclusion, and inequality.

### 5.2.1 | 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>103</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. Uthara Soman states that patriarchal norms are maintained by upbringing, discrimination, social arrangements, force, lack of facilities, and laws and policies.<sup>104</sup> The hegemonic type of masculinity in Indian culture places women in a position of subservience, dependency, and vulnerability.

In the ‘gender regime’<sup>105</sup> – in this case, the EPH process – presumed male superiority and the deeply rooted patriarchal and conservative mindset result in the failure to recognize women’s

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pinned 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>100</sup> See for example Dhamoon, op. cit., n. 67.

<sup>101</sup> Id., p. 235.

<sup>102</sup> Razack, op. cit., n. 67, p. 335.

<sup>103</sup> M. Becker, ‘Patriarchy and Inequality: Towards a Substantive Feminism’ (1999) 1 *University of Chicago Legal Forum* 21, at 24.

<sup>104</sup> U. Soman, ‘Patriarchy: Theoretical Postulates and Empirical Findings’ (2009) 58 *Sociological Bulletin* 253, at 253–254.

<sup>105</sup> Id., p. 260. ‘Gender regime’ refers to the play of gender relations in specific institutional settings such as the family or the state.

environmental knowledge and limit the space for their opinions and participation. Patriarchal oppression and environmental injustice are interlinked. The reality is that ‘patriarchy justifies inequalities and injustices’ and ‘supports male-dominated social structure’.<sup>106</sup> For example, W1 said that male members of her family told her to “[t]ake 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 ... [O]nly men can participate in such big meetings.” For W2, ‘societal expectation and pressures do not allow women to take part in such hearings. Consequently, men in the family do not allow or hesitate to take their women along with them.’ Sometimes, due to the prospect of employment opportunities, men ‘prefer not to raise any objections with the project proponents (industries) and direct women to stop talking about the issues’. According to W3, when women do accompany their men to an 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 when 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.’ She ‘fears that her speaking might lead to fights in her home ... [B]est to avoid participating and be a mute spectator.’ Often, the woman Sarpanch simply does not attend: ‘Why should I attend when my husband is participating and deciding the matters?’

Furthermore, the male-dominated spaces in which EPHs take place lead to women’s exclusion. The statutory rules mandate that an EPH should take place at the site of the proposed development or in its vicinity. However, the reality is different. EPHs are mobilized by men and innately support patriarchy through inbuilt power structures. The regulatory authorities and project proponents organize EPHs at their convenience in terms of time and place. For example, W7–10 felt that EPHs are often held at times and places that are inconvenient for women, resulting in their non-participation: ‘It is difficult for us to travel long distances on foot, especially if alone or when we have responsibility for childcare and elderly family members.’ W12 asked: ‘How do we attend a meeting organized far away from the village centre?’ Furthermore, W13–17 reported that the local space where an EPH was being held was male dominated, rigid, and unequal. At times, they ‘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 from speaking and led to participatory exclusion. Several EPH meetings were chaired by a ‘male authority’ such as the District Collector.<sup>107</sup> The presence of ‘baada Saab (the big boss – that is, the District Collector)’ makes women aware of male power and the patriarchal order. For example, W18–21 remarked: ‘How can a woman speak or stand in the meeting when the Collector is there?’

<sup>106</sup> Becker, *op. cit.*, n. 103, pp. 21, 34.

<sup>107</sup> The District Collector is the direct representative and highest functionary at the district level. It is at this level that government policies are translated into practice.

## 5.2.2 | Illiteracy and poverty

Male bias intersects with illiteracy and poverty (socio-economic status), thereby contributing to women's exclusion. The interlocking of these factors structures the 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 continue to face challenges. For example, they 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 per cent, as compared to 84.1 per cent in the urban areas.<sup>108</sup> Patriarchal structures along with poverty pose challenges for women regarding educational opportunities and attainment.

The lack of encouragement and support from their families further restricts women's participation in the EPH process. For example, W22 stated that being illiterate or having low levels of education places women in a position of subordination and exclusion in the EPH process. Men often pass comments: "You are illiterate and have no brains to understand the issues ... [I]t's the men who understand these problems ... [D]o household chores and childcare." W23–25 expressed their frustration at being 'ignored' and 'worthless' with respect to the EPH process. This was the result of being 'poor illiterate women'. They attended the EPH to make up the required number. W23 shared her experience:

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>109</sup> However, W23 felt that this kind of conservatism places her in a disadvantageous position as she cannot stand up for herself, let alone environmental issues, despite being knowledgeable about her local environment and needs. Her dependence on her husband and his family, and the lack of educational opportunities, have pushed her into a discriminatory and oppressive system. W23–25 stated that they have ensured that their daughters go to 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 example, the draft EIA reports submitted by the project proponents are mostly in English and are therefore less likely to be understood, explained, and discussed among women. W1 captured this point: '[W]e do not understand what is written in the reports. No support is provided to us by our village men in terms of explanation.'

<sup>108</sup> *Mint*, 'Indian Women's Literacy Rate Increased by 68% since Independence: Report' *Mint*, 15 March 2023, at <<https://www.livemint.com/news/india/womens-literacy-rate-increased-by-68-since-independence-report-11678863594186.html>>.

<sup>109</sup> Soman, op. cit., n. 104, p. 257. See also J. Butler, *Gender Trouble: Feminism and the Subversion of Identity* (2006) and her argument on gender performativity.

On the other hand, W3, with a 12<sup>th</sup> grade school pass, told us that she engages in the EPH process. She stated:

I know that being a woman has disadvantages. The men, especially the officers, conducting EPHs either ignore me or do not take me seriously. However, I am providing the authorities with pictures of the polluting industry next to my home. The industry is causing water and soil pollution that has a severe impact on our health, crops, and livestock. I will keep fighting in 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.

### 5.2.3 | Caste

The intersection of caste prejudices, poverty, and gender produces complex and irreducible hierarchization, discrimination, and systemic inequalities that are not easily remedied. In India, caste is an ancient Hindu system that dates back 3,000 years and is tied to concepts of purity and social status.<sup>110</sup> Brahmins, on the one hand, develop feelings of ‘belongingness, ... temporal continuity, positive distinctiveness, and heightened self-esteem from essentialisation of their caste identity’.<sup>111</sup> Dalits, on the other hand, occupy the lowest place in society and have historically been considered impure because their occupations involved butchering animals and disposing of human waste.<sup>112</sup> The social difference of caste has also been examined from a racial angle. Jesús Cháirez-Garza and colleagues argue that ‘racism and racialization in India operate at the intersections of caste supremacy ... and [caste] characterizes India’s ... layering of prior unfinished histories of differential power into contemporary life in overtly and subtly racial terms’.<sup>113</sup> However, for this article, we examine caste as a social category. We are influenced by Malini 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>114</sup> Women are considered as the ‘gateways of the caste system and it is the caste system which provides a structure for the subordination of women’.<sup>115</sup> The complexities of the caste system create discrimination and exclusion and

<sup>110</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*: Brahmins (priests), Kshatriyas (warriors), Vaishyas (merchants), and Shudras (labourers). Those outside the system became known as the outcasts or ‘untouchables’, and later as Dalits.

<sup>111</sup> S. Sankaran et al., ‘The Role of Indian Caste Identity and Caste Inconsistent Norms on Status Representation’ (2017) 8 *Frontiers in Psychology* 1, at 2.

<sup>112</sup> J. Khubchandani et al., ‘Caste Matters: Perceived Discrimination among Women in Rural India’ (2018) 21 *Archives of Women’s Mental Health* 163, at 164.

<sup>113</sup> J. Cháirez-Garza et al., ‘Introduction to the Special Issue: Rethinking Difference in India through Racialization’ (2022) 45 *Ethnic and Racial Studies* 193, at 194.

<sup>114</sup> M. Ranganathan, ‘Caste, Racialization, and the Making of Environmental Unfreedoms in Urban India’ (2022) 45 *Ethnic and Racial Studies* 257, at 260.

<sup>115</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/>>.

some people end up poor with no or little access to education. Post-colonial India formally abolished caste-based discrimination through constitutional mandate<sup>116</sup> and several affirmative legislations.<sup>117</sup> However, caste-based discrimination persists in India.

Dalit women are the worst off as ‘caste is as an under-recognized marker of environmental discrimination and inequalities’.<sup>118</sup> In the EPH process, the intersection of caste, poverty, and gender highlights the ‘texture and consequence of inequalities experienced’<sup>119</sup> by women individually and within groups. Their lived experiences reflect the hierarchization in legal spaces that is the outcome ‘of the operation of power ... through the workings of processes of inferiorisation ... exploitation ... and unequal resource allocation’.<sup>120</sup> This silences Dalit women’s voices within the village or community, thereby compounding discrimination, segregation, and subservience. For example, W26–31 shared their experiences of when an EPH took place in a temple:

How can we go to an EPH meeting organized in a 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 the lower caste are prevented from doing anything, 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 ‘we get no information about these hearings ... [N]o one tells us or involves us in this process simply because we belong to a lower caste, are poor and illiterate. We have no presence or existence.’ However, W37–40 felt agitated as they know how the industries impact on their daily lives, including the effects of water and soil pollution on their crops, but they have no voice:

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 an EPH, but in the meeting,

the women of the upper caste made us sit separately in a corner and asked us not to speak a word. We were given the assurance of getting ‘free lunch’ that provided us with 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.

<sup>116</sup> Article 17 of the Constitution of India states that ‘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>117</sup> Untouchability Offences Act 1955 (renamed Protection of Civil Liberties Act 1955); Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015.

<sup>118</sup> Ranganathan, *op. cit.*, n. 114, p. 258.

<sup>119</sup> Atewologun, *op. cit.*, n. 68, p. 5.

<sup>120</sup> Anthias, *op. cit.*, n. 99, p. 10.



FIGURE 1 Some rural Gujarati women interviewees

These illustrative quotes and experiences show that the principle that those who have the closest relationship with the land are those who should be consulted on environmental matters is disregarded when it comes to rural women and the institutionalized EPH process in India. We argue that the framework of intersectionality reveals the causal processes of environmental discrimination and inequality. The intersection of patriarchy, illiteracy, poverty, and caste within the state institutional system produces environmental injustices, or what Ranganathan calls ‘environmental unfreedoms’.<sup>121</sup> Our interviewees’ lived experiences remind us that the intersectional analytic remains essentially intact in the Indian system. Women’s identities and capabilities as individuals and collectively as repositories of environmental knowledge and related skills are eclipsed, thereby amplifying discrimination and marginalization. We argue that in real terms the institutionalized EPH process perpetuates inequalities wherein the effects of privilege and discrimination are mutually reinforcing and relational (Figures 1 and 2).

## 6 | CONCLUSION

Gender parity is not simply a matter of ‘more women’; it is also about integrating them into the processes of constructing policies and programmes and decision-making procedures. It involves the consideration of the socio-cultural relationship between the sexes and its effects and

<sup>121</sup> Ranganathan, *op. cit.*, n. 114, pp. 258–259. Environmental unfreedoms signify the ‘fundamentally humanity- and dignity-robbing traits of socioecological harm’.





FIGURE 2 Some rural Gujarati women interviewees

differentiating impacts. Visibility and voice are important for women to be able to express their opinions on projects that affect their daily lives, families, and livelihoods. The active participation of women in the EPH process helps to identify and interpret impacts and collaboratively develop mitigation and adaptation measures.

India needs to recognize and support fortissimo, polyphonic women's voices in the EPH process by reconstructing formal procedures that promote environmental justice from a recognitional and procedural perspective. Environmental justice is inclusive in terms of both recognitional and participatory dimensions. Recognition as an element of justice is crucial to preserving diverse cultures and identities and respecting them for their knowledge and skills. Lack of recognition results in 'insults, degradation, and devaluation at both the individual and cultural level'.<sup>122</sup> Participation in EPHs helps to address issues of inequality and misrecognition, and enables women to contribute to public decision making as individuals and communities.<sup>123</sup> However, Indian public policy and environmental legislation has failed to connect the dots that would comprehensively and mandatorily recognize 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 remains unimplemented as 'gender stereotyping within families and

<sup>122</sup> Schlosberg, *op. cit.*, n. 16, p. 14.

<sup>123</sup> *Id.*, pp. 25–29.

in public life, lower literacy rate, lower financial autonomy, [and] lower social status ... pose immense challenges for women's ... participation'.<sup>124</sup>

Looking into the 'why' of discrimination through the framework of intersectionality, we have analysed the constraints that result in the non-existent or limited engagement of rural Gujarati women in the institutionalized EPH process. The dominant narratives of patriarchy, illiteracy, poverty, and caste create complex tensions and are key drivers of exclusion and inequality. By adopting an intersectional approach to rural women's lived experiences, we have captured the mutually reinforcing realities that perpetuate discrimination and oppression. A critical analysis of the intersectional complexity reveals the causal pathways of the marginalization of women's voices in the EPH process by reinforcing the hierarchization and stratification that result in discrimination and inequality.

We support the introduction of a corrective gender balance framework that combines recognition with participation to promote environmental justice. We are inspired by David Schlosberg's work that links the institutionalization and implementation of environmental justice to an active pluralist engagement.<sup>125</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>126</sup> This encompasses a receptivity towards rural women's voices and a validation of their knowledge and experiences. Respecting the diversity of interests and identities of women within institutionalized public spheres would enhance their engagement, thereby promoting their recognition, participation, and capabilities. Integrating plurality and diversity based on individual and collective women's experiences supports sustainability and empowerment.

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<sup>124</sup> National Human Rights Commission India, *Women's Rights in India: An Analytical Study of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Indian Constitution, Legislations, Schemes, Policies & Judgements* (2021) 36, at <[https://nhrc.nic.in/sites/default/files/Women's&20Rights&20in&20India&20complete\\_compressed.pdf](https://nhrc.nic.in/sites/default/files/Women's&20Rights&20in&20India&20complete_compressed.pdf)>.

<sup>125</sup> Schlosberg, op. cit., n. 16, pp. 180–184.

<sup>126</sup> Id., p. 184.