Chapter Four

The Child Marriage Debate in the 20\textsuperscript{th} Century in British India: The Site of the Universal Citizen – Subject in a Uniform Law
Feminist theory often makes a distinction between war-time rapes and peace-time rapes. In war, i.e. in all political conflicts between communities, regions, religions, races, castes, the rape of women recurs as a persistent reality. These rapes illustrate that women’s bodies in such clashes are marked not merely with gender, but also with ethnicity, religion, race or community. Are the marks of ethnicity, community and religion absent, then, in peace-time rapes? The distinction between war- and peace-time rapes assumes that in peace-time, the only identification marking a woman’s body is gender. It assumes, in other words, a homogeneity of ethnicity, class and race within the boundaries of nations, and a parity between female subjects, therein. The boundaries of nations are, on the contrary, hardly uniform and rigid. The boundaries of both state and citizen are unfixed and highly contested.

In this regard, I re-visit the story of a peace-time rape in contemporary India, which calls into question the distinction between war- and peace-time rapes. In the year 1992, Bhanwari Devi, a lower caste woman was gang-raped by upper-caste men in a village in Rajasthan. The rape of Bhanwari Devi was a not a war-time rape, as it occurred within a unitary nation-state. However, even in this peace-time rape, Bhanwari’s body was marked with caste and class, in intersection with gender. Obviously, peace-time rapes can reflect the conflicts and stratifications underlying a peaceful, unitary society, or nation. The rape of Bhanwari reflects the conflicts and wars between unequal subjects within the modern Indian nation-state, especially on the site of caste.

Bhanwari Devi brought her case against the upper caste men to court, under the rape law, which is encoded in Section 375 of the Indian Penal Code. The rape law is part of the criminal law and therefore, it applies uniformly to all subjects of the Indian nation. A universal criminal law in modern India is a legacy of India’s colonial encounter with Britain. In 1860, the British Indian Government enacted the Indian Penal Code in India, which enforced a uniform criminal law equally on all native subjects, irrespective of caste, religion, caste or creed. When Bhanwari Devi went to court invoking the rape law, she, therefore, appealed as a female subject, unmarked by distinctions of caste, religion or community. The universal rape law enacted by the British in India, and inherited by the
independent Indian nation in 1947, seems to be founded on this rather unsettling biological premise—that rape is an offence based on the ability of a man to rape, and the position of woman as rapeable, as penetrable against her will. The only identification in such a universal definition of rape is gender, or rather biology.

However, when justice was dispensed under this sign of the universal in Bhanwari Devi's case, it replicated the same caste and class identifications that had informed the rape itself. The accused men were acquitted of the rape charge on the grounds that it was not possible for upper caste men to have intercourse with a low caste woman who was too polluting even be touched. The case raises obvious questions about who can claim the site of the universal citizen-subject in the modern Indian state. It seems to bear out the critique that liberal-universal is an exclusionary site that instates a dominant subject who can speak to the exclusion of marginalized others who cannot. This dominant subject in India would be the Hindu, upper caste, upper class, urban woman.

This critique of the subject of Indian feminism and the dominant woman citizen-subject of the postcolonial state is, in fact, made in the context of a contemporary controversy in India. This is the controversy surrounding the proposed enactment of a uniform civil code (henceforth, UCC) in India. The subject of Indian feminism has been critiqued in this controversy as the dominant Hindu, upper caste, upper class, urban woman, who speaks for and represents marginalized Others, and thereby silences them. This chapter will discuss these post-structuralist critiques of the subject of Indian feminism, as they are articulated in the UCC debates.

However, these critiques in the UCC debates do not seem to take note of an important fact — India already has a universal law in the form of the criminal law, under which Bhanwari Devi's case was tried. Most feminist writings — and feminist history writing — also fail to make a distinction between civil and criminal law, being mainly concerned with culture and religion and the location of women's agendas therein. The uniform criminal law in postcolonial India, which also covers rape, is a legacy of the colonial period, as independent India inherited, with amendments, the codes of criminal law and
procedure enacted by the British Government. My study of rape laws in colonial India stimulates me to make this link between the criminal law and the idea of a "universal" within the civil law. Bhanwari Devi's rape trial would appear to verify the critique of the "universal" Woman-subject of the postcolonial Indian nation-state, which is made in the context of the U.C.C. debate: that this subject is the dominant Hindu, upper caste, upper class subject.

Similar post-structuralist critiques are also extended to the site of the universal citizen-subject in the postcolonial Indian state. Postcolonial, postmodern critics in India today see the post-colonial Indian nation-state as a state constructed on the Western liberal model, owing to the liberal discourses derived through the colonial encounter. Critiques of liberal universal citizenship that are being articulated in Western contexts are therefore transposed to the postcolonial Indian state in the contemporary postmodern moment. The site of the universal citizen-subject in the postcolonial Indian state is critiqued as an exclusionary site that instates a dominant subject who can speak to the exclusion of others who cannot. The aim of this paper, however, is to question whether such post-structuralist critiques can, in fact, be applied to the Indian context.

My point of departure from these critiques is to posit that the site of the universal in the postcolonial Indian nation is not analogous to that in Western states, and in that sense, is not exclusionary. This is because the formation of the postcolonial nation-state in India is the result of a different history. I will explore this different history by retrieving from the archives an instance when a uniform civil legislation was passed in India. This was when the Child Marriage Restraint Act was passed in 1929, at a time when India was still under the colonial rule of Britain. I will examine the enactment of this legislation to examine whether there were, during this time, dominant subjects who spoke to the exclusion of others who did not. The debates surrounding the Child Marriage Restraint Act of 1929 provide a moment of recognition for the contemporary UCC debate, since these debates raised many of the issues that the UCC discussion is fraught with today. Yet, the Child Marriage Restraint Act was passed in 1929. This chapter seeks to understand why.
In this sense, this chapter picks up from where the previous chapter left off. The previous chapter had discussed notions of rape and consent in the child marriage debate in 19th century British India. This chapter traces the contours of the debate in the 20th century in British India. It also contextualizes the debate and seeks to understand how a child marriage legislation, which was resisted in the late 19th century, came to be passed in the 1920s. What processes differentiated this period from the late 19th century, were specific to the historical context of the 1920s, which precipitated the passing of the Child Marriage Restraint Act in 1929?

Section I: Universal Discourses in Postcolonial India: A Liberal – Colonial Legacy?
Histoirographical Reflections in the Contemporary Uniform Civil Code Debate.

I will begin this section with a few words of introduction to the issue of the UCC. India does not have a common civil code. Civil matters such as marriage, divorce and inheritance rights that significantly affect women’s lives are covered under the “personal laws” of the different religious denominations, so that we have the Hindu law, the Muslim law, the Christian law, etc. These religious laws were codified during British colonial rule in India. The colonial state codified the laws on the basis of the interpretations given by religious authorities. Since the religious experts interpreted the scriptural canon, customary practices were lost in the codification of laws. These laws, therefore, represented essentialised and homogenized versions of religion, which were often at divergence with customary practice.

The debate surrounding the Uniform Civil Code is whether there should be a civil code that applies equally to all communities. I will briefly go over certain arguments on both sides of the debate. Some feminist groups have, in the past, called for the replacing the religious laws with laws that are just to women. They have argued that a UCC would provide a sphere of rights to Indian women that would be alternative to the rights—or wrongs—given to them by religious laws.¹ Feminist opinion, however, has been divided.
Critics of this feminist vision of universal gender justice have pointed to the plurality of religions, castes, regions, languages and communities in India and the unequal power relations that mark these sites. To elaborate, the dominant religion in India is Hinduism, and the Muslim minority is being Othered as an alien and anti-national presence by certain Hindu fundamentalist groups in contemporary India. Likewise, within Hinduism, there is a hierarchy of caste, which stratifies Hindus from the upper castes to the lowest castes. Given these disparities, critics see the feminist demand for a uniform civil code as an essentialism that prioritizes gender over other identifications and, in this, excludes other axes of power and their politics. By excluding the intersection of other axes of power in the universal foundation of gender, this feminist move allegedly hegemonizes already existing sites of dominance. And this is the first critique of the postcolonial Indian feminist that I will identify.

The subject of Indian feminism who advocates an ideal of universal gender justice—the subject as "Woman" unmarked by inequalities other than gender and oppressed across cultures and religions—is argued, in this critique, to be the upper caste, Hindu, upper class, urban woman, who suffers no inequalities other than gender. The Anveshi Law Committee, in an essay on the UCC, for instance, observes,

... in the nationalist period itself, "woman" in India had acquired the markings that made her Hindu, urban, upper-caste and middle-class. Over a period of time, through processes of consolidation, these specific markers become invisible, and this norming of woman comes to be seen as natural. Only the normed woman can lay claim to being truly Indian. 

This, it may be emphasized, is a historiographical assertion, which I will address shortly, about the constitution of a dominant citizen-subject during the phase of anti-colonial nationalism itself. The subject of contemporary Indian feminism, in this post-structuralist critique of power/knowledge, is thus the woman-subject who is enabled or empowered to speak in postcolonial modern India, and, in speaking, universalizes her own limited positionality as the referent for universal female subjecthood. The ruse of the universal erases the identifications of power that produce the speaking subject of feminism, thereby hegemonizing already existing sites of dominance.
The universal feminist subject comes into being at the expense of excluded subjects who are disallowed from becoming subjects or "speaking". And indeed, the Anveshi Law Committee's essay adds that the dominant subject of Indian feminism has maintained a hegemony within the Indian women's movement even when marginalized Others—such as Dalit (i.e. lower caste) and Muslim women—have raised challenges to it, by incorporating these dissensions as differences within a larger unified identity. To quote Anveshi:

The emergence in the last few decades of different social and political movements, especially the Dalit movement, has raised many questions for feminism. ... The attitude of the women's movement, normed as urban, Hindu and upper caste-class, has been to address the concerns of the Muslims or the Dalits by making some space for the Dalit woman and the Muslim woman even while insisting that their "primary" identity is neither Dalit nor Muslim, but woman.

I would identify that this as a second historiographical statement, quite consistent with the first: If the normed Indian woman, the citizen of the nation-to-be, was produced in and through the nationalist movement, Dalit and Muslim women's contestations of this norm are seen as being fairly recent.

Post-structuralist deconstruction evidently informs this critique of Indian feminism's universal subject. Anveshi locates its critique of the UCC agenda within a larger questioning of "the notions of 'democracy', 'equality', 'secularism' and 'modernity', which are under contestation at present". This brings me to a second criticism: one in which post-structuralism intersects with postcolonialism to produce a combined resistance to universal, statist discourses. Post-structuralism feeds postcolonialism to produce a unique critical position in contemporary Indian academics: a position best articulated, at the present moment, in a certain school of Indian history-writing called "Subaltern Studies". This position points to the epistemic violence that the universalist discourses engendered by Enlightenment Rationalism enact against non-modern, non-Western epistemologies that inhabit and imagine non-universal fragments.
Scholars like Dipesh Chakravarti suggest that such violence inheres in discourses of equal, democratic citizenship in the postcolonial Indian nation-state. For, the process of making individuals into "Indians" or equal citizens is, as Dipesh Chakravarty argues, innately undemocratic. To enjoy the benefits that the state can distribute, to become citizens and participate in the state's grand narrative of progress, individuals have to be disciplined into the philosophies of the state. As Dipesh Chakravarty observes,

"One cannot perform effectively in the context of modern bureaucracies—and therefore one cannot access the benefits these institutions are capable of delivering—if one is not able to mobilize one's identity, personal or collective, through the languages, skills and practices that these philosophies make possible. The very idea of distributive justice requires that these languages and competencies—of citizenship, of democracy, of welfare—be made available to all classes, particularly those subordinated and oppressed. It means that when we, members of the privileged classes, write subaltern histories—whether we write them as citizens (i.e. on behalf of the idea of democratic rights) or as socialists (desiring radical social change)—a certain pedagogic drive comes into play in our writing. We write, ultimately, as part of a collective effort to teach the oppressed of today how to become the democratic subject of tomorrow."

The pedagogic dialogue between the postcolonial elite intellectual (of Marxist or liberal persuasion), who is informed by derived universal discourses of Enlightenment Rationalism and modernity, and the non-elite subaltern is, "by its very structure", undemocratic. For, as Chakravarty goes on to say:

"... a dialogue can be genuinely open only under one condition: that no party puts itself in a position where it can unilaterally decide the final outcomes of the conversation. This never happens between the 'modern' and the 'non-modern'. Because, however non-coercive the conversation between the Kantian subject (i.e. the transcendent academic observer, the knowing, judging and willing subject of modernity) and the subaltern who enters into a historical dialogue with the former from a non-Enlightenment position, this dialogue takes place within a field of possibilities that is already structured from the very beginning in the favour of certain outcomes....In the pedagogic histories, it is the subaltern's relationship to the world that ultimately calls for improvement. (In the limiting case of the problem, all peasants would be educated out of their peasantness.)"
The dialogue that produces citizen-subjects is violent because it involves an unlearning of the subaltern subject's native tongues, and disallows her epistemologies. It educates, for instance, the peasant to see his or her world in terms of the inequalities of class, gender and ethnicity, and unlearn the irrationalism of imagining ghosts and spirits. This violence is inextricable from universal grand narratives, such as that of the state (the Marxist or liberal or feminist state), which aim to envision everyone's good through a totalitarian, monolingual philosophy. Subaltern narratives can disrupt this monomania of the imagination by contributing to the dialogue, knowledge-forms that are not of wholes and totalities. Imaginations that are fragmentary and episodic, a "consciousness (of) the many possible worlds we inhabit, ...the possibility that these worlds may be incommensurable with each other, and hence grant our social life a constant lack of transparency with regard to any one particular way of thinking about it." 

The relevance of this critique to the UCC debate is apparent, for the UCC debate is also a debate about equal citizenship for Indian women across religions and castes. The UCC can be critiqued as a grand-narrative that attempts to render "everyone's good" transparent to a monochromic ideology tied to the state. It may be pointed out here that within Hinduism, there are communities like the Nairs in Kerala, which are matrilineral. Within India, there are "tribal" communities like the Khasis of Meghalaya where both lineage and property is traced through the mother. Would a Uniform Civil Code—the utopic vision of everyone's good—empower the women of these communities, or disempower them and flatten out cultural diversity?

The critique of universal statist discourses in postcolonial India, which I shall identify as "post-structuralist—postcolonial", contains certain important assertions about "subaltern" epistemologies and their relation to the state. I will revert to these arguments later on in this paper, and posit my departure from them. For now, I will draw on the suggestion that subaltern, i.e. non-elite, epistemologies are in excess of the derived rational discourses of elite postcolonial intellectuals.
This suggestion, perhaps, invests the speech of the “subaltern subject” in postcolonial India with an authenticity that the elite Indian intellectuals lack. The notion of inauthenticity brings me to the third and final strand of criticism that I wish to examine in this context. Charges of inauthenticity, of alienation from cultural roots and of Westernization are leveled at the Indian liberals by the Hindu Right, a communal formation whose religious agenda is overwhelmingly political. According to some scholars, communalism is different from fundamentalism in that it identifies its principal enemies as internal rather than external. However, in bringing its charges of inauthenticity against the Indian liberals, the enemy that the Hindu Right identifies is not wholly internal, i.e. the Indian Muslim: it is also external, it is also the West. However, the West is displaced metaphorically on to the site of another internal enemy, the secular, left-liberal Indian intellectual. This displacement allows the Hindu Right to support economic policies of globalization, even while it denigrates its secular critics in India as alienated, Westernized hybrids. Through this political move, the Hindu Right Others its left-liberal opponents, as well as the Indian Muslim, from its definitions of authenticity and Hindu-ness. In the face of these charges, to defend the social critic’s view as the perspective of one who, to quote Seyla Benhabib, has left home to “occupy a space outside the walls of the city, in a host country, in a different social reality” will not do, because the social critic who claims to have been able to step out of home is promptly debunked as having stepped into the West.

The Hindu Right also propounds its own brand of self-styled indigenous “feminism”, which is both superior to and essentially different from Western feminism. The feminism espoused by the Indian left/liberal feminist, is dismissed as a Western form of individualism that breaks homes, disrupts families and encourages vices. In contrast to the individualism and isolating independence that are attributed to Western feminist ideology and its Indian adherents, the Hindu Right’s women activists uphold an ideology of inter-dependence, where men and women co-exist peacefully, performing shared roles. This ideology, for its lack of critique of discursive inequities, is not feminist at all.
Interestingly, the demand for a uniform civil code has also come from the Hindu Right in contemporary India. The motivation of the Hindu Right is not so much “gender justice” as national integration, i.e. the co-option of Muslim difference (seen as dissidence) into the Hindu social fabric of the nation. The Hindu Right also justifies its demand for a UCC on feminist grounds, as an enterprise of saving Muslim women from the barbarity of Muslim men and their laws.\textsuperscript{15} This reminds me of a Spivakian sentence in another context: “White men are saving brown women from brown men.”\textsuperscript{16} This sentence, when transposed into the postcolonial postmodern context, summarizes all three strands of critique that have emerged so far in the discussion of the UCC. Namely, the politics of representation whereby the mute subaltern is objectified by those who are able to speak for her. Those who speak for the subaltern woman’s victim-status are, at the present moment, the elite feminist intellectual and the Hindu Right. Moreover, the language of the representation is one based on principles of Western Enlightenment Rationalism that speaks for the universal rights of the human subject, thereby erasing intersections of culture and community in various subjectivities.

Both the feminist intellectual and the activists of the Hindu Right share a common Hindu, upper caste, class location, which is an investment in power that, according to this argument, allows them to erase intersections of religion, caste and class in the construction of gender. The feminist intellectual and the activists of the Hindu Right are therefore, the brown men and women who succeed the white men in Spivak’s equation—the dominant citizen-subjects who were, as Anveshi suggests, being constituted during the phase of anti-colonial nationalism itself. These brown and women continue to represent and silence subaltern Others — the Muslims, the Dalits, the tribals — thereby forming an alternative site of dominance, that of upper caste, upper class, Hinduism.

I would contest this linear narrative of the formation of alternative sites of dominance on two counts. Firstly, the conflation of the liberal feminist position with that of the Hindu Right is deeply problematic. Yet, it is almost inevitable if we read knowledge-production as an essentially insidious process, and the producer of knowledge as a subject with investments in power. The producer of feminist epistemologies would come from a
privileged location of power, much like the ideologues of the Hindu Right, and be constituted by it. She would also erase and hegemonize her privileged position in the process of producing feminist epistemologies. However, would she also be determined by her location in sites of power, so as to be incapable of agency, therefore? I would believe not, for if social location were to determine her subject-position, she would not be able to display an alterity to positions on the Hindu Right. In other words, there would not be a range of subject-positions varying from the extreme left to the right, among men and women drawn from the same religious, caste, class location.

History provides a context in which this point can be illustrated. In colonial India in the 19th and early 20th centuries, the public sphere witnessed certain debates concerning gender such as sati, widow re-marriage and child marriage. In these debates, men and women of similar caste, class and religious locations espoused a range of positions. I will examine these positions in Section 3 of this paper. An examination of these positions would, I hope, show that mere location in social co-ordinates does not inevitably produce the neat positions that certain critiques result in, and that positions and identifications can be multiple and cross-cutting. Yet, given the fluidity of positions, how do we theorise their excess and intersection within relations of power marked by structural inequalities? Or, how do we reconcile a post-structuralist deconstruction of essential "positions" and "identities" with structural constructions of power and inequality? This is a question I address in the fourth section of this paper.

My second critique of the narrative of the formation of alternative sites of dominance is that it results in a rather neat, linear teleology, wherein gender is always muted, always subordinated by larger conflicts between races and cultures. As the "subaltern woman", was silenced due to the politics of race in the imperialist theater, so are Other women silenced due to the politics of religion and caste in the postcolonial Indian nation-state. This teleological narrative informs positions such as Partha Chatterjee’s, which seem to suggest that issues of gender are always sorted out after issues of culture, community and race are. Partha Chatterjee posits that the organized nationalist movement that emerged in India in the late 19th–early 20th century, subordinated gender issues to the larger concerns
of anti-colonial nationalism. Or, as Chatterjee puts it, nationalism “resolved” the women’s question by subordinating it to the larger anti-colonial question. This supposedly caused a silence on questions of gender in the 20th century, when compared to the 19th century, during which anti-colonial nationalism was less developed and gender was debated. Chatterjee extends this argument to other minority groups, such as the Muslims in the postcolonial Indian nation-state, to posit that they, in turn, have subordinated gender issues to the larger, more pressing concerns of culture and community, and therefore, have resisted reform in gender in postcolonial India.17

The archives of history prove otherwise. Gender continued to be debated even during the phase of organized anti-colonial nationalism. The child marriage debates raged in the late 1920’s, when nationalism had, in fact, become more mass-based and articulate than ever before. The persistence of the child marriage debates proves that questions of gender were not subordinated to the ‘larger’ concerns of the anti-colonial national movement in the 20th century. Far from being subordinated to larger questions of nationalism, the agenda of gender assumed the ‘universal’ proportions of the nation in the child marriage issue. Earlier debates on gender in the 19th century had been localized and specific: sati in Bengal, the Devadasi tradition in Mysore, and so on. Child marriage, on the other hand, emerged as a ‘national’ issue of gender in the 20th century, through a converging of discrete agendas and narratives. In this convergence, the trajectory of the child marriage debate on gender was similar to those of religious and social movements of the same period. Religious and social reform movements, which had been localized in the 19th century, also tended to exceed their regional limits and map the contours of the nation in the 20th century. The enactment of the Child Marriage Restraint Act as a universal civil legislation applying to all communities in the nation is located within this time and its nationalism.

What was the place of the ‘universal’ within this notion of the nation, and how was it different from the trope of the liberal ‘universal’? Was the ‘universal’ in the child marriage debates an exclusionary ruse of power that benefited the dominant subjects of the nation that was being conceptualized? Were universal discourses of the nation tending
to consolidate the power of dominant Hindu, upper caste subjects as those who would inherit the nation-to-be? These are questions that I hope to address in the fifth and final section of this paper, drawing on insights provided by the enactment of the Child Marriage Restraint Act.

However, before I go on to these sections of the paper and the questions they will ponder, I will draw out some of the issues raised in the child marriage debate in the 1920's, which have resonances with the concerns being voiced in the UCC debate today. It is interesting to note how close the critiques of the Child Marriage Bill in 1929 came to those expressed against the premise of the UCC in contemporary India. The past critiques that I will identify in the following section echo both the Hindu fundamentalist and the post-structuralist tenor of present-day concerns.

II: The Child Marriage Restraint Act of 1929 — Resonances

In the 1920's, a law was deliberated to fix the age at which girls could be married in India. It was argued that further increase in the age of consent, or consummation, within child marriage, would have little impact until the age of marriage itself were raised and fixed in the law. It was proposed, moreover, that the legislation fixing the age of marriage should apply uniformly to all communities, classes, castes and religions in colonial India. The universal feminist foundation that informed the desired enactment was that early marriages in India were detrimental to the health of girl children. Girls were often given in marriage before they had reached the age of puberty among both upper and lower castes Hindus, as well as Muslims. Consummation of such marriages was supposed to be post-puberty, but there were cases of husbands “raping” their immature child-wives, even to death. It was also argued that early marriages resulted in early motherhood that led to mortality of both infants and girl-wives.

The impetus to save women, or rather little girls, by fixing the marriage age by a legislation applying uniformly to all communities came from the Indians themselves: therefore, it was not a civilizing/ modernizing initiative of British men to save native
women from the oppressions of their coloured-cultural context. It came, moreover, at a
time, when anti-colonial nationalism was at its peak: therefore, the agendas of gender
were not subordinated to those of culture in the anti-colonial nationalism of native men
and women. Anti-colonial nationalism had won for the Indians the right to contest
elections to the Legislative Assembly in 1919.\textsuperscript{20} From the time of the first such popular
Assembly, child marriage and age of consent had figured on the legislative agenda of the
Assembly. Efforts by brown men and women had, in fact, failed during the tenure of first
two Assemblies, because of the opposition of the white men. The British colonial
government had voted with the opposition when a Bill to raise the age of consent was
moved in 1922 and then again in 1925.\textsuperscript{21} In 1927, Harbilas Sarda, moved the Hindu Child
Marriage Bill to fix the age of marriage of girls. The Bill was initially meant to apply
only to the Hindu community, but in the course of debates, its scope was sought to be
enlarged to include all communities and castes in India. The proposed legislation elicited
varied responses from the native speaking subjects of the time. The responses were
startlingly similar to the arguments emerging in the context of the Uniform Civil Code
debate in India today. I will now examine these responses with a view to draw out their
resonance with contemporary positions in the UCC debate.

Among the various speaking subjects were certain Hindus who argued that the practice of
child marriage was sanctioned in the Hindu scriptures, and that legislation prohibiting it
was an interference in religion. Those Hindu men and women who pressed for legislation
prohibiting child marriage were condemned as those who had no regard for the Shastras,
i.e. the Hindu Scriptures. For instance, when Bhagirathi Amenal supported the Child
Marriage Bill of 1927, saying that she was more concerned with a life in this world for
female children than in the next\textsuperscript{22}, a member of the Legislative Assembly dismissed her
in these words:

"Our entire religion concerns itself with the Shastras, which proclaim their faith in... the
existence of a life beyond this... Opinions of those people who do not realize these Shastric
injunctions... are not entitled to any weight, especially when the orthodox section is crying itself
hoarse that it entirely rests its opposition to this Bill upon the Shastras and upon the ancient texts
of this land."\textsuperscript{23}
The same speaker went on to say:

"The social reformers or those who have lost faith in the Hindu Shastras... have no reason to wound the susceptibilities of their brethren in the country." 24

Obviously, the speaker, Mr. Sesha Ayengar believed that the orthodox intelligentsia represented the majority opinion of the nation who still believed in the Shastras, while the reformers were wounding their susceptibilities.

The second point of critique was that the social reformers were alienated not merely from Hinduism, but also from the subaltern (i.e. non-elite) masses they were representing. The divergence between the liberal reformers and the subaltern masses was on two counts: (a) education and (b) political discourses of participation in the state. Firstly, the reformers were critiqued for being a small, Westernized section out of touch with the subalterns who had not been hybridized by Western education. As a critic in the Legislative Assembly said:

"In the first place, 10 per cent is not even the standard of literacy in this country, and what are you after all? You are an infinitesimally small fraction of the people. You are only, in the words of Burke, half a dozen grasshoppers making a lot of noise in the forest... You talk English very well. You are people who have got very little scruples." 25

Secondly, the language of protest employed by the reformist sections was seen as derived, perhaps due to their education, from Western forms of participation in the state, i.e. democratic participation in the public sphere. This form of participation necessarily silenced those subalterns who did not know how to employ this language. As Mr. M.K. Acharya said:

"The bulk of my countrymen and (country) women do not come under the class of the vocal few. They do not know how to agitate on European lines. They do not know how to bring their girls and make them stand in the street and create public opinion. These things are foreign to our
The inevitable vision of the Western educated reformers who believed in democratic participation was the achievement of equal citizenship through legal means. The opposite camp critiqued this vision on several grounds. It is interesting to observe how close these critiques came to the post-structuralist positions being articulated in contemporary postcolonial India. Firstly, the law being enacted by the colonial state was viewed as a mechanism of power, which was enforced externally on the Indians in order to serve the regulatory interests of the state. Such Western law was seen as one that subjected the citizen and curtailed his/her freedom although it made claims to progress, modernization and emancipation, i.e. to rationalism. This was a point made by Mr. Amarnath Dutt, who said:

“I pray to all real well-wishers of the country not to be misled by (the) hypnotism of words, such as “progress”, “advance”, “emancipation” and “twentieth century”. I have, therefore, to go into the whole question of race- idiosyncrasies, and condition of free-thought and activity. … Morality, which is the name we give to law-abiding conduct, is a device on the part of the rulers to enforce subservience and contentment on the part of their subjects.”

The same speaker also made the point that a law which invoked the “universal” in envisioning equal citizenship would flatten out heterogeneity of cultural imagination and benefit only a privileged few. He critiqued the idea of a uniform homogenizing law and its universal subject, as follows:

“India is the only spot where marriage law(s), being diversified in different communities, should be maintained in their existing modes so that creative thoughts of the youths may play freely in criticism and reform… The rigid enforcement of uniformity is hostile not only to freedom of action but also to independence of thought… The creation of “hard morality” benefits only the stronger and by far more extensively and intensively the organized stronger, as against the disorganized weaker. And in this sense, it is absolutely reactionary.”
Mr. Dutt's position is an interesting critique of Western rationalism, positivism, progress and the discourses of state and law that are tied in with them. It is a position that is remarkably similar to contemporary post-structuralist critiques of liberal-rationalist universalisms. He critiques the subjecting and exclusionary processes of liberal law and the site of the universal within it. He also engages with the racial provinciality of these discourses. He supports the liberties of those who choose to follow the shastras, against coercive penal legislation. His plea is one for freedom of thought and action, and extra-legal forms of change, such as economic and educational progress. It is a pity, however, that Mr. Dutt does not extend his critiques to the "universal" mores and subjecting processes within the Hindu scriptural law.

In arguments of a more Hindu-fundamentalist tenor, however, the critique of intellectual hybridization took on different shades, especially when applied to male and female Indian reformers. Male reformers were castigated as follows:

"You can eat anything, you can drink anything. You do not know the civilization of Europeans or the civilization of the Aryans. You are such people. You are Hindus only in name and intellectual hybrids." 29

However, when the female reformer was denounced for intellectual hybridization, her identification was with the Western woman. This added its own nuances to the condemnation. Consider the statement:

"The House knows that Indian womanhood is principally in-door; and if here and there there are a few meetings (convened by interested social reformers consisting) of ladies, these meetings consist... of ladies strayed out of the ancient Indian manner of feminine ideal and conduct, and who therefore are not free from criticism by their sister-folk." 30

The woman-reformer was one who agitated in the public sphere in a Westernized fashion. Therefore, her voice was heard while the authentic Hindu-Indian woman was silent. However, this was not so much a difference of subalternity, as decency. The intellectually hybridized woman-reformers "brought their girls and made them stand in the street" to
agitate. The authentic Indian women were in-doors. This brings me to the third and final
strand of critique that I would like to trace. The "Westernized" Indian hybrid-feminist
was like the Western woman, and the Western woman was perceived as unchaste, loose
and immoral. The defence of the Indian custom of child marriage was also located at this
intersection of sexuality and race. To quote, finally, Mr. Belvi, on this issue:

"Do you mean to say that you should follow all the customs and manners of the Europeans and
Americans? If so, read the literature on the subject, read the latest book "Uncle Sham" and you
will see... how the American unmarried girls are behaving themselves. ...One writer says that it
is very difficult to find a girl of marriageable age who has not had carnal intercourse with a
man."

Evidently, gender and race intersected to produce the white woman in the imperialist
theater too. Brown natives represented and "knew" the white men and women, and their
discourses, through their own processes of knowledge-production. And they also
represented other brown men and women as the hybrids of this encounter, and therefore,
as inauthentic.

Those who spoke for an authentic identity politics, however, were themselves
essentializing and reducing Hindu religion to the canon of ancient religious texts and
were, therefore, unrepresentative of those who were excluded by these texts. These texts
had traditionally excluded Hindu lower castes, and applied only to the higher Sanskritic
castes. The spokespersons of an authentic Hindu identity were thus upper caste Hindus
who hegemonized their own subject-position as the referent for the true "Hindu".

The location of authentic Hinduism in the ancient past was also a reaction to the British
ideologies of racial superiority in India, and therefore, was itself derived from Western
influences. When British Evangelical and Utilitarian discourses condemned Hindu
practices as barbaric and a reason for the subjection of the race in colonization, upper
caste Indians sought patriotic recourse in a golden ancient past subsequent to which
Hinduism had fallen. This cultural-national identity took shape and crystallized in
several discourses in the 19th century.
Precisely because the orthodox opposition had set the authentic terms of the debate on cultural-national identity as religious, the liberal intelligentsia was called upon to respond on religious terms. The liberal who said that the issue of child marriage was an issue of gender, and shrugged off concerns of religion as secondary, carried no weight. Similar terms of authenticity had emerged in the earlier sati debate, due to which the debate on sati had been turned into one of contentious traditions. When Lata Mani critiques the early male reformers for reducing women to a mere site on which traditions were debated, she loses sight of this important fact.

Women reformers themselves had to engage with their religious and national identities as Indian women to prove their authenticity. And they did. In the fourth session of the All India Women's Conference in 1930, Lady Tata's welcome address read:

"This conference is... destined to play a great part in the regeneration and renaissance of the great Indian nation."

At the same conference there was also a "call for unity", which said:

"India is pulsating with a new life and a great awakening has come upon its men and women. Our duty, the women's duty at this crisis is not to curb the growing nationalism, not to check the flowing tide, but to direct it and guide it through useful channels. ... Let us not forget that in the nation-building process women have ever been playing a great and glorious part as citizens, wives and mothers."

Some Muslims, who felt excluded from this debate of Hindu cultural-national identity resisted participation in it. Since the Child Marriage Act was proposed to be extended to Muslims as well, one Muslim speaker in the Legislative Assembly said:

"Our difficulty is that we feel that Mussalman public opinion has not sufficiently clarified itself to enable us to arrive at a definite decision. I do not know who is to blame for that...Perhaps the Government of India did not rise equal to the occasion... when they announced the personnel of
the Age of Consent Committee. At that time no adequate and effective representation was allowed to the Mussalmans. ... You must stay your hands if you want to carry us with yourselves.”

Some lower caste groups also aligned against what they considered this cultural-nationalist ideology of upper caste Hinduism.

III: “Positions” in the Child Marriage Debate: The Excess

What narrative do we arrive at after this historical study? Do we conclude that one form of identity politics inevitably produces another? The British identity politics of race, of Britishness and difference from the natives, was articulated in the colonial encounter. It precipitated, in turn, a reaction among the Indians that produced an essentialist upper-caste Hindu-Indian identity traced back to a glorious past. Hindu men and women who wished to reform gender issues had to engage with this essentialist identity in order to prove their own cultural rootedness. Did this politics of identity, in turn, produce a communal identity politics among those groups who felt excluded from it, such as Muslims and Dalits who, therefore, distanced themselves from the upper caste Hindu agenda of gender?

What implications would such a narrative have for the politics of gender and culture? This linear narrative would subsume gender under the larger and primordial identifications of religion or culture. Or, in place of the category of “Woman” it would instate the category of culture/religion—the “Muslim”, the “Christian”, the “Hindu”, the “Dalit”. Such a move loses sight of its own founding premise, its own deconstructive starting-point: that just as the category of “Woman” can be deconstructed to class, religion, regional location, language and tribe, so can the categories of “Muslim” and “Dalit” be broken down to other identifications, other ties with the land, such as language, class, region, education, and gender. It misses the point, in other words, that even among marginalized cultures, such as those of Muslims and Dalits, identifications can be multiple and cross-cutting—or intersecting.
In eliding these identifications within culture, a cultural-relativist position comes dangerously close to the rationale of the Hindu Right, which identifies religion as the primordial identification of both the Hindu Self and the Muslim Other, to the exclusion of other identifications such as language, class, and region, other ties with the land. When the Hindu Right identifies religion as the primordial identification of both Hindus and the Muslims, the move is political: it effectively erases other identifications of both communities such as language and class, which may make Muslims of one region have more in common with the Hindus of that region than with the Muslims of another. And vice versa for the Hindus. The Hindu Right’s move is political because it creates a false sense of community among both groups by prioritizing one identification over others. But when positions of “cultural relativism” or “multiculturalism” prioritize community and religion over other identifications, such as gender, the move is suicidal. Need we reiterate here that the partition of India into two nations was itself premised on the supposed primordiality of the identification of religion over other identifications, other ties with the land?

It would be pertinent to ask if neat positions such as the “Hindu”, the “Muslim”, the “Dalit” and the “Christian” were, in fact, produced during the child marriage debates? It appears they were not. For, none of the positions outlined in the child marriage debate in colonial India were neat. To begin with the “position” of the orthodox intelligentsia, though their arguments invoked an ancient glorious Hindu past, they also relied on extremely modern arguments, without any sense of discrepancy. The female subject—the child wife—of their arguments was constructed also through modern epistemes of gynaecology, medicine, biology and psychology. Therefore the authorities they considered as experts on the question of child marriage were not merely the Sankaracharya, or Mahamahopadhyayas of Benares, and other spiritual heads of Sanskritic Hinduism, but also the various disciplinary experts of modern epistemes—doctors, “research scholars, and authorities in science, law and philosophy.”

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Secondly, the progressive Hindu reformers. Though they authenticated their arguments by citing the canonical Hindu scriptures, they also expressed a sympathy for the child-wife that went beyond questions of religion and nation. This was true even in the sati debates when Rammohun Roy spoke of the tediousness of domestic chores, the cruelty of husbands and in-laws, and the rigours of ascetic widowhood. Roy expressed a sympathy for the condition of the upper caste Hindu wife, that was in excess of the task of making traditions contentious. Also, the process of engaging with the Sanskrit scriptures was in itself a subversive exercise that contested the authentic “Hindu” identity located in a real past. For, the progressive reformers pointed out contradictions and fractures within the scriptural canon of the ancient past that, in effect, defied any homogenous unity being assigned to it. The question of caste was not absent in their arguments either. Harbilas Sarda, who moved the Child Marriage Bill in the Legislative Assembly, dismissed the opinions of the High Court judges of Madras presidency as reflecting a narrow casteist bias. Madras was a province in which untouchability of the lower castes was very prevalent. Interestingly, Sarda himself belonged to an organization called the Arya Samaj, which believed in reviving the “original” Hinduism of a golden past traced back to the ancient Vedic age. However, Sarda’s arguments in the Legislative Assembly in support of the Child Marriage Bill were both feminist and non-casteist in ways that exceeded his categorization as a revivalist.

Thirdly, the Muslim “position”. Though some Muslims opposed a uniform child marriage legislation on the grounds that Muslim representation was meagre, there were other Muslim representatives who came out emphatically in support of the legislation. Dr. L. K. Hyder, for instance, was a Muslim representative from a rural constituency, who spoke for “the little girls who had been sent from the nuptial bed to the funeral pyre.” The Muslim opinion in fact, exhibited the same three strands that the Hindu opinion did. There were those Muslims who held that child marriage was not an evil and that the Muslim scriptural law sanctioned its practice. They substantiated their arguments by referring to the fact that the Prophet himself had married a nine-year old girl. There were other Muslims who believed that even if child marriage was an evil, legislative coercion by the state was not called for, and extra-legal forms of change would address the
problem. The third strand of opinion was that child marriage was an evil and against the principles and teachings of Islam, and social reform should supplement legislation, not replace it. It is evident that the Muslim religious canon was made contentious in these debates, just as the Hindu Sanskritic canon was.

Moreover, the essential Muslim identity that several Muslim men and women sought to protect against homogenization under the sign of the "universal" was itself not free of its Hindu Other. Child marriage among Muslims was a sign of the Hinduization of Muslim customs. This seemed to be borne out when the religious identification of "Muslim" was broken down to identifications of region, language, class and education. In regions where the Muslim population was in a majority, child marriage was found to be less prevalent. For instance, let us consider the province of Punjab. According to the census of 1921, the Punjab possessed the largest Muslim population in colonial India, second only to Bengal. Within the province, the prevalence of child marriage among Muslims varied according to their geographical distribution. In the north-west, where Muslims predominated, the incidence of child marriage was low. Toward the Himalayan region where there were only 30 Muslims to 642 Hindus per thousand of the population, the Muslims married their girl-children even earlier than the Hindus. In other regions where the proportion of Hindus and Muslims was more at par, there was seen to be an equal incidence of child marriage too. On the other hand, in the North-West Frontier Province where Muslims outnumbered Hindus by 2 million to 150 thousand, the incidence of child marriage was the lowest in the country. No child under five years of age had been returned as married among either the Hindus or the Muslims of this region, according to the census of 1922. The Hindus of that region had evidently been influenced by the customs of the Muslims, and thus the incidence of child marriage was low among them too.

Thus, when the Muslim opposition defended their right to decide on child marriage, they were, in fact, protecting an identity, which had already internalized the Hindu Other that they wanted to protect it against. Conversely and simultaneously, there was also an Islamization of Hindu customs, seen in the late marrying practices of Hindus in regions where they lived among a Muslim majority.
This lack of rigidity also held true for the lower caste or Dalit position. The caste question could not be ignored in debates on Hindu identity, given a political climate where Dalit movements were asserting themselves in various parts of colonial India. The essential Dalit identity, however, was much corrupted by processes of Sanskritisation, i.e. the emulation of upper caste behaviour by Dalits who wished to move up in the social hierarchy. Child marriage among the dalits was itself a sign of Sanskritisation, or the adoption of upper caste customs by lower caste groups in order to be accepted in the Hindu fold. The Census of 1921 found that the custom of child marriage was more prevalent among low caste Hindus in several provinces, such as the Punjab, Bombay Presidency, the Deccan, Karnataka and Gujerat. Thus, while child marriage was a religious institution sanctioned by the scriptures for the upper caste Hindus, it was a customary practice for several lower castes, adopted as a “badge of respectability”. Interestingly, in the presidency of Madras where upper caste Hindus formed a small minority, the large non-brahmin population had not Sanskritised very much, and the incidence of child marriage was low.

While lower caste practices had thus been Sanskritised, the reverse process was also in evidence. Brahminical Hinduism had adopted so many lower caste customs since its remote origins that what came to be practiced as upper caste Hinduism at any stage in history, was inextricable from its Dalit Other. For instance, the offering of human sacrifice to the bloodthirsty goddess Kali was a deviation from the puritanical cleanliness of upper caste Hinduism, yet a practice followed by all castes in Bengal. Therefore, while the lower castes attempted to Sanskritized themselves, the Sanskritic example was itself much Dalitized.

Finally, I come to the Indian feminists, the speaking subjects of Indian feminism, who were apparently normed as Hindu, upper caste/ class women. Let us consider the All India Women’s Conference (AIWC), which emerged as a national women’s organization in early 20th century colonial India. The members of the AIWC identified themselves as “Indian” women. Indeed, Lady Tata, in her welcome address at the fourth session of the
AIWC in 1931, expressed the belief that the conference was “destined to play a great part in the regeneration and renaissance of the great Indian nation.” What cultural imaginations did the early Indian feminists bring to their identity as Indian women in the emerging Indian nation? Was their identification with the nation—“the unholy alliance of nationalism and feminism”—an identification with an upper class, upper caste, Hindu identity? These supposedly dominant subjects discussed issues of untouchability and labour, i.e. issues of marginalized Others, at each of the annual sessions of the A.I.W.C. At the fourth session, Miss Khadijah Begum Ferozuddin, a Muslim member of the A.I.W.C., spoke out for the Hindu untouchables. Her arguments against untouchability, interestingly, invoked a glorious, ancient Hindu-Indian past of Rishis and savants, on whose fair name the practice of untouchability was a slur. Did the identification with the nation, then, translate into an identification with the ancient Hindu-Indian past, for all feminists who considered themselves “Indian”? Did this dominant identification subsume differences, under the sign of the “national”, thereby universalizing itself as the “Indian”, and forming an alternative site of dominance subsequent to that of race and colonization?

Quite on the contrary, the early Indian feminists went beyond this identification, to imagine a glorious past of Indian womanhood that they articulated quite differently. They traced their national lineage as Indian women from the women of the ancient past, to those of the modern ages like Ahalya Bai Holkar and Rani Lakshmi Bai of Jhansi. This feminist imagination also included Muslim women such as the Begum of Bhopal, who was one of the leaders of the AIWC’s movement, and the Empress Noor Jahan, of medieval India, who “encouraged the manufactures of the country”, such as Dacca Muslin. Economic critiques of colonialism, therefore, intersected with an imagined community of women to produce a complex national women’s identity. At the same time, this imagined community of women sometimes exceeded the boundaries of the nation. For instance, every year, except during the years of the World War II, the AIWC invited representatives from the British chapter of the Women’s International League, to attend their annual sessions. That the identification of Indian women with an imagined community of women exceeded the boundaries of the nation was also evident in their
participation in the All Asian Women’s Conference, whose first session was held at Gwalior, India in February, 1931. National boundaries of identification were also exceeded by those women who aligned with the extreme left. Women were active in the revolutionary terrorist movement of Bengal from the early nineteen thirties and also as working class militants in the nascent working class politics of the late twenties. Thus, the nationalist-feminist was not the only identification adopted by women’s agency.

IV: Excess and Intersection

None of the positions in the child marriage debate was, therefore, neat or essential. Given this excess in each of the positions, how do we theorize their intersection? The intersection of positions and interest- groups is central to my narrative of the formation of the postcolonial state, as the final section will demonstrate. In this section, I would theorize that such intersection occurred at the limit of transcendence and difference, to constitute the nation-state. I will elucidate how this theorization of intersecting positions, and the narrative of state and citizenship that it produces, differs from the theorizations of citizenship within (a) Western liberalism and its post- structuralist critiques, (b) Marxist and post-structuralist historiographical narratives of the postcolonial Indian nation-state in “Subaltern Studies”.

To illustrate the former, I would draw on Judith Butler, who challenges the very logic of exclusion or repudiation by which “positions” emerge as neat categories that can be related, or intersected. Such pluralist separation, Butler argues, is an effect of the exclusionary operations of the liberal state, which constitutes “positions” or “categories” by attributing a false uniformity to them. For Butler, the pluralist identifications of, say, race, class and sexuality cannot be separated, firstly, from the identification of gender, and secondly, from each other. The issue, therefore, she says is not one of relating race and sexuality and gender as if they were fully separable axes of power; but one of questioning their very pluralist separation into “categories” or indeed as “positions”.

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This theoretical position seeks to transcend the logic of repudiation, which forms the basis of identity politics, by pointing to the lack of rigid boundaries that demarcate Self from Other as essential entities, or identities. Within Butler's "matrix of gender relations", for instance, the fluidity of identities decenters both the phallus and the lack as well. Due to this fluidity of identities, power is diffuse and is continuously contested. There is no unilinearity in power relations, and relations of power are therefore too complex to be explained within the paradigms of structuralist analysis. This leads me to the inevitable question: on what do we base a political praxis without assuming the centricity of the dominant Other? For instance, on what do we base a feminist praxis when both the phallus and power are in pieces? Feminism as an ideology has, for long, founded itself on the received wisdom of absolute gender difference, and relations of domination and subordination.

The political implications of Butler's analysis for discourses of identificatory mobilization, state and citizenship are these: In decentering both dominance and its contestation, Butler's analysis enables narratives of power and resistance that are not tied to grand narratives—either of political mobilization, such as universal feminist agendas, or of dominance, such as those of the state. However, how would these alternative, localized, almost atomized, narratives of reiterated resistance contend with structural expressions of dominance such as, for instance, the state? The unison and direction of atomized narratives of resistance, on the other hand, produces collective action, which sets itself up against structural inequalities. In this, it assumes the fixed stability of the dominant Other, against which it defines itself and its politics. The converse of this argument is also true: the assumption of structural inequalities in turn produces the need for collective action.

Thus, in the Indian example, the lower caste (Dalit) movement has, of necessity to assume a fixed, centred and dominant Brahmin Other to articulate its own alterity and politics. The Muslim identity also has to assert its essential difference from a stable Hindu Other, in order to resist interiorization into the Hindu identity. For, a loss of boundaries between Self and Other signifies a loss of subjectivity, a lapse into the
transcendence of death itself, where each individual is merged with the Other in what Georges Bataille calls “a sea of non-differentiation”. This threat of subjective death maintains the boundaries between the masculine Self and the feminine Other in the gendered matrix. It also maintains the boundaries between the dominant Self and the marginalized Other in various other forms of identity politics, such as those of race, or of caste and religion.

This point is illustrated in many instances in the child marriage debate. For example, the Brahmins from Madras Presidency, who were a minority in a largely non-brahmin region, were among the most vocal opponents of the child marriage legislation and the strongest voices in the call to protect the Sanskritic scriptures. Likewise, the Indian feminists who allied with British feminists and other Asian women, also resisted a certain American woman called Katherine Mayo. Katherine Mayo’s *Mother India* was an imperialist text, which drew on feminist grounds—indeed, on child marriage—to justify colonial rule as a blessing to Indian women. Even when the Indian feminists allied with British women, their alliances were necessarily guided by their identification as a colonized people. The British feminists invited to the sessions of the AIWC were always those who were sympathetic to the anti-colonial struggle of the Indians. Thus, even as the Indian feminists recognized a sameness with British women, they felt compelled to articulate their difference.

Are the only theoretical possibilities then, either to collapse distinctions into post-structuralist inseparability, or to posit the exclusionary, liberal separation of identities? I would theorize, instead, that identities negotiate at the limit of transcendence and difference. I would extrapolate from Georges Bataille’s reading of the erotic tension to argue that in the politics of identity, two fundamental motivations are in conflict: the desire to recognize the Other as same and the primal motivation to resist interiorization into the Other, and the risk of subjective death that this entails. This tension between differentiation and non-differentiation marks the tension between life and death itself. It is the tension between the discontinuity of life, with which the individual embodied soul...
is invested, and the continuity which is death, the final merger of the soul with the soul of the universe. In this, it is the essential human condition.

Most monistic philosophies see the essential human condition as the soul’s aspiration to achieve continuity with the universe. The knowledge of the soul is the knowledge that all things are one. That the individual soul is one with the soul of the universe. That the individual soul is the soul of the universe. And in this contains the power of the universe. For some, this means that the universe is contained in a grain of sand. That all of creation is continuous with the rest, and to behold a grain of sand is to behold creation, and to behold the soul of the universe. In other philosophical traditions, such as that of advaita in Hinduism, it implies that there is no dualism, no difference between the Atman (the individual soul) and the Brahman (the soul of the universe). Since the Atman is the Brahman, the individual soul possesses the power of the universe, to make or unmake the universe. For, the universe as a manifestation that is external to the individual soul is as illusion. And when the atman makes or unmakes the universe, it makes/ unmakes not the universe, but itself.

The limit of the living condition is the boundary between the individual soul and the rest of the universe, the resistance to death, the politics of you and me. Or differentiation. The drive to repudiate transcendence and assert an autonomous difference. The tension between transcendence and difference is the essential inter-personal/ inter-subjective dualistic condition. And thus it is also the intra-subjective condition, for the unstable subject who negotiates transcendence/ difference with the Other emerges by incompletely quelling the Other within the self. The politics of identity is located at the tension between transcendence and difference. In unequal relations of power, the politics of identity aspires to achieve transcendence, and simultaneously to resist interiorization into the Other in its attempt to do so. For this, it needs to assume the stability of the Other.

I would theorize, therefore, that identificatory positions intersect at the precipice of transcendence and difference, as intersections in the child marriage debate exemplify. I would also extend this theorization to the relationship between subaltern and elite groups.
in the anti-colonial Indian national movement, and locate their negotiation at the precipice of transcendence and difference, continuity and discontinuity. The final section of this paper will illustrate this relationship, as I conceptualize it, between the subaltern and elite elements in anti-colonial politics, and link it to the narrative of the nation. On the basis of this narrative, I will posit an experience of the nation-state and citizenship within it, which is alternative to the Western liberal model. Evidently, the distinction between the postcolonial state and the Western liberal state in my argument, hinges on the relationship that I conceptualize between subaltern and elite elements in the formation of the Indian state. It is, therefore, essential that I briefly summarize how this relationship has been theorized in other schools of South Asian historiography, and the critiques of the postcolonial nation-state resulting thereof. I would, with this end in view, explore the Marxist and post-structuralist historiographies of the postcolonial Indian nation-state in “Subaltern Studies”.

The term “subaltern” belongs to a certain school of South Asian historiography called “Subaltern Studies”. How is the “subaltern” imagined in Subaltern Studies? At the very inception of the series, Ranajit Guha, its editor, defined the “subaltern”, very mathematically, as those social groups and elements that represented the “demographic difference between the total Indian population and (all those whom we have described as) the “elite”\(^{68}\), i.e. the dominant foreign and indigenous groups. “Subaltern Studies” was an attempt to write ‘history from below’, i.e. to relate those narratives of the subaltern domain in anti-colonial politics that elitist historiography did not. According to Guha, the historiography of Indian nationalism had been dominated by two elitist traditions: (a) the neo-colonialist, which represented Indian nationalism as a response to the ideas, institutions and resources generated by colonialism, as an enterprise wherein the native elite collaborated with colonial institutions in order to share in their rewards of wealth, power and prestige; and (b) the bourgeois-nationalist, which represented Indian nationalism as “an idealist venture in which the indigenous elite led the people from subjugation to freedom”\(^{69}\). Both these varieties of ‘history from above’ reduced the story of Indian nationalism to an elite phenomenon and left other narratives untold—narratives
of the "contribution made by the people on their own, that is, independently of the elite to the making and development of this nationalism."\textsuperscript{70}

This last assertion contains the equation between the subaltern and elite domains in anti-colonial politics, as envisaged by Guha: an equation which, as I mentioned, is significant to this paper, for the departure that I would like to posit from it. Guha suggests that the subaltern domain existed independently of elite politics in the history of Indian nationalism/s. This indicates a "structural dichotomy"\textsuperscript{71} in the anti-colonial national movement: the co-existence of two distinct domains or streams in Indian nationalism, two distinct imaginations of the nation. For Guha, this structural dichotomy points to an "important historical truth": the "failure of the Indian bourgeoisie to speak for the nation."\textsuperscript{72} Or, the failure of the elite Indian leadership to incorporate the subaltern agendas in their anti-colonial politics. For, Guha argues, although the bourgeois Indian leadership tried to integrate the subaltern masses in their anti-colonial initiatives, the latter often broke away from their control, especially in movements which deviated into legal and constitutionalist compromises with the colonial state. Subaltern initiatives, on their part, were not powerful enough to get the better of this dichotomy and seize the nation—"to develop the nationalist movement into a full-fledged struggle for national liberation."\textsuperscript{73} To quote Guha, "The working class was still not sufficiently mature in the objective conditions of its social being and in its consciousness as a class-for-itself, nor was it firmly allied yet with the peasantry. As a result, it could do nothing to take over and complete the mission that the bourgeoisie has failed to realize."\textsuperscript{74}

This Marxist historiography of the subaltern-nation that "failed to come into its own"\textsuperscript{75} in Guha and the early volumes of Subaltern Studies has given way to a post-structuralist questioning of whether the subaltern can, in fact, ever imagine the nation. Or whether the subaltern and the state are essentially incommensurable. Dipesh Chakrabarty, for instance, cites Antonio Gramsci, the man who originally used the term "subaltern" to this effect:
"The subaltern classes are, by definition, are not united and cannot unite until they are able to become a 'State'.... The history of the subaltern social groups is necessarily fragmented and episodic."\textsuperscript{76}

The subaltern is a political position that, in Chakravarty's words, is "incapable of thinking the state.... Once the subaltern can imagine/ think the state, he transcends, theoretically speaking, the condition of subalternity."\textsuperscript{77} The imagination of the state is to be brought to the subaltern by the revolutionary intellectual. The dialogue between the revolutionary intellectual and the subaltern, which seeks to produce the state, is thus necessarily pedagogic. This dialogue, as Chakravarty suggests, is also inherently undemocratic, as it takes place "within a field of possibilities that is already structured"—ahead of the investigation—"in favour of certain outcomes."\textsuperscript{78} At the conclusion of the dialogue, the subaltern would be educated out of his peasantness, his subalternity, and learn to see the world in terms of 'rational' epistemologies, grand narratives which would render everyone's good transparent to a unitary ideology. A truly democratic dialogue, on the contrary, is one wherein the elite intellectual can possibly learn from the subaltern too. And the knowledge-forms that the subaltern can offer to the dialogue are precisely the conditions of his subalternity—an imagination that is fragmented and episodic, that resists wholes and totalities, that contests monolingual narratives of positivistic progress tied to the state.\textsuperscript{79}

These subaltern knowledge-forms can disrupt the discourses of the state in both Marxist and liberal philosophies. Since both Marxist and liberal ideologies stem from the universalistic, positivistic discourses of the European Enlightenment, the subaltern represents the epistemological movement away from Enlightenment Rationalism, the trope of the "fragment". The subaltern in the postcolonial state has a unique significance in this movement away. In the postcolonial—post-structuralist critique of universal discourses, the subaltern combines an epistemic Otherness to Western, rational discourses with a subject-location within a postcolonial nation-state that is constructed, it is argued, on derived liberal-democratic discourses.
In the final section of this paper, I will attempt to break this postcolonial—post-structuralist critique at the hyphen. As against the argument that the postcolonial Indian state constructs and disciplines its subaltern-citizens through a pedagogic dialogue that is informed by liberal discourses of Enlightenment Rationalism, I will suggest that citizens, subaltern and elite, constructed the postcolonial state in and through anti-colonial nationalism. The resulting site of the universal citizen-subject within the postcolonial state is, therefore, different from the corresponding site in the Western liberal state. Secondly, I will argue that citizens constructed the postcolonial state through a negotiation and intersection of subaltern and elite domains in anti-colonial politics. I would locate this intersection at the precipice of transcendence and difference to suggest that subaltern and elite groups maintained their separate agendas—their discrete and fragmentary nature—while making mutual anti-colonial alliances across their lines of difference. I will ground this discussion in the Child Marriage Restraint Act of 1929.

V: The Site of the Universal in the Child Marriage Restraint Act 1929

To elucidate the difference of the postcolonial state from the liberal state, it is necessary to delineate the mechanisms of Western liberalism, which I have partially touched upon in encapsulating Butler’s critique above. I would identify the liberal mechanism as exclusionary in two respects. Firstly, the liberal state demarcates the site of its universal citizen-subject by exclusion. For, the universal subject is not a pre-social, pre-discursive, transcendental—“universal”—subject, but a subject located in sites of power, i.e. an already normed subject. Through the ruse of the universal subject, the liberal state implicitly excludes groups that deviate from the normed site of the universal. Secondly, as excluded groups make claims to be included in the liberal universal, the liberal state includes them and provides recognition, thereby creating neat and exclusionary positions from where excluded groups speak. Thus we have ‘positions’ or ‘categories’ such as ethnic minorities, religious minorities, racial minorities, all included within a multicultural, liberal state. Both the site of the universal and its constitutive outside are therefore essential to the power of the liberal state. For, the site of the universal produces the margins, and the margins are important as “states of injury”, requiring the redress
and recognition of the liberal state. The site of the universal excludes the margins and the margins are produced as neat and exclusionary categories that articulate their difference in order to be recognized by the liberal state.

Was this two-fold liberal exclusion at work in the enactment of the uniform Child Marriage Bill in 1929? The native legislators who debated the Child Marriage Bill in the Legislative Assembly represented constituencies such as “Hindu, urban”, “Hindu, rural”, “Muhammadan, urban”, “Muhammadan, rural”, etc. The construction of these categories was a result of the electoral politics of liberal democracy that the colonial state introduced. In addition, the colonial state produced neat positions such as the Hindu, the Muslim, and so on, through other processes of categorization such as the census as well. It also invested certain positions as sites of injury and provided them recognition through the politics of representation in the liberal democratic electoral process. The construction of neat and essential categories is, as we have seen, an exclusionary move of the liberal state and serves its regulatory aims.

However, in the child marriage debate, there was an overstepping of this liberal construction of neat positions. Through this overstepping, there was an undoing of the liberal mechanism of the colonial state. Limits of categorization were exceeded as people professing one identification did speak for others, and voices were not determined by their location in social co-ordinates. Miss Khadijah Begum spoke for Hindu untouchables, Dr. L.K. Hyder spoke for Hindu girls, Har Bilas Sarda spoke for both Hindu untouchables and Hindu girls, and Periyar, a Dalit leader, spoke for Brahmin women and the oppressions suffered by them under upper caste Hinduism. Identificatory “positions” in the child marriage debate thus exceeded their social situation to intersect and overlap with other identifications. The Child Marriage Restraint Act came to be enacted as a consequence of this overlap and intersection of positions.

This leads to the second question as to whether the site of the universal, which was being debated in the child marriage debate in 1929, was an exclusionary liberal site? Who were the speaking subjects who were mobilized at the various “positions” in the debate, and
who were the subaltern subjects they silenced? When a law was proposed to apply uniformly to all communities within the emerging Indian nation, were its authors Hindu, upper caste men and women who universalized their own subjectivity as the Indian? Did they represent and thereby silence those groups who were excluded by the dominant Hindu, upper caste identity? It is evident from the foregoing discussion that the groups who were Others to the upper caste Hindu identity were also speaking subjects in the child marriage debates. Muslims and Dalits were not silenced by the Hindu, upper caste authoritative subjects. On the other hand, the Muslims and Dalits articulated positions that exhibited the same strands that the Hindu opinion did.

However, were all the speaking subjects in the emerging nation—the Muslims, Hindus and Dalits who voiced their various, intersecting opinions, essentially speaking in the same language? Was this language one that silenced those who did not speak it—those who did not organize themselves, those who did not participate in the public sphere, those who did not constitute a “position” in the nation? Was this perhaps the difference between the speaking and the silent subjects—the essential subaltern difference? A difference not of religion or caste, but of a political vision of participation in the grand narrative of the state, the vision itself being produced by education, or intellectual hybridization. Were alternative visions and local narratives giving way to, or rather tying up, with the meta-narratives of the state in such a way that other subjectivities had to give way to that of the citizen-subject?

When alternative visions and local narratives merged with those of the nation, the agency for the merger came from one of two directions. Either those who were organized at the level of the nation went to the unorganized subalterns to elicit their responses and/or solicit their support, or the subalterns aligned with the mainstream national movement when their interests coincided mutually. An instance of the former is when the Age of Consent Committee that was appointed in 1928 to enquire into the effectiveness of the age of consent law, went to the villages and spoke to the subaltern subjects about practices of marriage and consummation. The Report of the Committee observes:
In every village visited, enquiries were made from among the people there as to the practices prevalent among them in regard to marriage and consummation, the evils, if any, noticed by them and the remedy proposed. Lady members made similar enquiries separately from the women gathered there. The alacrity with which in certain villages the villagers expressed their willingness for legislation to prevent early maternity was a surprise to the Committee. 83

The Committee's dialogue with the subaltern subjects moves from eliciting their responses to given questions, to reporting their support. The Age of Consent Committee was obviously an instrument of the state, appointed by the British Government to enquire into the existing law and suggest changes. However, other indigenous groups with a pan-Indian organization, such as the AIWC, also mobilized the support of local constituencies. The AIWC, for instance, localized its activities in constituencies such as Alibag, Punjab East, Punjab Central, Utkal, Bihar and Sindh. 84 The subalterns, in turn, gave their agency to the mainstream national movement, when their interests intersected with those of the latter.

In fact, the merging of the local into the national was the quintessential condition of 20th century colonial India. This condition distinguished the 20th century from its predecessor. Post-1920, the national movement extended its base and included the masses, under Gandhi's leadership. Religious reform movements, too, which had been discrete and regional in the 19th century were succeeded by organized and widespread movements in the 20th. Likewise, movements for gender and social reform had been disparate and localized in the 19th century—sati in Bengal, the Devadasi tradition in Mysore, and so on. Each social reform body had dealt with the problems specific to its local environment, and regional variations in social conditions had kept them discrete. 85 However, in the 20th century, age of consent and child marriage were issues dealt with at the level of the nation, and located at the universal foundation of the Indian Woman, who was married as a child in all communities and castes. At the level of the nation, these issues were seen as encompassing all the communities, castes, religions and regions within the nation. The enactment of the Child Marriage Restraint Act as a uniform civil legislation in 1929 can be understood only within this historical context. It belonged to a time when local
narratives were merging with the narratives of the nation, and constructing the universal within it.

The site of the universal, moreover, included various positions since it was formed through their intersection. This is a very different move from universalizing the dominant Hindu subject as the national subject by muting cultural Others. The selection of the members of the Age of Consent Committee itself reflects the inclusion of the heterogeneity of castes, communities and opinions that intersected with the universal feminist foundation under-pinning the issue. The personnel of the Age of Consent Committee included a Muslim theologian, a Hindu pundit, a European woman doctor, an Indian woman, among other Muslim and Hindu lawyers and civil servants. Moreover, the Committee elicited the opinions of Hindu, Muslim and Dalit witnesses, region-wise, caste-wise and class-wise. The identifications of Muslim, Dalit and Hindu were thus broken down to region, class and caste. In the debate on the issue several speaking subjects had a voice and their coalescence produced the site of the universal.

The postcolonial Indian state was formed through a similar coalescence of positions. The state in India emerged as a result of the anti-colonial movement. In this movement, as it took shape after 1920, 'positions' or interest groups aligned and overlapped with each other in their mutual anti-colonial agenda. For instance, peasant interests intersected with Gandhian politics, the women's organizations sought allies in the nationalist legislators, the Chambers of Commerce supported the anti-colonial movement in order to protect native industries. Through this intersection, positions lost their neatness and overlapped to construct a nation-state where there had earlier been a polity of smaller, princely states. Often, the intersecting narratives were subaltern narratives. The peasants at Kheda, the workers on the indigo plantations, the low caste people whom Gandhi called the "harijans", the subaltern, rural women—the anti-colonial movement under Gandhi in the 1920's was a sum total of these various subaltern interests, whose troubles were linked to the presence of the colonial state. These subaltern groups gave their agency to the national movement. They also withheld their agency and re-channeled it in different directions in order to critique native landed groups and their exploitative practices as
well. In this manner, the mainstream national movement was constantly challenged and forced to re-articulate itself, as the subalterns and women brought differing imaginations to the nation. The force of the national movement post-1920 came from its subalternity, its mass base and popular mobilization.

The state that emerged after colonial rule, therefore, necessarily included all the actors who had given their agency to the anti-colonial movement, who had, so to say, constituted it. The universal within the postcolonial Indian state comes from this history of the formation of the state itself. In that sense, to see discourses of the universal in India as being derived from Western liberalism is historically inaccurate. Post-structuralist critiques in the UCC debates, in fact, do lose sight of this history when they argue that the universal in India is derived from Western discourses and is thus inherently exclusionary. The postcolonial Indian state was not liberal in its formation in either of the two senses in which liberalism is critiqued: it did not exclude minority groups under the sign of the universal. For, it included the groups that had given their agency to the national movement, many of whom were subaltern groups. Secondly, it did not construct its citizens as neat positions requiring its recognition. On the contrary, these groups or positions constructed the state by losing their neatness and overlapping with other positions in their mutual anti-colonial agenda.

It is the resultant inclusive and secular structure of the postcolonial state that the Hindu Right rejects and resists. It is interesting to observe how much of the rhetoric of the Hindu Right is anti-state. The alternative state that the Hindu Right envisions is a Hindu state that excludes minority groups from inclusive citizenship. It is perhaps not surprising that even during the phase of the anti-colonial national movement, the Rashtriya Swayamsevak Sangh, the party that begot its contemporary right-wing adherents, had distanced itself from the inclusive mass movement and instead identified the Indian Muslims as the anti-national presence to be uprooted. The successors of the RSS today critique the secular politics of inclusion in the Indian state as an inauthentic tradition. It is in the light of these critiques of the inclusive space of the secular that the history of the formation of the post-colonial nation-state has to be retrieved.
This history challenges the notion of a dominant feminist subject or dominant citizen-subject in the creation of the postcolonial state. This history is often lost in contemporary critiques of the universal in the UCC debates, of both post-structuralist and rightist persuasion. It is important to retrieve this history, because it is an alternative to the histories of liberal states written in Western contexts. It is a history that speaks of an alternative experience of the state, and the universal within it. It is, finally, a history that postcolonial nation-states can perhaps contribute to Western discourses of liberalism and their critiques in contemporary post-structuralist theory.

NOTES:

1 See Amrita Chhachhi, Farida Khan, Gautam Navlakha, Kumkum Sangari, Neeraj Malik, Ritu Menon, Tanika Sarkar, Uma Chakravarti, Urvashi Butalia, Zoya Hassan, "UCC and Women's Movement", in Economic and Political Weekly, February 28, 1998, for a summary of these arguments and a defense against the criticisms leveled at the politics of the UCC.


3 See Judith Butler, op. cit.


5 Ibid. p. 455.


7 Ibid. p.272-273.

8 Ibid. p. 273.
9 Ibid. p. 273. Chakravarty borrows this example of the inherently undemocratic terms of the dialogue of rational left-liberal epistemologies with the subaltern, from Gyan Prakash’s book on bonded labour. (Prakash 1990)

10 Ibid. p. 276.


13 Patricia Jeffery also observes that politicized religious movements in South Asia dismiss feminists’ critiques of the family as iconoclastic. “Feminists stand accused of disloyalty and inauthenticity; ...of undermining the family and the community; of destroying traditional values; of being Westernized secularists detached from their cultural roots; and of being yet another sign of the pernicious and destabilizing influence of the foreign hand in South Asia.” (Patricia Jeffery, “Agency, Activism and Agendas” in Appropriating Gender: Women’s Activism and Politicized Religion in South Asia, New York: Routledge, 1998, p.230.)


16 Spivak, op. cit.


18 I refer here to the Hindu Child Marriage Bill, which was introduced in the Legislative Assembly by Harbilas Sarda in 1927. In the course of deliberations on the Bill, the Legislative Assembly considered an extension of its scope to include communities other than the Hindu as well. The Bill was passed in 1929 as the Child Marriage Restraint Act, and applied uniformly to all communities, regions and castes within the jurisdiction of British India.

19 These arguments came up repeatedly in the Legislative Assembly when the Bill was being considered therein. See the Legislative Assembly Debates, Delhi: Government of India Press, 1927-1929. (National Archives of India, New Delhi and the Nehru Memorial Museum and Library, New Delhi.) They were also articulated in earlier debates on age of consent legislation in the late 19th century. For a discussion of the age of consent legislation of 1891, see Tanika Sarkar, *Hindu Wife, Hindu Nation: Community, Religion and Cultural Nationalism*, Permanent Black, New Delhi, 2001.

20 The Legislative Assembly was created by the Government of India Act of 1919.

21 For instance, consider Dr Hari Singh Gour's Bill. Early in the life of the second Legislative Assembly, Dr. Hari Singh Gour introduced a Bill to raise the age of consent to 14 years in both intra- and extra-marital cases. The Bill was referred to a Select Committee, which reduced the age from 14 to 13 years within marriage. The amended Bill was then considered by the Legislative Assembly on the 19th March 1925. The Assembly carried an amendment raising the age to 16 years in extra-marital cases, by an overwhelming majority of 65 to 22, *even though* the British Government strongly opposed the amendment and voted against it. Another amendment to raise the age in intra-marital cases to 14, thereby restoring the original provision of the Bill was also carried by a narrow majority of 45 against 43. Among the 43 who voted against the amendment were 18 official (i.e. British) members. However, the final passage of the Bill was aborted by the Government of India, who considered the provisions way too radical and unsafe. When the time came to vote on the Bill as a whole, the motion that the amended Bill be passed was defeated by 54 votes to 36, the 54 votes including no less than 24 official members. (Report of the Age of Consent Committee, 1928-29, Delhi: Government of India Press, 1929, pp. 11-12. NMML, New Delhi)

22 Women were not allowed to contest elections to the Legislative Assembly, so there were no women legislators in the Assembly at the time of these debates. Bhagirathi Amenal's words were quoted in the
Assembly by Mr. M.S. Sesha Ayyangar, a Hindu representative from the rural constituency of Madura and Ramnad-cum-Tinnevelly, on the 4th September, 1929. (Legislative Assembly Debates, Delhi: Government of India Press, 1929, p. 263.)

23 Mr. M. S. Sesha Ayyangar, Legislative Assembly Debates, Delhi: Government of India Press, 1929, p. 263.

24 Ibid. p. 269

25 These are the words of Mr. D.V. Belvi, a member of the Legislative Assembly, who is classified as a “Non-Muhammadan, Rural” representative from the constituency of Bombay Southern Division. The quote is from the Legislative Assembly Debates, 1929, p. 355.

26 From the Legislative Assembly Debates, 1929, p. 258. Mr. M.K. Acharya was again a “Non-Muhammadan” (i.e. Hindu) representative of the rural South Arcot cum Chingleput constituency.

27 Mr. Amarnath Dutt was a Hindu (“Non-Muhammadan”) representative from the urban constituency of Bombay City. The quote is from the Legislative Assembly Debates of 1929, p. 261.

28 Ibid.

29 Mr. D.V. Belvi, Legislative Assembly Debates, 1929, p. 355.

30 Mr. M. S. Sesha Ayyangar, Legislative Assembly Debates, 1929, p. 263.

31 Mr. D.V. Belvi, Legislative Assembly Debates, 1929, p. 357.


33 Lata Mani argues that in the debate on sati in colonial India, the sati herself was merely incidental. The arguments advocating and opposing the abolition of the rite were debates about tradition, reducing the sati herself to a site on which the issue of tradition was, in fact, contended. See Lata Mani, “Contentious Traditions: The Debate on Sati in Colonial India”, in Kumkum Sangari and Sudesh Vaid (ed.), Recasting Women: Essays in Colonial History, New Delhi: Kali for Women, 1989, pp. 88-126.
34 Welcome address of Lady Tata at the fourth session of the All India Women's Educational and Social Conference held in Bombay, in 1931. (File no. 2, serial no. 1111: “Miscellaneous papers regarding AIWC 1930-76”, NNML, New Delhi)

35 These are the words of the Secretary of the Social Section of the AIWC, in her report at the fourth session of the A.I.W.C. in 1930. (File no. 2, serial no. 1111: “Miscellaneous papers regarding AIWC 1930-76”, NMML, New Delhi)

36 The speaker was Mr. Abdul Haye, a Muhammadan representative from East Punjab. (Legislative Assembly Debates, 1929, pp. 278-9)

37 When the British finally withdrew from the Indian subcontinent in 1947, two independent states were born: India and Pakistan. The partition was the telos of processes of religious communalization that had been underway during the years of colonial rule, especially in the 20th century.

38 Mr. M.K. Acharya, Legislative Assembly Debates, 1929, p. 251. In the same speech, Mr. Acharya goes on to speak of the Mahamahopadhyayas of Benares and the Sankaracharyas (p. 252).


40 Mr. Sesha Ayyangar refers to Harbilas Sarda’s “flouting” of the opinions of the Madras High Court Judges on the “simple” ground that Madras was a province that had not solved the problem of untouchability. See Mr. Sesha Ayyangar’s speech of 4th September 1929 in the Legislative Assembly Debates of 1929, p. 264.

41 For a biographical sketch of Harbilas Sarda, see P. Seshadri (ed.), Har Bilas Sarda: Commemoration Volume, Vedic Yantralaya, Ajmer, 1937. (NMML, New Delhi) Sarda was a member of the Arya Samaj of Ajmer, of which he was the President in 1888.

42 Sarda was an active member of the Arya Samaj, as mentioned earlier. The Arya Samaj, founded in 1875, was a Hindu organization, which envisioned a revival of an “original” Vedic Hinduism in contemporary society. Yet, in a speech delivered in the Legislative Assembly on the 29th January 1929, Sarda said, “The women of India do not talk of the Sastras; they do not bother themselves about the effect of marriage on their prospects in the next world. They are practical and think of this world, and they want that their
suffering in this world should come to an end." (Har Bilas Sarda, *Speeches and Writings*, Vedic Yantralaya, Ajmer, 1937 (NMML, New Delhi) pp. 53 & 57.)

43 Dr. L.K. Hyder was a Muhammadan representative of the rural Agra Division. The quote is from the Legislative Assembly Debates of 1929, p. 344.

44 The Age of Consent Committee classifies the Muslim evidence received by it into these three categories in chapter 1, paragraph 12, p. 6 of the Report of the Age of Consent Committee (1928-29), Delhi: Government of India Press, 1929.


47 The concept of Sanskritisation was put forward by the sociologist, M.N. Srinivas. See M.N. Srinivas, *Religion and Society among the Coorgs of South India*, Bombay, 1952 and *Caste in Modern India and Other Essays*, Bombay, 1962.

48 I again derive the relevant Census data from the Report of the Age of Consent Committee (1928-29), Chapter IV: Provincial Conditions and Nature of Evidence, pp. 22-91. The Age of Consent Committee carried out an examination into the marriage and consummation practices of the different castes and communities within different provinces, so as to avoid making sweeping generalizations about the extent of the prevalence of these practices.

49 The Report of the Age of Consent Committee, 1928-28 also makes this point (Chapter IV, p. 38).


51 Welcome address of Lady Tata at the fourth session of the A.I.W.C. in 1931. (File no. 2, serial no. 1111: "Miscellaneous papers regarding AIWC 1930-76", NNML, New Delhi)

52 This is Mrinalini Sinha's remark on the alliance of early Indian feminist groups with mainstream nationalist politics. (Mrinalini Sinha, (ed.), *Selections from Katherine Mayo*, New Delhi: Kali for Women, 1998)
53 See, for instance, Lady Tata’s welcome address at the fourth session of the AIWC in 1931. The “removal of untouchability” is one of the issues she touches upon in her address, along with those of child marriage, purdah, women’s education, etc. The resolutions on social reform passed at the fourth session of the Conference include resolutions on labour, agricultural and indigenous industries, co-operative societies and untouchability. The AIWC also had a Labour sub-committee and an Indigenous Industries sub-committee working under it. (File no. 2, serial no. 1111: “Miscellaneous papers regarding AIWC 1930-76”, NNML, New Delhi)

54 Miss Khadijah Begum Ferozeuddin, in the fourth session of the AIWC on 30th December 1931, said, “the practice of untouchability was a slur on the fair name of India and the civilization of Bharatavarsha which was once a source of inspiration and enlightenment to the whole world. India was a land which had produced great Rishis and which had delivered the most beautiful messages to the world.” (File no. 2, Serial no. 1111, AIWC Papers, NNML, New Delhi)

55 Lady Sykes, while declaring the fourth session of the AIWC open, invoked a “glorious past of India” as a source of inspiration for female emancipation. Her reconstruction of this golden past spans the 7th century A.D., when “Europe was still plunged in the darkness of the Middle Ages”, while in ‘India’, the Emperor Harsha’s widowed sister sat by his side and participated in abstruse theological discussions. She speaks, in the same breath, of modern India in the 19th century, which “gave birth to administrators and warriors among her women like Ahalya Bai Holkar and the Rani of Jhansi”, and then glides to contemporary India, where native rulers like Her Highness the Begum of Bhopal are taking an active part in leading the women’s movement.

56 The example of Empress Noor Jehan is given by the Secretary of the Social Section of the AIWC, in her report at the beginning of the fourth session of the conference in 1931. (File no. 2, Serial no. 1111, AIWC Papers, NNML, New Delhi)

57 The June 1947 issue of the Monthly News Sheet of the Women’s International League (the British section of the Women’s International League for Peace and Freedom) has an article entitled “Light on India” which mentions, “The British Section of the of the W.I.L. has for many years felt a great concern and taken a deep interest in India and her problems. ... It will be remembered that each year, interrupted only in the war years, an invitation has come from this All India Women’s Conference for visitors, representing our Group, to attend their session. The year before last Agatha Harrison was their most welcome visitor, and last year my daughter and I were able to accept the invitation that came again.” The writer is a certain Grace Lankester. (File no. 53, Serial no. 542: “International Women’s News published by the International Alliance of Women, England, 1944-48. AIWC Papers, NMML, New Delhi)
58 Details of the All Asian Women’s Conference held in Gwalior, India in February 1931, of participants and resolutions passed are obtained in the AIWC Papers, File no. 1, Serial no. 726, NMML, New Delhi.


61 Ibid.

62 I am indebted to Dr. Veronica Vasterling for this insight. Dr. Vasterling elucidated this point in her presentation at a workshop held at the University of Edinburgh on May 10, 2005.


64 The Report of the Age of Consent Committee, 1928-29, p. 53 refers to the “volume of opposition proceeding from that province.”

65 Katherine Mayo, Mother India, New York, 1927.

66 The British invitees to the annual session of the AIWC in Karachi, 1935, were Dr. Maude Royden and Mrs. Corbett Ashby. The report of the AIWC wrote of these British visitors, “We were heartened by Dr. Maude Royden’s assurance that there were many individual British men and women who, like her, were in entire sympathy with Indian national aspirations and who recognized that India must have the unfettered right of self-determination accorded to her. ... Apart from the first hand knowledge of our work which their visit has afforded them ... we believe that they will now be in a position to place before the British public a correct and impartial appreciation of the natural and just demands and desires of the people of India—the lack of knowledge of the depth and unanimity of which has, hitherto, been and continues to be the main obstacle in the way of an equitable solution of the Indo-British problem.” (File no. 1, Serial no. 726, AIWC Papers, NMML, New Delhi)
67 I am drawing here on Georges Bataille's work, as cited by Jessica Benjamin. See op. cit.


69 Ibid. p. 2.

70 Ibid. p. 3.

71 Ibid. p. 6.

72 Ibid. p. 5.

73 Ibid. p. 6.

74 Ibid. p. 6.

75 Ibid. p. 7.


77 Ibid. pp. 273-274.

78 Ibid. p. 273.

79 This argument is passive in Chakravarty, pp. 274-276.


Ramaswamy Periyar started the Self-Respect Movement in south India, which mobilized the untouchable castes to contest the disabilities imposed on them by the caste system.


I cite from the report of the Secretary of the Social Section of the AIWC at the fourth session of the A.I.W.C. in 1930. (File no. 2, serial no. 1111: "Miscellaneous papers regarding AIWC 1930-76", NMML, New Delhi)


See the Report of the Age of Consent Committee, 1928-29, p. 1 for a list of the personnel of the Committee.

See note 47.

See Ranajit Guha (ed.) Subaltern Studies, Volumes I-IV (Delhi, 1982-85) for essays that discuss subaltern narratives and participation in the anti-colonial movement.

Tanika Sarkar in her essay “Heroic Women, Mother Goddesses: Family and Organisation in Hindutva Politics” observes that the Rashtriya Swayamsevak Sangh, which was founded in 1925, “neither joined nor initiated any anti-British movement upto Independence and its only activism was expressed in anti-Muslim violence.” [Tanika Sarkar and Urvashi Butalia (eds.), Women and the Hindu Right: A Collection of Essays, New Delhi: Kali for Women, 1995, p.183.]