

“Ethical Considerations in Conducting a Caste Census: Balancing Representation and Privacy”

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Abstract

This paper explores the complex terrain of conducting caste censuses in India, primarily concentrating on ethical issues. The debates surrounding caste census proposals and their evolution are traced, together with their historical context. The paper strikes a careful balance between guaranteeing fair representation and protecting individual privacy as the requirement for accurate and representative data becomes essential for efficient policy development. The moral precepts that guide the caste census are examined, including issues with data security, privacy, and the need for informed permission. Using global norms and India’s data privacy laws as a guide, the paper suggests ways to reduce the likelihood of discrimination and stigma. In order to acquire reliable data, emphasis is put on the value of varied viewpoints and avoiding the essentialization of caste identities. The piece delves further into privacy issues, including the possibility for discrimination and exploitation of caste-related data. Techniques for maintaining privacy, anonymity, and minimizing technical difficulties are examined in light of India’s overall digital environment. A thorough examination of the laws governing caste censuses is given, covering worldwide comparisons, current regulations, and constitutional restrictions.

Introduction

India has a long and complex history of carrying out population counts, a procedure that is fundamental to the country’s search for vital demographic information. Notably, there has been ongoing discussion and disagreement about whether or not caste should be included as a category in these censuses. In India, caste is a long-standing social structure that has a significant impact on many aspects of life. Caste enumeration was first attempted in 1881, during the British colonial era. Subsequent attempts were made in the early years following independence. However, because caste dynamics are complex and sensitive, these attempts have been uneven, with differing degrees of controversy and success.¹

The need to handle the impending caste census with careful ethical issues front and centre is becoming more and more apparent. As a moral compass, ethical concerns dictate the rules guiding the gathering and application of caste-related data. Considering the caste system’s historical and current ramifications in India, ethical examination emerges as a vital precaution against information misuse and a way to protect the rights and dignity of people from a variety of caste backgrounds. To prevent prejudice, discrimination, or societal divides that might result from the improper use of caste-related data, a careful and moral approach is essential.

¹ Purohit. (2023, October 5). *How a landmark caste census in India threatens Modi’s grip on power*. Al Jazeera. Retrieved December 20, 2023, from <https://www.aljazeera.com/features/2023/10/4/how-a-landmark-caste-census-in-india-threatens-modis-grip-on-power>.

The difficult balance between privacy and representation is central to the issue. On the one hand, a thorough grasp of caste demography is necessary for well-informed policies, guaranteeing that underprivileged populations get the necessary support and resources. On the other hand, it is crucial to protect people's privacy and shield them from potential caste-based prejudice. Achieving this balance requires giving significant thought to the ethical implications involved. It necessitates a balanced strategy that protects each person's rights and dignity throughout the census while also acknowledging the historical background of caste.

Historical Context of Caste Census

India's caste census has its origins deeply ingrained in the complex social fabric of the nation. Caste enumeration dates back to the colonial era, when systematic attempts to classify India's population were launched by the British administration, motivated by a desire to understand the country's unique social fabric. Under the direction of British colonial authorities, the first systematic attempt at caste enumeration took place in the 1881 census, and this tendency continued in the following decennial censuses.² It is important to remember, though, that different approaches and degrees of detail were used in each iteration, which reflected the changing administrative goals and changing social dynamics on the Indian subcontinent.

The caste census has been clouded by controversy even though it has been conducted historically. Classifying people according to their caste identities has sparked discussions about how discrimination and social inequalities may be maintained. Particularly the 1931 caste census drew heavy criticism for what was thought to be its ability to solidify caste-based divides, leading to concerns about the inadvertent effects of similar enumeration efforts.³ Later attempts were met with suspicion; critics said that these initiatives ran the risk of oversimplifying the complex fabric of Indian society and ignoring the variable and nuanced nature of caste identities.

India's caste census is governed by a complex legal system that includes statutory legislation, constitutional requirements, and changing court interpretations. While outright forbidding caste-based discrimination, the Indian Constitution also recognizes the necessity of affirmative action in order to elevate historically underprivileged groups. The state may provide specific arrangements for the progress of socially and educationally disadvantaged populations under Article 15(4). Moreover, Article 46 emphasizes the advancement of the economic and educational interests of Scheduled Tribes, Scheduled Castes, and other marginalized groups.

Caste-based enumeration is governed by certain rules and regulations in addition to constitutional demands. The fundamental legislative framework for conducting population censuses in India, which include the enumeration of castes, is established by the Census Act of

² *A caste census reopens old grudges in India.* (2023, October 12). The Economist. Retrieved December 20, 2023, from <https://www.economist.com/asia/2023/10/12/a-caste-census-reopens-old-grudges-in-india>.

³ *Id.*

1948. However, difficulties and discussions have been brought about by the absence of a thorough legislative framework that specifically addresses the complexities of caste census. The conversation around caste-based enumeration is made more difficult by the ever-changing environment of data privacy rules, especially after the passage of the Personal Data privacy Bill.

Policy Analysis as to the Caste Census

India's commitment to evidence-based policymaking is deeply ingrained in the necessity of carrying out a comprehensive caste census. Having a deep grasp of the social landscape, especially the complexities of caste dynamics, is essential to developing policies that effectively satisfy the diverse demands of the populace. The main goal of a caste census is to give decision-makers detailed information that is essential for creating specialized social welfare programs. Through exact alignment of resource distribution with the unique needs of many communities, the caste census serves as a crucial instrument for promoting inclusive development.⁴ This strategy actively seeks to close the gaps in society by crafting policies that are specifically designed to benefit the socioeconomically disadvantaged.

India's large size and socio-economic diversity contribute to the country's wealth of demographic data, which is collected through census initiatives. There has been an increasing movement in recent times to include questions on caste in the survey, which is pressuring the government to think about conducting a caste-based census in 2022. An analogous request surfaced in the course of the 2011 census, giving rise to the Socio-Economic Caste Census (SECC). The caste-based census's proponents contend that it should fairly represent the pervasiveness of caste in Indian culture. Precise calculation of different castes is considered essential for formulating policy, especially in domains such as caste-based reservations.

Reservation is a kind of affirmative action used by the government to provide historically underrepresented groups in society with a quota in public institutions. Opponents counter that a caste-based census will worsen the already-existing caste differences, which have a detrimental effect on national unity. Citing the incomplete and unpublished statistics from the SECC as proof, they argue that the lack of an official caste registration renders such an attempt administratively and practically impossible.⁵ It is crucial to understand that none of these politically motivated viewpoints should be the foundation for constitutional, legal, or human rights issues.

When considering the circumstances of India's OBCs, the policy becomes more significant. The word 'OBC' refers to a group of castes that are all protected under reservations. However,

⁴ Thakur. (2021, October 18). *Explained: What Is The Caste Census & Why It Is Demanded By Political Parties Now?* India Times. Retrieved December 20, 2023, from <https://www.indiatimes.com/explainers/news/caste-census-in-india-explained-551905.html>.

⁵ Perappadan. (2021, October 3). *Explained | Why is the government against caste census?* The Hindu. Retrieved December 20, 2023, from <https://www.thehindu.com/news/national/explained-what-are-the-governments-objections-to-a-caste-census/article36713236.ece>.

as indicated by studies such as the NFHS, there are differences in the economic standing of OBCs among Indian states.⁶ According to a 2019 analysis, there are differences in the proportion of OBCs among the wealthiest 20% of families, highlighting the uneven economic standing of OBCs across the country. This emphasizes the necessity of identifying underprivileged groups within the OBC classification and implementing policy changes to meet their unique requirements. The Rohini Commission was formed by the government to aid with this, and it included 2,633 OBCs on the Central List. The Commission suggested dividing them into four smaller groups, each having 2%, 6%, 9%, and 10% reservations.⁷

Ethical Principles in Conducting Caste Census

Globally recognized and safeguarded by international norms, privacy is an essential human right. These norms, which are best represented by texts such as the ICCPR and the UDHR, place a high value on protecting people's privacy. Considering the delicate field of a caste census, compliance with these international norms demands the use of strong safeguards such as sophisticated encryption techniques, safe data storage procedures, and strict access restrictions. Together, these safeguards strengthen the confidentiality of personal data and guarantee that the caste census complies fully with international ethical standards. When it comes to the finer points of Indian data protection law, the nation has come a long way toward creating a strong legal framework. India's dedication to protecting personal privacy in the digital era is demonstrated by the implementation of the Digital Personal Data Protection Act in 2023. It is essential to incorporate the main ideas outlined in this legislation in order for the caste census to comply with the changing legal requirements within the national context. These principles include, but are not limited to, data minimization, which encourages the collecting of just required information, purpose limitation, which limits the use of data to its intended purpose, and accountability, which calls for entities handling data to be held accountable for their actions. Following these guidelines strengthens the ethical basis of the caste census and guarantees legal compliance. It emphasizes the responsible and open management of sensitive information, going beyond a simple legal requirement. Consequently, this helps build public confidence in the process as a whole. Through compliance with global norms and developing domestic laws, the caste census safeguards the inalienable right to privacy and establishes a standard for moral data processing within the larger framework of data protection.

A cornerstone of ethical data collecting is informed consent, especially when it comes to the complexities of a caste census. Getting people to provide their explicit and informed permission is crucial, and getting that consent requires a thorough and open communication plan. This include explaining the rationale behind the census, the types of data that will be collected, and

⁶ Kishore. (2021, August 24). *Decoding the purpose and politics of caste census*. Hindustan Times. Retrieved December 20, 2023, from <https://www.hindustantimes.com/india-news/decoding-the-purpose-and-politics-of-caste-census-101629741365130.html>.

⁷ Raghavendra. (2021, August 23). *Rohini Commission a big step towards empowering OBCs*. The Hindu. Retrieved December 20, 2023, from <https://www.thehindu.com/news/national/andhra-pradesh/rohini-commission-a-big-step-towards-empowering-obcs/article36070121.ece>.

how the collected data will be used. The core of this moral obligation is to make certain that people are fully aware of the consequences that come with taking part in the census. They may then use this knowledge to their advantage by making thoughtful judgments about disclosing personal information. In order to comply with the ethical criterion of informed consent, all communications pertaining to the census must be transparent and use language that is easily understood. Furthermore, the provision of a withdrawal option at any point in time enables people to uphold the moral need to preserve their own autonomy. Ethical behaviour requires the implementation of proactive steps to reduce the dangers of stigmatization and prejudice in caste censuses, given their inherent potential for these outcomes. It becomes essential to create census questions with the utmost care, avoid using derogatory language, and make sure that the information gathered is used solely to correct historical injustices and create inclusive policy.

Legal Aspects of Caste Census in India

The policy framework's viewpoints are taken into account while examining a "caste-based census" through the prism of human rights, which serves to bolster the claims made by those in favour of it. Protecting the rights and freedoms of national, ethnic, and religious groups is the goal of a strong human rights framework. In 2016, the UN Special Rapporteur on minority affairs provided a thorough analysis of caste discrimination, demonstrating how it deprives over 250 million people of their social, economic, political, and cultural rights.⁸ A Human Rights Watch report also highlights this problem, highlighting how issues including discrimination, illiteracy, and the absence of protective laws contribute to the continuation of caste-based employment. In addition to upholding the rights contained in Articles 14 and 21 of the Indian Constitution, conducting a caste census and using the data to create inclusive policies for the most marginalized groups of society also conforms to international norms established in agreements like the UDHR. The UDHR's Articles 1 and 7 seek to uphold equality, advance social development, raise living conditions, and safeguard human dignity.

In contrast to the previously described perspectives, analyzing the issue from the standpoint of the nation's local laws adds complexity. The problem is false information and data display distortion. There are recorded cases of enumerators filling out questionnaires as a result of their lack of training and the demanding nature of their work. Cases like *Rajendra Soren v. State of Jharkhand and Others* from recent times show how improper enumeration practices can result in inadequate district statistics.⁹ Inaccurate information provided by respondents to the census also undermines its credibility, raising questions about its applicability for politically touchy subjects like reservations.

⁸ *Caste systems violate human rights of millions worldwide – new UN expert report.* (2016, March 21). UN News. Retrieved December 20, 2023, from <https://news.un.org/en/story/2016/03/525012>.

⁹ *Rajendra Soren v. State of Jharkhand and Others*, Cr.M.P. No. 28 of 2011.

While deliberate fraudulent replies are addressed in Section 11(d) of the Census Act, 1948, the minimum punishment is insufficient to serve as a model deterrent. Section 13 of the Census Act states that cases pertaining to the census cannot be subject to the application of other laws, such as Section 177 of the IPC. In *Sharat Babu Digumarti v. Govt. of NCT of Delhi*, the Supreme Court made it clear that special laws take precedence over other statutes when they deal with the same violation.¹⁰ Therefore, in order to protect the legislative goal of the Census Act and avoid double jeopardy, even though the IPC may have a stronger deterrent, its use is prohibited.

Errors in official figures issued by India exacerbate the situation. Several incidents have demonstrated how untrustworthy these numbers are. The Reserve Bank of India governor highlighted in July, 2011 the dubious nature of data collected by government entities; the Commerce Secretary later repeated this view. One instance of this is the US \$9.4 billion overestimation of India's export estimates from April to October, which was ascribed to incorrect data input and misclassification of certain commodities.¹¹ Moreover, there are concerns over the precision of important government indicators like the Wholesale Price Index and the Index of Industrial Production. Concerns involve not just these official reports but also census statistics. The Nagaland census data serves as an example. Records show that the population of the state increased by 56.09% and 64.53% in the years 1981–1991 and 1991–2001, respectively. Nonetheless, the 2011 census shows a puzzling trend with no discernible biological, political, or cultural causes, a drop of 0.47% between 2001 and 2011.¹²

During the current winter session of the state parliament in November 2023, the outcomes of the historic and contentious caste census conducted in Bihar were made public. The survey was finished earlier in 2023, and its preliminary findings were released in October. It was the first time since Independence that all castes had been successfully enumerated. These demographic characteristics served as the foundation for the study, which also included data on employment, income, car ownership, home details, educational background, residential status, and laptop ownership.¹³

Conclusion and The Way Forward

It is necessary to summarize the many facets that have influenced our discussion as we come to an end of our investigation of the moral issues related to conducting a caste census in India. Understanding the historical background is essential to understanding this story, since caste

¹⁰ *Sharat Babu Digumarti v. Govt. of NCT of Delhi*, CRIMINAL APPEAL NO. 1222 OF 2016 Arising out of S.L.P. (Criminal) No. 7675 of 2015).

¹¹ Agrawal. (2012, April 6). *How reliable are India's official statistics?* East Asia Forum. Retrieved December 20, 2023, from <https://www.eastasiaforum.org/2012/04/06/nagaland-s-demographic-somersault-how-reliable-are-india-s-official-statistics/>.

¹² *Ibid.*

¹³ Roy, A. G., & Pathak, S. (2023, November 8). *Decoding findings of Bihar's caste survey report*. Hindustan Times. Retrieved December 20, 2023, from <https://www.hindustantimes.com/india-news/decoding-findings-of-bihars-caste-survey-report-101699396896631.html>.

census efforts and disputes in the past have had a lasting impact on the nation's memory. We have examined the complex relationships that exist between data security, privacy issues, and the urgent need to represent underrepresented populations. The moral foundations of this kind of work demand a sophisticated comprehension of the fine balance needed to negotiate the complex socio-political terrain.

The fine balance between representation and privacy is where the ethical issues around a caste census rest. Comprehensive data is necessary to create efficient social and economic policies and correct historical injustices, but individual privacy rights must not be violated in the process. Reaching this balance necessitates careful consideration in the creation of laws, policies, and public involvement. It is not just a theoretical exercise. Crafting an approach that avoids essentialization, fosters a comprehensive awareness of the complexity involved, and accepts the diversity of identities within the caste framework is crucial from an ethical standpoint.

The moral need of conducting a caste census in India is becoming increasingly apparent as we look to the future. Given the rapid improvements in technology and the constantly changing socio-political scene, it is critical to provide a roadmap that not only complies with existing ethical norms but also predicts and tackles new issues. To guarantee that privacy is protected, the legal framework pertaining to data protection has to be strengthened to resist the quick speed at which technology is advancing. In addition, it is critical to include a range of stakeholders in order to promote a feeling of shared accountability and ownership.