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'Transgression': Explaining contemporary India

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Complex societal transformations can be assessed through their changing normative structures. One can analyse the different social domains in India by focussing on the key concept of 'transgression' through an innovative analytical framework for India.

The Word and the World

If one were challenged into choosing just one word to explain contemporary India what would that word be? This may seem like a puerile challenge, trivialising the difficult task of representing India that is too complex, too ancient, and too diverse to be explained by just one word. And yet in the history of the social sciences philosophers have attempted just such an exercise of using a core word to explain the essential nature of a society. "Dharma" was given such a status in the classical Indian texts. "Value" was the word Marx chose to explain capitalism. "Trust" is a word sociologists consider central to a society's continued existence. "Ubuntu" stakes a strong claim for that position in South Africa's lexicon. Posing the challenge, therefore, is not as outlandish as it initially seems.

So let me persist and look for word candidates to explain contemporary India. Some scholars may choose "democracy," a good choice, because it is a key driver of societal transformation and explains changing individual, community, social and political relationships. Others may prefer "diversity" because it aptly describes the plural social, cultural and ecological landscape of this unique country. Still others may favour "development" as a proxy word for livelihood security, or livelihood insecurity, depending on the perspective that one adopts. It is also the word that is at the heart of state policies in many sectors and has become a keyword to describe group and individual aspiration. Subaltern populations, in contrast, may prefer 'discrimination' to describe the thick social relations that produce deprivation and humiliation for groups and communities across India's vast social terrain. These are capacious words that are heavy with explanatory power. They serve as useful keywords in much of the scholarly literature to explain the play of social forces in contemporary India.

Over the decades, analytical and empirical studies have tweaked and refined these words with aspects being added to them, and connections made, as cases or contexts are discussed and assessed. For example a discussion of democracy in India would look at the form that democracy has taken, at levels of participation, extent of devolution of authority, nature of citizen rights, intensity of political protests, character of non-party political formations, and the extent of popular control of political power. Similarly aspects examined under discrimination would include struggles for gender justice, the social causes of caste atrocity, the ethnography of humiliation, exclusion from public spaces and more recently demands for equal access to places of worship.

Each of these words - democracy, diversity, development and discrimination - has both a fixed and a dynamic character, each being necessary to capture the complex societal transformations that are taking place. The fixed aspect outlines the stable structures that direct social behaviour. Although these are not cast in stone they have a solidity and a fixity that allows them to regulate and direct the flow of the dynamic aspects of a society. They function like the constructed banks of a river that channel the flow of water in the direction one wants. The Indian Constitution is an example of the fixed aspects. I use the word constructed to imply that the banks of the river can be modelled and re-modelled but unlike the flowing current they are stable and solid. The India Constitution, like the constructed banks, has been amended and interpreted a great deal in these 68 years, for example most recently in the judgment of the 11-member bench that held privacy to be a part of the "right to life." It is also seen as having a basic structure that cannot be changed.

In contrast to the fixed features, the dynamic aspects refer to the range of factors that impact societal behaviour. These can extend from something as innocuous and intangible as a rumour, to the prices of essential goods, to unemployment stresses in rural India, to protest movements demanding livelihood security, to the ecology of a flooded river, and maybe even to the travails brought about by water scarcity. The list of factors that comprise the fluid aspects is just short of being infinite. All aspects need to be studied to understand the dynamics of change in India. Rumour helps us comprehend strategies of mobilizing people to produce political outcomes, particularly in the current age of social media. Protest movements help us recognize the range of claims being made and the response of the state to these claims. The dynamic aspects refer to the factors that contribute to the speed and flow of the societal current. The fixed aspects refer to the riverbanks that regulate this current. If the preceding paragraphs are seen as exhibiting some understanding of the complexity of India then, it may be fair to assume that the challenge I have posed, to choose one word to describe contemporary

India, is not born out of naiveté.

The Case for 'Transgression'

The word that I wish to offer, interestingly, does not belong to the list of usual suspects. It is the word "transgression." One of the reasons for choosing transgression over other established keywords is to try and cast off the vocabulary that belongs to the orientalist framing of India within which most of us are trapped. Transgression allows one to be relatively free of this orientalist vocabulary. In contrast to democracy, diversity, discrimination and development, which are concepts that are part of thick global discourses, and therefore ones that inevitably carry a substantial cultural baggage from the North, transgression travels light. It carries none of the concealed meanings and value slants that these other words invariably carry when talking of India. Macaulay has no purchase.

> By transgression one implies the existence of some norms from which an action or behaviour diverges.

In spite of this light baggage, however, or rather because of it, transgression has good explanatory power. It has both a fixed and a dynamic dimension. It has explanatory depth in each of the dimensions of societal life of India today where it can be used as a heuristic device. It therefore casts a wider net than some of the other words. Transgression speaks to the changes that modernity brings in any society and yet, in doing so, presents a distinct Indian character. Transgression allows us to view India from the perspective of the nativist as well as that of the cosmopolitan. It explains contemporary India better than many other words commonly used in the social science literature.

By transgression one implies the existence of some norms from which an action or behaviour diverges. These norms, at any conjuncture, are a product of our contested history, our mixed cultural heritage, our intense engagement with modernity, and our negotiations with the various influences that impinge on our present. Transgression is a deliberate departure from these established or agreed upon norms. It is important here to note this voluntary element because it suggests that alternatives were available at that moment of transgression but were not chosen. The norms refer to the moral or legal rules that regulate behaviour. Norms stipulate how one should behave in various situations and why such behaviour is desirable. Norms give legitimacy to the structure of incentives and penalties in any society. As moral or legal codes they are essential for keeping a society healthy, creative, fair, active and strong. It is necessary to imagine these particular norms, as belonging to a system of inter-connected norms that regulate social behaviour. They are both fixed and changing.

My decision to focus on norms comes from my acceptance of the centrality of social behaviour to explain the working of a society. We need to know what are the forces that shape it, how powerful they are, from where do they draw their power, and what legitimacy do they enjoy at any period of time. We also need to see such behaviour not as idiosyncratic but as regulated. This regulatory structure is both overt, in that we know how to behave because we have learned the recommended rules of behaviour, and latent, in that we are socialized into them and feel comfortable in observing them. In politics, for example, this regulatory structure comprises both formal rules and conventions.

> 'Transgression' helps us understand contemporary India in each of its important domains: societal relations, culture, religion, law, economy, and politics.

The lived world may, in fact, be at variance with this theoretical frame and therefore our task, as social scientists, is to align concept with practice. Without norms there can be no society. The norms may be those belonging only to the political and social elite and, because of social power, it is their perspective that becomes the dominant regulatory framework of a society. Transgressions are voluntary departures from such norms. Such departures are discouraged because they threaten the existing order. There is the fear that if transgressions become widespread, get accepted by others and become the new norms, the existing order will lose its powers of regulation and may even start collapsing. Transgressions are therefore opposed through legal and economic penalties or through social opprobrium. Staying within the order is important and people are encouraged through a combination strategy of incentives, penalties, meaning, or fear, to regulate their behaviour. A combination of these four instruments - incentives, penalties, meanings and fears - depending on the weightage each has in the decision frame will determine the behavioural outcomes in each domain.

"Transgression" helps us understand contemporary India in each of its important domains: societal relations, culture, religion, law, economy, and politics. I have deliberately listed them in a particular sequence that will become apparent as my argument proceeds. I have also treated them as distinct domains even though I know that they intersect and are cross cutting, with changes in economy

effecting the working of politics, or with culture and religion having huge areas of overlap, or with it being near impossible to separate the social aspects from the cultural, or the legal from the political. Yet, for the purposes of analysis, I am discussing them here as distinct domains because I wish to suggest that as one moves to the centre of each domain, from the fuzzy periphery, (even though the location of the centre is indeterminate and we must, for purposes of analytical clarity, assume an imagined centre) the logic of interaction changes. That is why I have suggested six distinct domains in India that I shall analyse independently in terms of transgression. I shall do so while recognizing porous boundaries, acknowledging thick transactions at these boundaries, and accepting some interpenetration and interdependence between them. For analytical purposes, however, I shall still treat them as separate. This is also the reason why I have also chosen to ignore hybrid zones such as socio-cultural, political-economic or socio-religious.

> We will learn how the four factors - incentives, penalties, meanings and fears - stacked up and which among them had greater weight in determining a particular outcome.

Two final points before I begin my discussion of each domain. The first is that since these are huge landscapes it would be unrealistic to expect me to cover each domain comprehensively or extensively. If the expectation is for a conventional treatment of the domain then it is fair to see my treatment as too limited and as leaving out too much. If however one is willing to go along with the unconventional strategy I have adopted of discussing a book, a person, or an episode, as an illustrative case which has, and from which one can get, a sense of both the fixed and dynamic aspects of the domain, then my strategy is useful to frame the domain. It is an invitation to begin the discussion not an illustration of a worked out frame. The rich details can subsequently be added to the frame by more exhaustive empirical studies. This limited strategy to be relevant must, however, talk about the extent of conformity, or of transgressive behaviour, with respect to the norms in that particular domain. It must discuss the potential for transgression and the costs and benefits of such transgression.

The second point that must be made, before I shift to discussing the six domains, is that if one wishes to get the sense of contemporary India one must read all accounts of transgression, in the six domains, together. This we must do without aggregating them to understand the balance between the fixed and the dynamic. Reading them together does not mean aggregating them. This will help us understand why in some domains the possibility of transgression is more difficult than it is in others where it is much easier. We will learn how the four factors - incentives, penalties, meanings and fears - stacked up and which among them had greater weight in determining a particular outcome. It will also explain why they have combined in a particular way. Let me now move from this abstract laying out of my claim, that "transgression" is a good word to understand contemporary India, to a discussion of each of the six domains: society, culture, religion, law, economy, and politics.

Transgression and the Social

A good entry point to a discussion on the nature of social relations in contemporary India is the book by U.R.Ananthamurthy, *Samskara.* There are three episodes in the book that can be seen as transgression in the Brahmin agrahara, and each produces a different societal response. The first is the behaviour of Naranappa, the rebel Brahmin, who breaks all the norms of his community. He eats meat, drinks alcohol, taunts god, and lives with Chandri his lover who is from a lower caste. Because of this series of transgressions he is ostracized and considered defiling to, and by, the orthodox members of the community who prefer to conform to the caste norms. The penalty for his behaviour is ostracism. Social relations with him are considered defiling and hence the community, angry with him for his transgressions and for threatening the social order, heap on him opprobrium and exclude him from community activities. This, however, cannot continue indefinitely because unfortunately Naranappa dies and his death produces a big challenge. The rules on how to dispose of the body of such a transgressor are unclear. The community therefore seeks guidance from Praneshacharaya the highly renowned Vedic scholar who also lives in the agrahara and who knows the rules or who, through his holy practices, will have god reveal them to him. Praneshacharaya performs his rituals and waits for guidance from the god whose temple he visits every day. No revelation is forthcoming. The body cannot be disposed of till the norms for disposal are clear. But there is no clarity on what should be done. The community can only wait for divine revelation.

What is clear, however, is that when there is a corpse in the agrahara, food cannot be cooked and eaten by the residents. This is the second episode. The norm is that the whole community must fast. It does indeed fast. Norm observance is complete as hunger grows among the members since the body is still to be disposed of. The costs of such observance, a gnawing hunger, get higher since disposal is taking more than the usual time. Because the rules for disposal of the body of a transgressor are unclear, and because revelation is not forthcoming, the body continues to remain in the forbidden house and, worse, it begins to decompose. A putrid smell

spreads across the village. This adds to the discomfort of the villagers but they remain norm observant. They will not eat even though hunger is causing great distress. And they will not dispose of the body, which is now emitting a foul smell, because they do not know the rules of disposal.

Meanwhile the great Vedic scholar Praneshacharaya waits for revelation. He visits the temple everyday in expectation of the gods telling him what to do. One day, the third episode, Chandri the sensuous lover of Naranappa, meets him in the forest on his way back from the temple and pleads with him for guidance on the rites to be followed to dispose of the decomposing body. She kneels before him and holds his leg. As the high-minded scholar attempts to raise her up from her kneeling posture his hands touch her breasts. In that moment, according to Ananthamurthy, Praneshacharya's world turns upside down. The pious and ascetic scholar is filled with carnal desire and the suppressed desires imposed by his Brahminical life, surface, and take him over. He makes love to Chandri and by doing so Praneshacharaya, the socially pure, sleeps with Chandri, the socially impure. He transgresses. Although nobody knows what has happened in the depth of the forest Praneshacharaya is overcome by guilt at this transgression. His inner being, fashioned by an upbringing that stressed the importance of caste norms that gave meaning to caste behaviour, could not reconcile his action with his beliefs. Wracked by guilt he leaves the village. He does not tell others where he was going. In his wanderings he visits a temple and because he was hungry joined the queue for the free food that was being distributed. Sitting in the queue he suddenly feared he would be recognized. A temple helper who was serving food thought he looked familiar. Guilty that his being in the precincts of the temple would defile the deity, because he had become impure, he flees. And remains hungry. The guilt at his transgression with Chandri causes him to flee. His normative order remains intact and therefore as the transgressor, he believes, he has to face the penalty.

The three episodes reveal three attitudes to norm transgression within the community. The first is ostracism and social boycott a response very much in evidence across India today. Here the transgressor is denied the benefits of community life for himself and for his family. He has to live outside the zone where the community resides and is thus deprived of the many resources that communities provide from birth to death, which are not just material, but also cultural, not just tangible, but also intangible. These resources become unavailable to the transgressor. Social and economic boycott is a common coercive practice to ensure norm conformity in rural India. The second is the willingness by the collective to face the penalty and undergo the hardship, resulting from the transgression, of remaining hungry, because of the prohibition of eating when there is a dead body in the locality, and also of living with the disgusting odour of a decomposing body. This the community follows because they consider it important to uphold the normative order of the community against the threat from the rebel Naranappa, even the dead Naranappa. Cultural interests override material interests. Cultural interests, as norm observance, are strong and the tipping point for them to be transgressed by a whole community is indeed quite high. The community would rather face the hardship of hunger, and of a disgusting smell, than abandon the cultural norm. They may resort to subterfuge, as they do when they ask the Muslims to dispose of the decomposing body in the dead of night, but in the light of day they are norm observant. They themselves have not transgressed but now that the body is disposed off they can eat. Community solidarity, for the benefits it provides, will keep individuals within the norm boundary. The third response to transgression is guilt. Praneshacharya, after he makes love to Chandri, cannot transcend the normative order that he had been socialized into and instead of challenging it from within his community, chooses to flee. It is unclear whether he wishes to transit into a different normative order but from his actions, after his transgression, one can see that he considers himself a transgressor.

> The way different communities respond to transgression tells us something about the inner dynamics of incentives, penalties, meanings and fears within a community.

Each of these three responses, social boycott, community solidarity, and guilt, can be seen in India today. Of course societies are changing under pressure from modernity, globalization, urbanization, education, social movements, etc., but in India, which is a society of communities, the norms remain very strong and transgression, although it takes place, is costly. There is, further, a class aspect to transgression of norms. This can be mapped but I shall not attempt it here. The way different communities respond to transgression tells us something about the inner dynamics of incentives, penalties, meanings and fears within a community. What the *Samskara* case reveals is that it is wrong to assume that material interest will always override cultural interests. The fear of a community backlash, the fear of normative disorder, the fear of a world of diminished meanings, especially the world in which one grew up, being eroded by the transgression means that transgression in society is not an option easily undertaken. Even under conditions of modernity, in the societal realm, for the bulk of the population transgression is difficult. The fixed is stronger than the fluid.

Transgression and the Cultural

In the cultural realm the story is different. If in the social domain the power of norms is strong, because incentives to transgress are few, penalties are harsh, and fear of disruption of the meaning systems widespread, in the cultural domain the balance between fixed and fluid is different. Remember we are again talking of the relationship between the two at the centre of the domain and not at the periphery where there may be more hybrid forms and where there are many transactions.

The explanatory case I wish to take here is of the renowned Carnatic singer T.M.Krishna. He is known across the country as a virtuoso classical Carnatic singer. Music connoisseurs would agree that he is the master of the rules of Carnatic music with him being hailed as one of the finest contemporary exponents of that genre of music. In his performances of Carnatic music one could regard him as being not just norm abiding but as norm proficient, as one who has understood and imbibed the aesthetic rules of Carnatic music. But there is another side to his personality. He also experiments with other musical forms. He goes to the localities where Dalit and other subaltern communities sing and organizes concerts where they sing together. He draws on their musical traditions to experiment with borrowings and fusions from theirs to his and hopefully from his to theirs. These experiments are seen as bold and welcome. He has, in fact, grown his repertoire of music. While purists of the Carnatic musical form might frown on his transgressions, many of the younger generation who have been brought up on a mixed diet of Western and Indian musical worlds welcome his innovations. He faces some criticism but these are mild if seen as penalties. The incentive to transgress, or experiment, since he has established himself as a Carnatic virtuso, is high, and it appears from the wide support for his experimental concerts that there is no fear that the meaning system of Carnatic music will be in jeopardy. T.M.Krishna transgresses. The range of musical forms has grown as a result. There is no mutual exclusivity between the different musical forms, for there may be overlap between audiences, although they are different and one does not feel threatened by the other. They can co-exist. They can even enrich each other.

In the cultural realm such transgression or innovation is quite widespread. Ravi Shankar experimented with many sources of music in his performances. Chandralekha first established herself as an expert in the Bharatnatyam dance form before she experimented with bringing Yoga and Kalaripayattu into conversation with it thereby producing a new art form. Bollywood music and dance are cultural forms that are hugely popular across the country and contain elements from many traditions. One can say that the transgressions are multiple in Bollywood to the extent that transgression itself may constitute the new norm. In Bollywood experimenting with form, as rule transgression, is the norm. Except the kiss.

If the classical is the first, rule observance, and Bollywood is the second, rule transgression, folk and tribal art is the third, where both rule observance and rule transgression take place. So while you have distinct Gond and Warli paintings, you also have nataks and khells where innovation is normal. The tiatr, as a popular drama form in Goa, even borrows costumes and music from European opera. A K Ramanujan's essay titled *Three Hundred Ramayanas: Five Examples and Three Thoughts on Translation* has this lovely account of Sita berating Ram who asks her to stay back in the palace, because she is so delicate and would be unable to face the hardships of the forest, while he himself goes into exile. "At first she uses the usual arguments: she is his wife, she should share his sufferings, exile herself in his exile and so on. When he still resists the idea, she is furious. She bursts out, 'Countless Ramayanas have been composed before this. Do you know of one where Sita doesn't go with Rama to the forest?' That clinches the argument, and she goes with him."

Ramanujan's work on the great epic the Ramayana illustrates that in the cultural domain, rule observance on performing the text is weak since the text is perennial and keeps getting reworked in time and place. T.M.Krishna belongs to this tradition of norm observance and norm transgression, of incentives to innovate, of absence of fear that a meaning system will be eroded, and of an acceptance that, in fact, there will be an enrichment of the cultural domain. This is the truth of all cultural domains in India: music, dance, theatre, classical, folk, tribal. Sufi music is a good illustration of this balance between norm observance and norm transgression. The Urdu storytelling art of Dastangoi is another.

I am no expert in discussing the practices of the various art traditions that I have mentioned, and would surely fall foul of the experts in the field, but I have made bold in talking about them merely to offer the proposition, for challenge through subsequent case studies across the country and from different traditions, that in the field of culture two parallel attitudes prevail. On the one hand there is an insistence on norm observance, to develop competence, skill, and knowledge in and of the tradition. The gharanas are one example of how this training is imparted through the guru-shishya parampara. Kutiyattam is another, a good example of the dancer having to acquire a certain level of norm proficiency, over many years, to give even a modest performance. Parallel to this is the practice of innovation, what one can call norm transgression, and this too is accepted as an attitude that belongs very much to the cultural domain.

M.F.Husain was chided by the socialist thinker Lohia, his friend, for painting only for the rich. He asked Husain to take his paintings of the Ramayana to the villages and see what reception they got from the villagers. Husain accepted this advice and took 60 of his large Ramayana canvases to a village where a local performance of the Ramayana, in the traditional style was going on. He placed his

canvasses as backdrops to the performance. There was no objection. People were not offended by his images of Ram, Sita or Hanuman done in a style of Indian modernism which Husain and Souza had initiated. Sadly today, because of competitive politics, Husain was exiled from India because of what was considered his norm transgression by the Hindu right for painting Hindu gods in the nude.

Transgression and the Religious

The third domain is the religious. As I have said earlier I accept that there is much overlap between the religious and the cultural domains but since I am reflecting on the core drivers of the domain, I want to suggest that in the realm of the religious the balance between transgression and conformity is different from the earlier discussed realm of the cultural where transgression is not seen as dangerous and threatening to the normative order, and is even welcomed. In the religious domain transgressions is treated more seriously, certainly within the Semitic religions whereas the Indic religions of India are more accommodative. The religious landscape in India is vast since it is a religious country and there is no way on e can even map the terrain of the various religious practices and observances and therefore I will again use a proxy, to track the interplay between incentive, penalty, meaning and fear.

If a book, *Samskara*, was the illustrative case for our discussion on society, and a person, T.M.Krishna, for culture, for religion I shall take the current controversy surrounding the Sabarimala temple entry case where women within the menstrual age of 10-54 years were denied entry in the temple precincts to worship. While religions in India can be divided into two groups, the Indic and the Semitic, those that consider the divine as immanent, on the one hand, and as transcendent, on the other, I shall here, again provocatively, attempt to see how far the idea of transgression travels in explaining the normative structure of each religious grouping.

The Semitic religions in India, like their co-religionists elsewhere in the world, have a clear normative structure from which transgressions are marked. That is why concepts such as "sin" and "haram" have such a central role in their ordering of a meaningful world for the faithful. This produces the instrument of "fatwa" as a penalty for transgressors in Islam. In Christianity transgression requires one to perform 'penance' for one's sins. Lent and Ramadan are periods where the members of the religious community perform fasts and voluntarily undertake some hardship to enable them to lead better lives, to be more norm conforming. Blasphemy is frowned upon in both Islam and Christianity. Witness the turmoil that Pakistan is going through in the Asia Bibi case where a Christian woman was accused of blasphemy, sentenced to death, and then found to be innocent and given a reprieve causing outrage among religious extremists. In Saudi Arabia, transgression, as apostasy, also leads to death.

As always there is a gulf between precept and practice and even though the lived world of the Semitic religions may show more tolerance towards transgression this indeterminacy, does not detract from the fact that the faithful are expected to live within a world which has a defined normative structure. Departures are discouraged and even punished. Religious instruction in the Semitic religions, which is regular and considerable, is to make one a good believer, in other words, to be norm conforming. As a ridiculous example of this attempt to make the faithful norm observant, in November 2018, the "Darul Uloom Deoband, one of the most respected Muslim seminaries in India…issued a *fatwa* or a decree against women on wearing nail polish… because it is un-Islamic and illegal. Rather women should use *Mehendi* on their nails, said Mufti Ishrar Gaura, a cleric at the seminary. Mr Gaura said that Islam does not prohibit women from using beauty products, they can apply nail polish but before offering Namaz they have to completely remove it." Such fatwas combine, fear, meaning and penalties to produce norm observance among many of the faithful although it must be noted that many upper class Muslims ridicule such fatwas.

Since India is a mosaic of many religions, each of which has worked out a different balance between norm observance and norm transgression, I shall limit my illustration to the majority religion, the Hindus, and to one case the Sabarimala temple entry case. Devotees of Lord Ayyappa are required to prepare themselves, both physically and spiritually, for 41 days before they are eligible to receive the darshan of the lord. This goal involves austerity and sexual abstinence. Since Lord Ayyappa is considered a celibate God the temple tradition, as it evolved, restricted visitors to the temple to men. Women in their menstrual phase, i.e., sexually active phase, were debarred from visiting the lord because of his celibacy. Women beyond and before that age are allowed to worship at the temple. In recent times Sabarimala has increasingly become a significant site for the battle between transgression and conformity within a religious tradition.

At this point it may be worth noting that preceding the Sabarimala case was the demand by women activists for the right to worship at two other sites where they were debarred by tradition, as laid down by orthodox patriarchal authorities, from worshipping. One is the Shani Shingnapur temple in Ahmednagar and the other is the Haji Ali Dargah in Mumbai. In both places women's activists had declared that they would transgress the norm of women not being permitted to worship inside the precincts of these holy places. They

transgressed. And although there was resistance from the orthodox sections of worshippers, who threatened the activists with physical violence and also religious wrath, the women activists entered the religious premises at both these places. The incentive to transgress was too strong and the penalties too mild. The activists knew that the Indian Constitutional system would support them and would defang the physical threats of a patriarchal order. This is the direction in which the constitutional system has moved on the issues of gender justice and the right to equality for women. The courts supported the activists. Under pressure from the judiciary, in April 2016, the authorities of the Shani Shingnapur trust and, in October 2016, the Haji Ali Dargah trust allowed women access to the inner sanctum of the two holy places. Transgression of the old norm debarring them produced the new norm of giving them access.

> [T]he pressure to reform traditional norms, because of the forces of modernity especially from women's groups fighting for gender equality with the assistance of the constitutional system, is growing

The same struggle is taking place in Sabarimala but on a larger scale. Women's groups from across the country have decided to transgress the norm of denial of access to women in the age groups of 10 to 54. The courts have directed the state to permit access to women. This case reveals the following: (i) that the pressure to reform traditional norms, because of the forces of modernity especially from women's groups fighting for gender equality with the assistance of the constitutional system, is growing, (ii) that religions in India are undergoing a silent internal reworking which is producing a new religion and a new normative order, and (iii) that there is a weakening of the penalty system, especially within the Indic religions, where new cults are being formed such as the deras in Punjab and Haryana.

To attempt an all India picture of the relationship between the fluid and the fixed, particularly within the Indic religions, seems doomed to failure because of the enormous diversity of practices, meaning systems, rituals, deities, and auspicious times that exist. At best the norms are local, either community specific or temple specific. Even within such localness there is fluidity and this is exacerbated by the forces of modernity. So while religious scholars will talk about auspicious time and place, about norms to be followed, the actual practice exhibits a surprising fluidity that varies with local priest and occasion. The tolerance of transgression is also caste specific. Since tolerance is a relational concept, referring to the relationship between a transgressor and one who tolerates that transgression, it must be noted that there is less tolerance of transgression by castes lower in the ritual order than by castes higher in the ritual order. Norm observance hence gets internalized within communities in India. Across communities transgression is ignored.

Transgression and the Legal

Just as in the case of religion, the domain of the legal also has many sub domains. For example, if we limited our analysis to only Supreme Court judgments we would get a picture of a society and polity increasingly becoming norm observant where transgression is penalized by the court, where fear of transgressing the court's edicts is high, and where the incentive to transgress is low. In recent years the honourable justices have, in detailed judgments sometimes running into hundreds of pages, been laying out the desirable normative structure for contemporary India. Transgressors, irrespective of whether it is a chief secretary of a state or a minor police constable, are admonished by the court and even threatened with incarceration and heavy penalties. At the level of the higher courts transgression is costly.

If we select another level and looked at the lower courts we would, in contrast, discover a different balance between observance and transgression. At this level, litigation is long, costly, exhausting and flawed. At this middle level of the legal domain, norm observance or transgression, derives from the larger dynamics of society. Because of their societal power some groups have no fear of transgressing the law. Powerful individuals and social groups are confident they can game the system. Although there is a risk that they might fail in their gaming, and then they would have to face the penalties that the law specifies, the availability of good lawyers, of social networks, of an Anglo-Saxon adversarial system of evidence production, of an overburdened judiciary, and of the play of money power, makes the middle level of the rule of law a game to be played.

The legal process, at this level, is a balance between the fixed process, the letter of the law, with the fluid process, the gaming of the system by those with social power. An illustration of the acknowledgement that such gaming takes place is the decision of the Supreme Court, in a radical departure from practice, to shift the legal hearings on the Gujarat communal violence of 2002 from Gujarat to Maharashtra. The court felt that the possibility of gaming the legal process would be diminished by this decision. But it is not at this middle level where there is huge variation in the balance between the fixed and the fluid that I wish to locate my case. It is at the lowest level, where the vulnerable live and where they must receive the greatest protection from the rule of law, at which I want to locate my discussion of norm observance and transgression in the legal domain. As in the previous instances here too I shall rely on a

discussion of just one case.

The Tata Institute of Social Sciences (TISS) report on shelter homes in Bihar reveals the manner in which the rule of law functions for the weak and the vulnerable. Fourteen homes were studied. All were managed by NGOs for, and on behalf of, the state. Each had wonderful names such as Sakhi (generous, bountiful), Nirdesh (instruction) and Panaah (refuge), and was considered as "protective zones" where vulnerable women and girls, who had either been abandoned or abused in society, were rescued from these abusive situations and housed in state supervised "shelter homes." The law was planned to protect them. Strict rule observance of protective laws was intended by the modern state. It is important to note that the homes were officially referred to as "shelter homes." By providing for such safe spaces the state was sending out the message that it seriously accepts its responsibility of providing security, through law, to its most vulnerable citizens.

> In large parts of India, I want to suggest, there is a culture of impunity from the law. Such defiance of the law is widespread and can be noted in areas as varied as urban development, private delivery of health services, disposal of industrial waste, pollution of water bodies, ripening of fruit by the use of chemicals, absenteeism in schools, etc,. The rich, and the powerful, have no fear of transgressing the law.

Yet the lived reality of these homes was very different from that which was promised. Local power elites took over these homes to create for themselves - as perverse as it may sound - resources for sexual exploitation. Defenceless inmates in these homes were coerced into sexual submission. The staff of the homes, often women, colluded with the abusers. The TISS report, after looking at all fourteen institutions recorded that "institutions of all categories were found to be indulging in some form of abuse. Incidents of harassment, sexual abuse, corporal punishment, neglect and humiliation were reported rampantly across the state." Sexual violence was used as a form of punishment. In one "shelter home" in Muzaffarpur, one Brajesh Thakur who controlled the home was alleged to have abused 34 girls. He was a local leader who had deep connections with influential people as was shown in the address book on his phone. The report suggests that this reality of sexual exploitation in the homes was well known. The inmates were trapped within them unable to exit. The caring state had turned into a monster state for the exploited women.

The shelter home had become a virtual hell as every protective layer of the legal state failed the vulnerable women: the civil society partner supposed to be a bulwark against tyranny became a partner to tyranny; the visiting committee, an institutional device to serve as a check against mistreatment, was complicit; the welfare officials, who were supposed to monitor the working of the homes, were indifferent to the condition of the girls. In the report we get a dismal picture of failure of both state and society, of law. I want to suggest that this is more than a lapse. What we are seeing is the capture of the state by local elites and the imposition, on them, of the culture of caste and patriarchy. The protections of the legal order are absent.

The case tells us that far from the pronouncements of the Supreme Court, intended to create rule observance, and far from the processes of the law courts, where some penalties to transgression are possible, at the level of the lived reality of most Indians, in most parts of India, transgression of the rules by the powerful is commonplace. There is no fear of penalty. There is little acceptance of the constitutional order's normative messages. There is a huge gulf between the rule, as it exists in the statute book, and the lived reality because of the capacity of elites to game the system. The fixed aspects of the legal domain are weak and are easily overwhelmed by the fluid aspects. The river floods its banks.

In large parts of India, I want to suggest, there is a culture of impunity from the law. Such defiance of the law is widespread and can be noted in areas as varied as urban development, private delivery of health services, disposal of industrial waste, pollution of water bodies, ripening of fruit by the use of chemicals, absenteeism in schools, etc,. The rich, and the powerful, have no fear of transgressing the law.

Transgression and the Economic

The same can be said about the economic realm. While there are clear norms specified by the state through its agencies such as the RBI, SEBI, CBDT, ED and the Income Tax authorities, among a host of other agencies that have contributed to building up the normative frame that will run the economy, the general sense is that economic agents will transgress these norms if they feel confident that they can get away with the transgression. They know that a team of experts is available to help them in such transgression. While there are penalties, and there is a vibrant debate on the value of the rules and regulations, the incentive to transgress is enormous because of the drivers in the economic realm of both accumulation and consumption.

The Nirav Modi case is a good diagnostic test of transgression in the economic domain exposing the lie to the claim that the economic sector is rule conforming. Experts on the economy will respond to my observation, that scamsters have little fear of transgression of the rules, by saying that my observation is based on inadequate knowledge and on a poor understanding of how effective and successful the rules and regulations of the economy are actually are in producing compliance. Maybe. What I wish to emphasize, however, is that if it is possible to transgress the rule, scamsters will. They rule the Indian economy. If they can game the system they will and they do. And do so with the confidence that rules are no constraint.

Those opposing my argument, by suggesting rule conformism, will have to explain to me the Nirav Modi case. It reveals that a class of agents: borrowers, lenders, regulators, oversight monitors, financial controllers, auditors, members of the board, etc., in short, the whole gamut of rule imposing authorities, failed to notice that a fraud was being committed. Looking at the newspaper reports one wonders at the ease at which a jeweller borrowed in excess of Rs. 11000 crore (not thousands or lakhs of rupees but thousands of crores) from the public sector Punjab National Bank. This borrowing was for jewellery and not for building up the infrastructure of the country, such as a port or a metro system or a super speciality hospital or even a highway. When all banks are required to report such large financial dealings to layers of regulators, including the RBI, how did this happen. And how did it go on for years before it got exposed through chance.

To make matters worse when the case got too hot, because the story made headlines, Mr Modi, left the country several days after the news became public. A battery of officials, ranging from the serious fraud office to the immigration authorities, was unable to stop him from leaving the country and from being held accountable for his transgression of the law. And then to make us look silly he mounted a legal defence in a British Court that he had fled India because he was being persecuted. He thus sought the protection of British laws.

In the Modi case what is inconceivable is the ease with which he transgressed the laws. Only after he left the country did the Indian authorities declare him an economic fugitive. Perhaps this is a unique case and must be treated as such. Perhaps one scamster does not a winter bring. Then how does one explain that his uncle, Mr Choksi, also a jeweller, following the same script, defrauded the banks, fled India, was declared an economic fugitive, and became a citizen of another country. Thousands of crores were again involved. India has again to argue its case for penalties in a foreign court.

> [L]aws, policies, regulation and oversight, and the enforcement of compliance are driven not by the public interest but by private interest.

So either we can treat this as a unique case or see it as another instance of the devil-may-care attitude to rule compliance of the rich and powerful. Perhaps I do not understand how the rules and regulations work in the economy in India but I do understand the political economy of their working. Transgressors are rewarded because they have established a network of beneficiaries who range from the higher levels of government, (politicians have access to yachts of Indian industrialists moored on the Cote-de-Azur) to the dealing hand in a government office who makes the first noting in the file. Their network of contacts is present in all the regulatory and law enforcing institutions in the economic sector and hence they have no fear of penalties for their transgression. The political economy of their working is to convert a public asset, the state, into a private asset. This means that laws, policies, regulation and oversight, and the enforcement of compliance are driven not by the public interest but by private interest. This can be taken to be the incontrovertible truth. From Harshad Mehta to Ramalinga Raju, from Subrata Roy to Vijay Mallya the story is the same. Scam and survive.

> [T]he rich and the powerful have no fear of being transgressors. The law is a feeble constraint, impressive in its letter but weak in its enforcement.

If this appears too polemical, too full of hyperbole, then let us develop our narrative only in sub-sectors. Take an area - real estate or banking - ascertain the rules that define its working, identify transgressors who are members of the political elite, and investigate how the system responds to their transgression. An ethnography of the case would reveal who is punished and who let off and why, when does transgression occur, when is there compliance, and how do incentives, penalties, meanings and fear combine to produce particular behaviour. My suggestion, or hypothesis if you will, is that the rich and the powerful have no fear of being transgressors. The law is a feeble constraint, impressive in its letter but weak in its enforcement. What about the ICICI and Videocon case: neighbour's envy, owners pride? Norms, procedures, oversight agencies, transgressions and exoneration, can all be seen to be present in the case. And yet there is a suspicion of a scam. Perhaps this is another exception. Then maybe one should look at the lakhs of crores in the non-

performing assets (NPAs) of banks, a list hidden from public scrutiny but available to the Supreme Court, that are being written off by the regime in power.

Transgression and the Political

The final domain to be discussed is the political. Here too, like in the other domains, I shall take just one illustration. An illustration may be an account of exception or it may be a description of the general state of affairs. Here to, as in the other cases, one must try and reconstruct the normative frame within which the episode occurs. Let me reiterate what I has been saying all along which is that all human communities are able to exist as collective spaces because they have normative frames that regulate the social behaviour of individuals and groups and that lay out what is permissible and what is not.

The case I wish to discuss is the 2017 elections to the Goa Assembly. In this election the number of those who voted was a record high of 81.4%. From the high turnout one could conclude that the voters wanted to make an unambiguous statement about who shall represent them. A vote of 81.4% is as near a figure as the "whole people" voting. So whom did they choose? Of the total votes polled, the Bharatiya Janata Party was the largest party with 32.5%, the Congress 28.4%, the Maharashtrawadi Gomantak Party 11.3%, Independents 11.15%, Aam Aadmi Party 6.3%, Goa Forward Party 3.5%, with other assorted groups getting the rest. However when votes polled are translated into seats, a function of the first past the post electoral system that we follow, the seats won were BJP 13, Congress 17, Maharashtrawadi Gomantak Party 3, Goa Forward Party 3 and Independents 2. The contrast between the two pictures, voting percentages and seats won, does not give us a clear picture of the voter's intention. So we have to look deeper.

"If we now break down the aggregate votes into constituency profiles, especially of the three groups that have, after the election, joined to form the BJP-led coalition government, since both the largest parties in Goa did not get a majority, the picture that emerges," in all three groups, is that 'the voter clearly wanted to defeat the BJP. There can be many reasons for this but the main one was that all the eight candidates campaigned on a platform concerning the BJP's misdeeds, its corruption and its unacceptable actions. This they presented to the voter as "being against the interests of Goa. The voter heard them, believed them, and voted for their message." In spite of the clear statement of the voter's intention, where the BJP candidates were defeated in the eight constituencies that were won by the eight MLAs, all the eight, after the election, moved en masse to the BJP and formed a coalition with them against what their voters intended. If democracy, in a minimalist Schumpeterian sense, is choosing who is to govern you, then the voter's choice was dishonoured by the defections. For this transgression of the democratic norm, which requires one to act in a manner consistent with the voter's wish and not against it, they were recompensed by the BJP. The government that was subsequently formed rewarded them ministerial positions and plum portfolios. In politics in India today, winning is alone the norm.

> The rules that set out the process to be followed in democratic government making cannot constrain behaviour particularly when the rules are regarded as obstacles to achieving the goal of government formation.

Such norm transgression in politics is not uncommon. What happened in Goa, also happened at about the same time in Manipur. This is just one illustration of the weakness of democratic norms to regulate behaviour that is driven by self-interest and by the ability to convert the political space into an opportunity for personal aggrandizement. In contrast to norm transgression in culture, and norm transgression in religion, norm transgression in politics leads to a loss of legitimacy in the democratic system. When elected representatives run away with the mandate, and when the leaders of the nation endorse such transgression, and when the oversight authorities of the Governor, the House Speaker, and the Courts, impose no penalties, then the incentive for indulging in such behaviour is huge. Government formation, it seems, is all that matters. The rules that set out the process to be followed in democratic government making cannot constrain behaviour particularly when the rules are regarded as obstacles to achieving the goal of government formation. Many more instances of norm transgression can be given in the political domain, where transgression has become the new normal, but this example is sufficient for highlighting the ease with which transgression takes place.

Common Threads

From the preceding section one may note with some curiosity that I have, in the first three domains, looked kindly at the phenomenon of transgression, because of the emancipatory benefits they bring to society, whereas, in the latter three domains, I have looked unkindly at the transgressions because of the costs they impose on collective life. In the latter three domains the normative system exists mainly in the statute books and not in the lived world. This normative system is supposed to give the benefits of democratisation

to the whole society but because of the transgression that does not happen. The benefits accrue only to the elite who have the capacity and willingness to transgress.

In the first three domains I highlighted the positive values of transgression. In the societal domain, for example, transgression was seen as challenging the traditional order, resisting orthodoxy and thereby contributing to an expansion of the emancipatory resources of society. In the culture domain, it was regarded as supporting innovation and expanding the creative repertoire of society. In the domain of religion, transgression was seen as producing more heterodoxy, of seeking to balance respect for the sacred while simultaneously encouraging resistance to religious tyranny. In contrast, in the three domains of law, economy, and politics, transgression was seen as the capacity of the rich and powerful to disregard the normative order that the modern constitutional state was trying to establish for the benefit of everyone. This planned normative order has the promise of expansion of t freedom for all citizens. But the transgression undermines this promise.

I argued that the new normative order comprising of laws and conventions was being undermined by the behaviour of the rich and the powerful. While acknowledging that there are also trends towards norm compliance in these three domains the examples chosen were deliberate to draw attention to the large area of norm transgression and to the forces that make it so and to the challenge to bring it back towards norm compliance. Underlying this criticism of norm transgression is the belief that if it is not possible to produce compliance in the powerful then the normative order would, by default, be penalizing the weak and the poor for complying. This is the zone where most Indians are condemned to live. When shelter homes become places of abuse then we know how feeble is the writ of the law.

I deliberately chose the strategy of taking a book, a person, an episode, or a case to discuss the normative order and the transgressions to it in a particular domain. I was clear that this strategy would produce neither a comprehensive nor an exhaustive analysis of the dynamics of the domain. That would require a different type of exercise. The objective here was merely to invite a discussion of transgression in a domain and to examine its implications for that particular domain. It was suggested that the normative structure of each zone was to be read independently and that, to get the full picture of contemporary India, the different accounts must be read together. They cannot be aggregated since their internal dynamics are different. Yet common to all is a normative structure that is either working or is proposed. To appreciate the social behaviour in each domain we need first to get a map of the normative system in that domain, or sub-domain, and to chart the dynamics of transgression and conformity there. The normative logic of one domain does not seamlessly link with that of the other and that is why they must be read independently. However they must also be read together so that one gets a sense of the big mosaic that is India.

Let me now try and pull the threads together.

Running through the preceding discussion are three issues common to each domain that explain social behaviour. The first is the existence of a normative structure that regulates behaviour and that is constitutive of a balance between elements that are fixed, i.e., those that discourage behaviour that transgresses, and which are fluid i.e., those that are more tolerant of such behaviour. The balance between these two elements, the fixed and the fluid, will determine the extent to which social behaviour transgresses or conforms. In this article we have mainly been concerned with the social behaviour of groups and not of individuals.

The second is to recognize that this balance between the fixed and the fluid depends on four drivers - incentives, penalties, meanings and fears - which exist in combination and which, in turn, determine whether social behaviour will transgress or conform to the normative structure. If transgression is too widespread it makes little sense to use the idea of a stable normative structure and so, perhaps, we need to see that moment as a moment of transition from one normative order to another that is in the process of replacing the first. There are two points being made here: (a) that all societies or communities have a normative structure that regulates social behaviour and that gives legitimacy to certain ways of doing things, and (b) that this normative structure changes depending on a combination of incentives, penalties, meanings and fears.

The third is to suggest that the task of the social sciences is to locate, and reconstruct, the normative structure at all three levels: micro, meso and macro. This would involve mapping the balance between the fixed and the fluid aspects of the structure and the manner in which the drivers, mentioned earlier, have combined to produce this balance. As stated at the outset, the normative structure is under pressure from these drivers. Its capacity to withstand the pressure will depend on at which point of the structure the pressure is being exerted. The structure is not static. In Indian society there are many normative structures in each domain and at each level. Whether those at the micro level align to produce a coherent narrative at the meso level, which in turn align to produce a macro narrative, is not easy to say and nor is it necessary for this analytical framework. The intention of offering a single word to explain

contemporary India was to give us the cornerstone for a framework of explanation which accounts for both agency and structural dimensions and that works for both micro and macro narratives. The word "transgression" meets these multiple requirements.

(Read the extended discussion on this article -- comments and the author's response -- here)