

EQUALITY BILL 2019

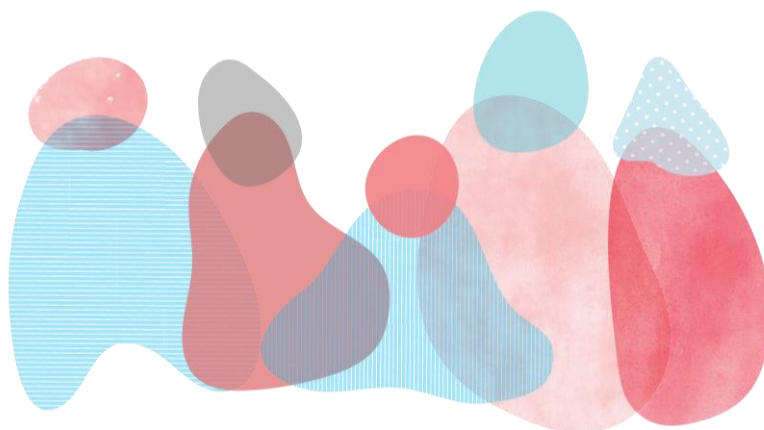
CONSULTATION REPORT



**CENTRE FOR
LAW & POLICY
RESEARCH**



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Introduction

The Centre for Law & Policy Research held a consultation with civil society organisations in Hyderabad on the draft Equality Bill 2019. The consultation took place on May 15, 2019 at the Guruswamy Centre, Hyderabad. Participants included academics and members from civil society organisations working on issues related to persons with disabilities, women, Muslim women, transgender persons, Dalit and tribal persons. The event began at 10:00 am and concluded at 5:00 pm.

The consultation was aimed at receiving crucial feedback on CLPR's draft Equality

Bill 2019 informed by the lived experiences of marginalised people and CSOs working on the ground with marginalised groups. There was wide participation from both civil society organisations and persons who have survived different forms of marginalisation. The consultation was spread over five different sessions that covered different aspects of the draft Bill. The following is a detailed description of the proceedings of the day.

Session I- Why do we need a single equality law?



Ms. Deekshitha Ganesan presented the need for a single equality legislation. She began her presentation with an explanation of intersectional discrimination, an important motive behind this Bill. Her presentation focused on describing and identifying gaps in the existing statutory framework on equality and non-discrimination and efforts in India. She also presented previous efforts at drafting comprehensive equality legislations for India. Finally, she put forward what a comprehensive equality law ought to provide.

While taking the audience through existing anti-discriminatory provisions in the Indian constitution i.e. the Articles 14, 15 and 16 of the Constitution- she pointed out that Article 15 does include disability as a ground for discrimination.

Second, her presentation on other statutes that aim to tackle discrimination against particular marginalised groups brought out the limited nature of how discrimination is addressed by these statutes. She pointed out

that existing statutes such as the (Protection of Civil Rights Act, 1955, SC/ST Prevention of Atrocities Act, 1989), Civil Remedies (Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013), Welfare (Rights of Persons with Disabilities Act, 2016) provide limited remedies where discrimination typically attracts criminal penalty. The major gaps identified in these statutes are that they are outdated, fragmented, and inadequate. Unfortunately, the exhaustive list of identities does not cover several identities including transgender persons, sexual orientation or age. Further, existing laws recognise only single axis of discrimination. Few laws such as the Scheduled Caste Scheduled Tribe (Prevention of Atrocities) Act 1989 and the Rights of Persons with Disabilities Act 2016 account for multiple grounds of discrimination. However, none of them address intersectional discrimination, or provide remedies for the same. Moreover, existing laws on are limited to addressing discrimination experienced by particular identities, and at specific sites. The lack of uniformity in the remedies available, a range of different anti-discrimination duties placed on the State, and almost no obligations are placed on the private sector

are persistent problems in promoting equality through the current legal framework in India.

Third, significant efforts at drafting comprehensive equality laws in India include the Equal Opportunities and Diversity (Affirmative Action for Scheduled Castes and Scheduled Tribes) Bill, 2004; The Promotion of Equal Opportunity and Prohibition of Discrimination against the Scheduled Castes and Scheduled Tribes in Matters of Employment (In Services, Trade, Business, Commerce, Contracts, Construction, Transport or other Utility in the Private Sector) Bill, 2004; Equal Opportunities Commission Bill, 2008 and Equality and the Anti-Discrimination Bill, 2016.

Deekshitha explained how CLPR's draft Equality Bill, 2019 builds on existing efforts and addresses persistent issues in the legal system that impede realising the constitutional guarantee of equality. She explained how the draft Equality Bill, 2019 brings together key elements of existing anti-discrimination legislations, extends protection to different identities or protected characteristics, and extends to different sites where discrimination may occur. The draft Equality Bill 2019 prohibits various forms of discrimination including direct discrimination, indirect discrimination, intersectional

discrimination, segregation, boycott, harassment, and violence. The duty not to discriminate under this Bill applies to both public authorities and private persons. The draft Equality Bill, 2019 creates positive duties of the public authorities and places duties on private actors to advance equality. Finally, it provides a separate institutional framework aimed at promoting equality through a variety of means.

Q&A and Suggestions:

One participant raised the concern about introducing a new law while existing laws remain poorly implemented. He also pointed that while Article 15 does not include disability, Article 14 includes everyone. By engaging in constitutional litigation remedies under Articles 32 and 226 the scope of Article 15 can be expanded and therefore a new law may not be necessary.

Ms. Kothari explained that poor enforcement of existing laws does not negate the need to deliberate upon whether a comprehensive equality law is required for India. While responding to the comment on engaging in public interest litigation under Articles 32 and 226, she explained that the constitution is supreme and guarantees important rights, but litigation *cannot create text*. By taking the example of discrimination experienced by persons with disability in relation to public

employment, she clarified that invoking Article 15 that is silent on disability as a ground may not be fruitful. Rather, the issue is better addressed by using Rights of Persons with Disabilities Act. Therefore, the existence of the constitutional remedies does not negate the need for a statute aimed at providing specific remedies. At this juncture, Ms. Vyjayanthi Vasantha Mogli added that the constitution does not even mention transgender persons or the LGBTI community.

Another participant questioned whether existing laws would be replaced or redundant with a new Bill. Ms Kothari took a comparative view and explained how legal approaches to this question have differed across jurisdictions. For example, the UK has repealed the existing non-discrimination laws by replacing it with a single equality law. She explained that CLPR's efforts are not aimed at repealing existing laws, but to add to them with this Equality Bill 2019.

Mr Subbarao pointed out that passing a bill like this would require intense advocacy efforts and cautioned that the Bill must reach interested law-makers to see fruition. He also pointed out that nomadic and denotified tribes are not covered under prevailing laws. He suggested that the

draft Equality Bill, 2019 must make efforts to including these groups.

Another participant raised the concern of making people engage with and use the law and inquired about the status of previous equality and anti-discrimination bills. Ms. Kothari explained that Shashi Tharoor's Bill was introduced in Parliament as an independent member's Bill. Other Bills including the equal opportunities Bill drafted by the Sachar Committee have not had sustained advocacy efforts behind them. She also commented on how the issue of a comprehensive equality law found its way into the manifestos of political parties such as the Indian National Congress and the Communist Party of India- Marxist. If these parties are ready to introduce a Bill it may be better to provide them with an existing draft Bill rather than wait for them to draft a new legislation.

Renuka Srinivasan pointed out that the Bill needs inputs from experiences of persons from different States so as to capture the nuances of discrimination all over the country. She said that in her work she often heard the comment that while 'Dalits are exploited, Muslims are hated,' and how this feeling of hatred against certain communities needs to be addressed in the draft Equality Bill, 2019.

Session II – Definitions and protected characteristics



Ms. Jayna Kothari presented the definitions and protected characteristics as mentioned in the draft Equality Bill, 2019. The Bill includes definitions of caste, race, ethnicity, descent, sex, sexual orientation, gender identity, gender expression, tribe, nationality, disability, marital status, pregnancy, health (including HIV / AIDS status), basis of political opinion and belief, linguistic identity, place of birth, age, migration, religion, refugee status, socio-economic status, undocumented status and food preference.

Q&A and Comments:

Ms. ShyamalaGogu asked whether the definition of “Caste” would also include manual scavengers and *joginis* who are routinely targeted due to the caste system. Ms. Suneetha Rani suggested that the Bill must include discrimination based on a person’s occupation also as a protected characteristic because people engaged in certain occupations are subject

to stereotyping and stigmatization. Moreover, she pointed out that in the case of certain occupations there is a link between caste and occupation- for example manual scavenging and sanitation workers. Often, people engaged in such occupations are discriminated against on both grounds. She suggested that this could be an additional protected characteristic. Ms. Kothari said that CLPR would consider incorporating the suggestion to the Bill.

On the issue of “race” Ms. Suneetha Rani pointed out that the definition of race refers to ethnicity and descent, and that having separate definitions for each of these protected characteristics may create an endless loop of definitions. To the contrary, Ms. Aninditha Majumdar argued that having an overlap of definitions does not pose problems, instead protected characteristics should have the room to evolve and include new categories. Additionally, she also whether the definition of descent is aimed at including familial prejudice or discrimination faced by persons who inherit a particular kind of lineage.

Suneetha Rani asked whether geographical origin would be a separate protected characteristic because the place of origin differentiates between the ‘haves’ and ‘have nots.’ To contextualise this

comment, she provided the example of the Korega community who a mixed group of people with diverse religious leanings and live isolated from mainstream society, but experience discrimination as manual scavengers. It was commented that while the Koraga community would probably be covered under all the four definitions – caste, race, ethnicity and descent; geographical origin is an important factor in the discrimination experienced by them. Mr. Karthik Pulgurutha added that geography should feature as a separate protected characteristic because groups including queer people get relegated to live in certain spaces, which is a consequence of geographical discrimination. Mr. Subba Rao opined that discrimination on the grounds of race, ethnicity and descent are broadly based on place of origin or birth. Only the intensity of the term differs, the meanings are very different.

On the issue of “disability” one participant commented that though persons with mental health illness and people with learning disabilities are included under the Rights of Persons with Disabilities Act, 2016, the protections provided are inadequate. Ms. Jayna Kothari clarified that the RPD Act refers to the Mental Health Act which deals with all psycho-social disabilities. She also stated that the definition in the Bill could include mention on persons with mental illnesses.

One participant suggested that ‘pregnancy, childbirth, or a related medical condition’ can be replaced by reproductive choice because the term would also include persons who choose not to have children.

On the issue of gender identity and sexual orientation, Ms. Vyjayanthi Mogli raised an important concern that lesbian transgender women are discriminated against even within the transgender community. A question was also raised as to whether the bill includes pansexual persons. Following this Mr. Karthik Pulgurutha opined that the definition of sexual orientation should not explain sexual orientation from a binary perspective of heterosexuality, homosexuality or bisexuality and other sexual orientations should also be included such as Pan sexual, asexual persons.

On the issue of marital relations and long-term relationship, one participant asked whether the Bill has a standard for determining when people are ‘in a relationship’ and whether the Bill includes different relationship statuses including ‘long term relationship.’ Ms. Jayna Kothari explained that there is a long standing judicial understanding of longer-term relationships that are defined as ‘*relationships in the nature of marriage*’ under the Protection of Women from Domestic Violence Act, 2005. However, in such cases, courts typically ask parties to

demonstrate that they have lived like a married couple in order to offer protection under the law. Ms. Aninditha Majumdar pointed out that the term ‘marital status’ is problematic and suggested using ‘cohabitation’ to refer to a more inclusive term that accommodates different types of relationships. Other suggestions include replacing ‘opposite sex’ with ‘other sex’ in the definition of marital status to avoid the stereotyping. Likewise, participants also suggested that we include the word ‘separated’ in the definition of marital status.

On “Refugee and Migrant Status”, one participant pointed out that typically, migrants do not have a place of permanent residence. Mr. Subba Rao pointed out that the definitions do not cover nomadic tribes and internally displaced persons (IDPs), which are different from migrant persons. He explained that IDP’s are different from migrants because they are forced to move from their place of origin or permanent residence. He added that they can’t be classified under the definition of refugee because refugees are covered under International Law but there is no International Convention for IDP’s. He commented that nomads are a fairly large population who do not possess documents from the state, which results in discrimination, including in denial of burial rites. Another participant asked

whether refugees in Assam who possess documents but are excluded from land rights would be covered under the Bill?

On the protected characteristic of “socio-economic status”, Rahul Shree asked that whether begging would be covered under this protected characteristic.

The Definitions of Discrimination, Harassment, Victimization, Segregation & Boycott, and Lynching under the Equality Bill were also presented by Jayna.

Here several questions were raised. It was asked how the preamble to the draft Equality Bill, 2019 refers to the term ‘unfair’ discrimination may be a redundant use of the word ‘unfair’ as discrimination cannot be ‘fair.’

One participant asked whether the definitions of prohibited conduct cover systemic targeting against Muslim men that is normalized in society? Ms. Jayna responded by such targeting would be covered under prohibited conduct. She said that the transgender community experiences similar discrimination and that such targeting emerging from deep rooted social prejudices would be addressed.

Mr. Karthik Pulugurtha opined that the terms ‘persistent’ and ‘serious’ in the definition of *harassment* are indefinite words and that this ambiguity can raise problems. Further, he also pointed out that the terms boycott and segregation sound

positive and renaming them as “excommunication” would be better. Ms. Jayna Kothari responded that excommunication is already covered within boycott. Ms. Aninditha Majumdar

added that the term ‘institutionalised violence’ can be used instead of *boycott* and *segregation*.

Session III: Prohibited Conduct: Direct, Indirect & Intersectional Discrimination, Hate Speech, Harassment, Segregation & Boycott, Victimization



Dolashree Mysoor’s presentation in this session focused on the different types of conduct that are prohibited under Chapter II of the draft Equality Bill, 2019. She mentioned that the duty not to discriminate applies to all persons which include both state and private actors. The different conduct that was prohibited under this Chapter was direct and indirect discrimination, hate speech, dissemination of hate speech, victimization, boycott and segregation and lynching. She presented the definitions of all these types of prohibited conduct and also explained them. She also emphasized that the Bill attempts to remedy intersectional

discrimination by providing additional damages, additional protection measures and special remedies as courts may deem fit.

Q&A and Suggestions:

Mr. Karthik Pulugurtha pointed that the definition of hate speech can be interpreted in many ways and can be used to control different types of acts of speech or expression that may not constitute hate speech. Ms. Dolashree mentioned that the Bill also mentions a limitation on the hate speech clause. It excludes any *bona fide* engagement in artistic creativity, academic and scientific enquiry, fair and accurate reporting in public interest- these are explicitly excluded from the purview of hate speech. Ms. Suneetha Rani suggested to add ‘any critical enquiry’ as well to this limitation on hate speech definition, so that hate speech should not apply to any critical enquiry.

Ms. Vyjayanthi asked how the “reasonable person” test how it would help to assess

any particular conduct in question. Ms. Dolashree responded by explaining that reasonable person would be the one experiencing harassment. To clarify, she used the example of a woman who has filed sexual harassment charges and explained that a court would consider whether a reasonable woman would classify the alleged conduct as amounting to harassment.

Another participant asked whether the Bill would protect migrant labourers who are harassed, but not in an explicit manner – instead, they are hired as migrant labourers, but get treated like bonded labourers where the employment is typically provided by private actors. Ms. Kothari clarified that the current definition of harassment in the Bill would cover such acts that take place in a private space.

On segregation and boycott, one participant asked if the bill would cover a situation where a school admits HIV positive students, but parents of other students' object to their admission. Ms. Mysore explained that this would constitute a case of boycotting and segregation on the part of the parents who are attempting to exclude students who are HIV positive. The protection under the Bill would extend to such students. Ms. Kothari reiterated that this constitute boycott under the Bill, hence action can be taken against the parents

who are engaging in the prohibited conduct. She clarified that the complaint can be filed by anyone, including the school management. Sheela, a transwoman questioned whether segregating and boycotting a transgender person by family members amount to boycott under the Bill? Ms. Jayna responded in the affirmative.

One participant asked whether in case of death due to lynching, punishment under the Bill is 'imprisonment and fine' or 'imprisonment or fine'? Ms. Dolashree confirmed that it is 'imprisonment and fine'. Ms. Jayna suggested that it could be 'imprisonment, or fine, or both'.

Mr. Karthik explained that the term 'hurtful' in the offence of lynching, is hard to interpret and asked whether this word can be replaced with the word 'injured.' Jayna clarified that the term hurt is borrowed from Indian Penal Code, 1860 (hereafter 'IPC'). She explained that the difference between hurt and grievous hurt under the IPC is that 'hurt' is considered as a *lesser offence*, while 'grievous hurt' or 'grievous injury' are more serious offences, for example – a person losing one or more limbs would be considered as 'grievous hurt' or grievous injury.'

Ms. Suneetha Rani pointed out that stigmatization/ stereotyping often leads to

lynching. She asked whether the Bill covers stigmatisation and stereotyping. Mr. Subba Rao asked whether the Bill protects whistle blowers, witnesses and persons who report lynching. Other participants agreed and added that the protection must be extended to civil society organisations that support the victims or their family.

Ms. Suneetha Rani suggested that 'naked parading of women' should be included under lynching and raised an important issue as to whether this could be included under the lynching as 'bodily injury' or whether it would fall under 'harassment'.

On the issue of 'fairness' and 'burden of proof' Ms. Suneetha Rani pointed out that the term 'unfair discrimination' may be open to interpretation and vague. She also asked whether any instance of discrimination can be considered 'fair' as the term 'fair discrimination' can be construed as a paradox. She suggested using the term 'affirmative action' instead of the term 'unfair discrimination' to avoid such ambiguity. Ms. Jayna Kothari commented that the two options available are to either limit the condition of fairness, or omit it altogether.

Session IV: Discrimination in specific sites and duty to promote equality



Specific areas of Discrimination:

This session was anchored by Jayna Kothari. She first set out the prohibition of discrimination in specific areas in Chapter III of the Bill, followed by the positive duties on the State to promote equality. The specific sites of discrimination covered by the Bill are education,

employment, housing and land, health care, and public places. The Bill would cover specific discrimination in all these areas, both by private actors and by State institutions and public authorities. Jayna presented the sections of the Equality Bill 2019 that covered these specific areas of discrimination.

Duty to Promote Equality:

The next section of the Bill that she covered was on the duties and responsibilities to promote and achieve equality which includes the duties of the State such as developing awareness of fundamental rights, taking measures to

develop and implement programmes, developing action plans to address unfair discrimination, hate speech, harassment or lynching, developing guidelines and codes of practice to promote reasonable accommodation, providing assistance, providing advice and training on issues of equality and developing appropriate internal mechanisms for organisations to deal with complaints of unfair discrimination, hate speech or harassment. Subsequently she presented the duties of all persons, non-governmental organisations, community-based organisations, and public authorities to promote equality. Finally, her presentation focused on the provisions of the Bill that directs both public and private organisations to maintain a diversity index to ensure diversity and promote equality.

Q&A and Suggestions:

In response to the exceptions, Mr. Karthik expressed that the exception of qualification test is being misused, as many qualifying exams test language skills, which is not justified. Further, he explained that there is a mismatch between the role and the tests being conducted, which is discriminatory. For instance, language tests are conducted for persons working in cafeterias, which is not required for the job.

One participant posed a question on how the Bill would address a situation where a company asks a candidate to submit the medical documents, finds out that he has a health issue such as HIV, and decides not to select him or inform him of the reason for rejection. Jayna Kothari acknowledged that this is an issue with respect to persons with disability and clarified that this will be addressed in section on healthcare.

A member of the audience pointed out that the Bill only talks about 'opportunity'. However, the nature of the employment provided should also be considered because while Dalits might be given opportunities, these are rarely in higher positions and are often limited to sanitation work. Similarly, women are regularly appointed as childcare officers without considering their preferred choice of work. In these situations, the discriminatory act is not denial of opportunity but the allocation of work, which can perpetuate stereotypes, stigma and reveals discrimination.

The next question addressed outsourcing and contract labour, and whether protections were extended to them under the Bill.

Finally, one participant highlighted that trainings for inclusive environment alone is not sufficient, and must be supplemented by public awareness. In support of her point, she referred to the

example of the metro rail services, which provided employment to transgender persons. However, consumers avoided the counters operated by them.

On education, Ms. Meera, asked whether a school throwing out a student because the parent complained against the school would amount to discrimination. Jayna Kothari responded that it would amount to victimization under the Bill. One participant suggested that students should not be asked to reveal aspects of their identity where there is no necessity. She pointed out that in some institutions, caste and gender identities are routinely disclosed on public notice boards, which should be discouraged and checked.

An important suggestion on anti-discrimination in educational institutions related to school uniforms. One participant pointed out that uniforms are seen as a form of behavioural control and control of gender expression. She also asked whether forcing students and teachers to wear the scarf would be discriminatory.

Another participant asked whether there are any provisions in the Bill, which directs the formation of institutional structures such as committees or boards, by parents of students, to discuss and take decisions on restrictions. He suggested that this will help the institution perform better in the long term. Jayna responded by referring to the Right to Education Act,

which has provisions that direct the school management to set up a committee with different stake holders. Similarly, this Bill also contains provisions that direct institutions to frame an anti-discrimination policy and establish an anti-discrimination committee before which complaints against discriminatory actions can be filed. Mr. Karthik brought up an important point on discrimination by insurance providers and referred to the instances where persons who are HIV positive are denied medical insurance. Sometimes they are classified as persons at high risk and the applicable premium is increased. Therefore, there should be explicit language in the Bill which addresses this situation. Jayna responded that the Bill does not mention HIV positive persons specifically as there is a new law which exclusively addresses the needs and concerns of HIV positive persons. Mr. Karthik once again stressed that HIV is a serious issue as insurance providers stop providing insurance once the viral load is increased and the person suffering constantly lives with fear. Dolashree added that the Bill already contains provisions which state that premiums cannot be increased for a person or group having a protected characteristic, which would include persons with HIV. She also responded by saying that there is a separate Human Immunodeficiency Virus and Acquired Immune Deficiency

Syndrome (Prevention and Control) Act, 2017 that also covers this.

Another participant expressed that the forms of medical care are evolving and changing rapidly. So, the Bill should keep the future in the mind and also have provisions to cover service through tele-media and digital forums.

Ms. Suneetha expressed that schools and colleges should provide awareness on the diversity and inclusion. She also referred to the situation in the United States where there is a lot of awareness on different identities at the school level. Dolashree pointed out that the Bill already mandates the UGC to earmark funds for diversity and anti-discrimination studies, changes in school curricula etc.

One participant inquired about how the Bill will make sure that the committees formed at schools and workplace are

representative. Some of the other participants also expressed concern that prejudiced representation of certain identities should be controlled. Jayna agreed and stated the Bill will include the mechanisms to set up anti-discrimination committees. She relied on the sexual harassment committees established under POSH which mandate that 50% of the members should be women, and explained that a similar mechanism could be included in the Bill.

On the specific issue of budgetary allocation, one participant questioned how funds will be spent as currently, money allocated for the protection of minorities are spent on other activities like iftar parties. He suggested that the Bill should include provisions on budget allocation and how to spend it.

Session V: Institutional structure: Equality Commission and the Equality Courts



1. Equality Commission

Avinash Shahi from CLPR presented the section on the Central Equality Commission. He opened with a brief background on the existing commissions under different legislations. In India, there are 8 commissions established under different statutes and only 3 are

constitutional bodies. He stated that the structure of the Equality Commission has been largely borrowed from the structure of:

- i. National Human Rights Commission defined under *Protection of Human Rights Act, 1993*,
- ii. The committees under *The Rights of Persons with Disabilities Act, 2016*, and
- iii. The Equality Committee under *The Promotion of Equality and Prevention of unfair Discrimination Act, 2000* of South Africa

Moving on from there, he presented the sections of the Bill that address the role and scope of the Central Equality Commission and its powers.

2. Equality Courts

Deekshitha presented the final section on ‘Equality Courts’ under the Bill. She stated that the structure of Equality Courts was inspired by the South African Promotion of Equality and Prevention of Unfair Discrimination Act, 2000. First, she explained that every District court would be designated as Equality Courts and their powers, functions, and procedures would be governed by the Code of Civil Procedure, 1908 and related rules. She highlighted that the provisions related to the Equality Courts under the Bill and the remedies outlined. The remedies are extensive and include directions

to institutions to change their internal policies and practices in order to restrain discriminatory actions. Further, in case of repeated non-compliance of the Act, the court can call upon the Equality Commission for assistance in investigation and to make recommendations.

Q&A and Suggestions:

The first question raised was why the Bill uses the term “shall” instead of “may” in Section 39, which defines the conduct of the business of the Commission.

Mr. Rahul Shree posed a question regarding the removal of the chairperson under Section 34(2). He pointed that Section 32 of the Bill states the chairperson of the commission would be a former judge of Supreme Court and questioned whether there might be a conflict of interest where the judge conducting the inquiry might have been a colleague. He further asked for a clarification on why the Bill does not spell out the procedure for conducting the inquiry and instead gives the Supreme Court the powers to determine the procedure. Another participant stated that the practice of appointing judges who are loyal to the State, as the chairperson to committees should be stopped. At this point, Avinash asked the audience if having representatives from CSOs to the enquiry would make the process better.

Mr. Rahul also pointed to Section 36(e) and wondered why the Equality Commission itself cannot provide assistance such as legal aid to institute the court proceedings instead of delegating these functions to the State. Avinash responded saying that the language can be changed to ‘direct’ the State instead of ‘request’ the State to provide legal aid.

Another question raised by the audience was the reason behind not fixing time limits for investigation under Section 36(c) of the Bill, which gives the Commission the power to initiate inquiries *suo motu*.

Further a participant suggested that public prosecutors can be appointed, similar to the system under the PCRA and the PoA Act. Deekshitha responded that the adjudicatory mechanism envisaged under the Bill is primarily civil in nature and the only one penal provision is one that criminalises lynching. Therefore, mechanisms such as appointment of public prosecutors may not be relevant under the framework of the Bill.

One participant also asked the reason for not providing magisterial power to the commission to take action under the Bill. Dolashree clarified that the Act also provides for Equality Courts which will adjudicate over disputes.

The final question related to the accountability of the commission. Mr. Avinash responded that the Bill directs the

commission to provide all information regarding the expenditure to the Parliament and the President. With respect to accountability to the public, Avinash clarified that the Bill can direct the commission to publish data online that can be accessed by the public.

On the Equality Courts related sections, one of the participants questioned why there is a restriction on appeals against interim orders since some orders cannot be kept waiting till the end. He further pointed out that as per the Supreme Court, interim orders in civil and criminal proceedings expire after 6 months, unless specifically extended by the court.

A question related to setting a time limit for adjudication of disputes by the Equality Courts under this Act was also raised and it was suggested that there should be a time-frame imposed, similar to Negotiable Instruments Act and Right to Information Act.

The final set of suggestions on the Bill related to its structure. One of the participants suggested that the Bill should be organised on the basis of grounds, such as section on caste, section on gender etc. He also stated that there should be clarity on the nature of the Bill i.e. whether it would be a money bill or ordinary bill as if it is a mix of several things, it might get rejected.



Session VI: Closing Comments

This was the final session, where final closing remarks were made. Mr. Subba Rao inquired about the next steps after the consultation. Dolashree responded that CLPR would be incorporating the comments and suggestions received during the consultation and requested the participants to provide detailed written feedback and suggestions. He also asked if CLPR will lobby with legislators for this Bill to be passed, once it is ready. Some of the other participants also requested that the final draft of the Bill be shared so that they can help with lobbying with legislators.

Dolashree thanked everyone who participated for their time and valuable feedback. She further thanked Ms. Vyjayanti for her support in organising the event and the Guruswamy Centre for providing the venue.



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