

## Article

# Guilty Until Proven Guilty

## Policing Caste Through Preventive Policing Registers in India

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### Abstract

The journey to understand technological and digital policing requires a re-engagement with the most basic and widely used technology – paper-based registers for preventive policing. In the name of preventive policing, people from ex-untouchable castes, indigenous populations, and immigrants (in the city) are put under surveillance and recorded in registers. In the process, they earn criminal records for petty crimes, but also for no crimes at all. The registers enable a very ‘visible’ surveillance, where the ‘suspects’ are watched, followed and asked to come for mandatory attendance at the stations. Keeping in mind the segregated nature of the urban landscapes of cities in India, this is only possible for people who belong to certain strata of society and who do not have the privilege of escaping the prying eyes of the police. Researchers have argued that this form of policing is anti-poor or anti-marginalised. However, in this article, I argue that this form of preventive policing is better understood as being anti-caste. I demonstrate how police manuals, including guidelines for police record keeping and surveillance practices, reproduce and imitate the caste based social structure of India by using legacy practices from some still operational and some defunct laws. The paper-based registers maintain an illusion of objectivity – while the police can simply claim to be obeying the manuals. However, by enabling the recording of only those able to be visibly surveilled, those arrested for petty crimes, or those unable to escape the criminal justice system because of lack of money or social support or both, the paper-based registers become a vehicle of policing caste. By marking those thus recorded as habitual offenders, these registers propagate the caste-based understanding that defines crime as an inherent/hereditary trait of the lower castes. Prediction becomes nothing more than a self-fulfilling prophecy.

### Keywords

surveillance, crime, preventive policing, caste, India, paper-based registers

The colonial government introduced ‘Preventive Policing’ in the 18th century India, beginning with the recording and surveillance of people with non-normative professions or those outside the fold of the settled agricultural lifestyle (Singha 2015, 243). With the coming of the Criminal Tribes Act in 1871, this expanded to include entire groups of people who were considered hereditary criminals. The sections 109 and 110 of the Code of Criminal Procedure (CrPC)

introduced in 1861 were already designed to curtail people who were thought to be *habitual* of/addicted to committing crime.

Contemporary preventive policing registers in active use by the Delhi police forces, as will be argued, build on police manuals that carry the legacy of the Criminal Tribes Act, 1871 and sections 109-110 of CrPC, rather than working against caste prejudice. These registers utilize almost identical language of ‘habituality’ and ‘addiction’ to crime that a) *claims uncontrollable natural urge to commit crime* and b) *prescribes surveillance as a way to reform said habitual criminals*. Looking closer at the Delhi Police Manual, and the Punjab Police Rules, 1934 (PPR), will enable us to understand the surveillance and record keeping of the so called ‘habitual offenders’ in the city. These individuals are colloquially called ‘history sheeters’ after ‘history sheets’ which is where the surveillance records of such offenders are kept (indicating a history of crimes). Moreover, another register, named the ‘Ruffian Register’, allows for policing of ‘bad characters’ in any given area and acts also as ‘proto history sheets’ for the Delhi Police. The Ruffian Registers do not technically follow the PPR rules for their maintenance,<sup>1</sup> since they provide a faster way of putting suspects on surveillance, thus evading the complicated bureaucratic processes of making history sheets which would slow the process down. As such, the Ruffian Registers need to be understood as complementary, and indispensable to the smoother functioning of the otherwise bureaucratic system.

One of the officers I interviewed argued that the police are like ‘astrologers’ who, just by analysing the paper registers in the station (a total of 25 registers including preventive registers) and First Information Reports (FIRs)<sup>2</sup> can easily figure out the budding criminals and future crimes in their areas. The police officers do not refer to a scientific idea of the criminal, despite the modern illusions of bureaucratic objectivity of their registers, but work on the received wisdom from their socialization in the police force itself when reading the station registers – not to mention their production. Morash has similarly argued that police learn to recognize cues of a suspected juvenile delinquency through their ‘occupational socialization’ (Morash 1984, 98). Police officers in India, except for those in the Indian Police Service (IPS), are only expected to complete basic undergraduate level education. Most officers in Delhi Police are from the neighbouring state of Haryana and belong to active agricultural communities. A job in policing is seen as a step towards social mobility, or as one officer told me: ‘it makes us eligible for marriage into respectable families’ (Narayan 2020).

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<sup>1</sup> These registers are mandated by circular number 42/2003 of the Delhi Police, released in 2003. This circular mandates the maintenance of 19 police record registers including those to record activities of migrant labour in Delhi.

<sup>2</sup> The First Information Report or FIR is written after a preliminary investigation of a complaint by a police officer of the rank of inspector. FIR is the indication of the start of a formal investigation into the complaint.

Preventive Policing largely addresses petty crimes or blue-collar crime as opposed to white-collar crimes; the selection of people who are to be recorded in these databases is thus by default oriented towards those least likely to belong to the upper strata of society. Moreover, the subjects of surveillance are those who are particularly *visible* to the police because of their residence (slums and shanty settlements as opposed to gated residential communities) or those who are already in police station complaints or FIR registers (Muslims and Dalits are over-represented, as compared to their population, in the Indian Policing System).<sup>3</sup> Or else, those who can be easily police due to their inability to buy privacy. Roll call data, where suspects on the list are mandated to visit the police station to register their attendance daily, is a surveillance device which disproportionately targets only certain kinds of people and classes that can be made to come to the police station to provide proof that they are still in the area assigned to them.

Grounded in my fieldwork with Delhi Police from 2017-2019, interviews with Delhi Police officers in 2020 along with reading the Delhi police manuals for recording keeping, I argue that paper-based registers used in preventive policing enable selective criminalisation of the lowest castes, by making this criminalisation look objective and bias free. In other words, preventive policing registers actively police caste. This fundamental logic of paper-based registers is hence no different from the logic of datafied predictive policing: both the paper-based registers and the digital databases function as technologies of purification of social prejudice, and thus as technologies generating the illusion of objectivity (thus also enabling the evasion of responsibility). In this sense, there is little radically new about data-driven predictive policing systems – apart from scale and speed, and interoperability of databases and the granularity of the data which only promises to accelerate social sorting, bias, and inequalities (O’Neil 2016). Hence, similar forms of critique can be levied against both; we should not let ourselves be blinded by the seeming newness of data-driven predictive policing technologies.

## **A Note on Method**

This article is informed by qualitative methodology: interviews from various ranks of police officers from the Delhi Police Stations and Delhi Police Headquarters are used along with an analysis of the Punjab Police Rules 1934, Delhi Police Manual 6 of Policing and secondary literature on crime databases and preventive policing in India. I start by tracing the usage of the terms ‘habituality’ and ‘addiction’ in the Criminal Tribes Act, 1871, Sections 109-110 of the Criminal Procedure Code, 1861 and Delhi Police manuals. This is to demonstrate the continuity of the belief of the Indian society, in this case within the criminal justice system, of a certain

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<sup>3</sup> The Status of Policing in India Report (SPIR 2018), <https://www.commoncause.in/pdf/SPIR-2018-c-v.pdf> accessed August 21, 2021 shows how the over representation of Muslims and Dalits (the lowest castes in the Hindu caste system) and Adivasis (indigenous people) in the prison system is a reality across India. In this, Muslims have been seen as unequivocally over-represented in the prison system across states in India.

kind of natural or biological criminality of people, pertaining especially to those belonging to lower rungs of the caste ladder.

During 2017-2019, I interviewed around 20 police officers from the ranks of Constables, Assistant Sub Inspectors (ASI), Sub Inspectors (SI) and Inspectors in the Delhi Police HQ for my PhD fieldwork regarding the use of predictive policing in Delhi. Conversations also veered towards the many paper-based registers that the officers maintained during the daily operations of the station. These unstructured interviews were interspersed with questions regarding general policing practices, information collation and analysis. While my interest at that time was oriented more towards digital policing, I later realised that it is important to look at these paper-based registers since a) they are used more widely by the police officers in Delhi for daily policing and hence impact far more people than actual digital policing and b) the government's plan of data digitisation in policing would make these registers part of a digital database in near future. This paper uses my fieldwork notes from 2017-2019 appended with interviews with one inspector rank officer from a police station in South Delhi during the months of July to November 2020 to understand the use and making of these registers.

I also filed two Right To Information (RTI) requests with Delhi Police for Ruffian Record Registers and Village Crime Registers. I specifically requested these two registers because they were not mentioned as confidential in the Delhi Police Manual 6 that mentions the History Sheets as confidential documents. I also requested the circular number 42/2003 which provides instructions for recording Ruffian Registers. While I have received a copy of the circular, both the village crime registers, and Ruffian Registers were not shared.

While police officers were more than willing to speak about the processes of making the registers, along with details of data collection and the kinds of surveillance employed for it, the rules of confidentiality of certain registers made it difficult to see the actual registers.

Just like investigating predictive policing in Delhi for my PhD thesis where I did not have access to the actual algorithms used in analysis, I did not have access to the actual registers here because they were deemed confidential. However, I used my conversations with police officers to gain anthropological insight into the processes of data collection and processing and the ecosystem in which these registers were created to understand the ways in which they were being (as it turned out) prejudiced towards caste. I used anthropological methods to understand socio-technical systems, forwarded by Seaver (2017) and Marda and Narayan (2021), where the primary technology (the preventive policing registers) was not accessible to me.

## **Criminality and Caste**

There have been several studies unpacking the actual dynamics of differential policing with respect to marginalised populations. For example, Khanikar pointed to the duality of policing in Delhi vis-à-vis a ‘solid’ and ‘quasi citizen’ of the city (Khanikar 2018, 87). Quasi citizens have been described as the marginalised, the slum dwellers (especially Dalits<sup>4</sup>) or the immigrants (mainly Muslim immigrants from the neighbouring country of Bangladesh). The solid citizen is the one always anxious of the quasi citizen and their illegalities, she says, to which the police respond, with ‘torture.’ Dhareshwar and Srivatsan talk about the ‘rowdy sheeters’ who are positioned as the subaltern denizens of a southern state in India (Dhareshwar and Srivatsan 1996). Nandi describes the imaginary of the ‘goonda’: the lower caste immigrants in Calcutta in the early 1900s who were considered to be involved in activities that disturbed the peace of the upper-class citizens of the city (Nandi 2016).

In much of this literature, the assumption of the illegality of the quasi citizen or the rowdy sheeters or the *goonda* lies unchallenged. I argue that these illegalities need to be traced to caste. The role of caste in Hindu jurisprudence can be traced back to the Hindu code of Law, the *Manu Smriti* (Laws of Manu), where the severity of punishment for a crime is decided according to caste; the same offence would attract a more severe punishment for the member of the lowest castes.<sup>5</sup> Dr B R Ambedkar, eminent economist, member of the drafting committee of the constitution of India and crusader for the rights of the lowest castes in India argued that inequality is an inherent feature of Hindu jurisprudence, claiming that it has nothing in common with criminal jurisprudence written with a spirit of justice (Ambedkar 2014). He points out that first, in Manu’s code of justice, punishment is inflicted on the organ that committed the crime, as if the organ were a sentient being that knew what it was doing. Second, according to Ambedkar, punishment was not in proportion to the crime committed but according to the caste of the perpetrator, the more severe the lower the caste, which, according to him, leads us to the third and the most striking part, which is the law for unequal punishment for the same offence. Ambedkar says that the inequality of punishment was ‘designed not merely to punish the offender but to protect also the dignity and to maintain the baseness of the parties coming to a Court of Law to seek justice, in other words, to maintain the social inequality on which Manu’s whole scheme is founded’ (Ambedkar 2014, 31).

Mukul Kumar has argued that the idea of group criminality in India had emerged precisely out of this structure of Indian society, the caste system, and was not a result of mere lack of favourable living conditions, which was the reason given for

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<sup>4</sup> Dalit is a political category in India to denote ex-untouchable (those whose mere touch is polluting to the upper castes), ex-unapproachable (those whose mere approach is polluting) and ex-unseeable (those whose mere sight is polluting) castes in India.

<sup>5</sup> See chapter 8, Laws of Manu, <https://www.sacred-texts.com/hin/manu/manu08.htm> accessed Thursday, August 12, 2021.

similar acts in England in the 1800s (Kumar 2004). Kumar has further shown that the colonial discourse on criminality in India was a result of the colonial administrators conflating caste with hereditary occupations of caste members in their ethnographic accounts of the communities of India. Here the colonial subjects (the natives) were characterised as people without any agency who performed their caste occupations (criminal, where the occupation was crime) almost by *habit*. Though the ethnographic accounts were colonial, it would be worthwhile to question the identity of the interpreters and informers of the colonial ethnographers. It was invariably the Brahmins who were helping the British understand the Indian social system and the ethnographic accounts filter through this Brahminic lens (Berg 2020).

Singha has similarly shown that it was the attitudes towards the poor and low castes of the members of the high castes and elites that shaped them as debased and criminally inclined in the eyes of the colonial government (Singha 1998). Equating low caste with hereditary criminality was not a colonial invention but a continuation of existing beliefs of the people of India (Piliavsky 2015). According to Yang, the British readily accepted the idea of a caste of criminals, as they understood India as the sum total of its castes and because, according to them, caste is reproduced by birth, they accepted that criminality would too (Yang 1985).

The Hindu upper-caste idea of Indian culture, including that of crime and criminality, was passed over to the British. It did not just remain an idea but resulted in laws that legally codified sections of castes as criminal by birth. The 1793 regulation necessitated all police stations to keep a list of '*badmaash*' (known predators) for surveillance; the police could ask for money as 'surety' or guarantee that persons on the list would not become a nuisance for the public. Such lists included a number of people from 'hereditary thieving castes' apart from those who were considered to be 'vagabonds, robbers or disorderly or ill-disposed persons' (Singha 2015, 243). Further, the Criminal Procedure Code of India (CrPC) from 1861 added sections 109 and 110 which formalised the demand for financial guarantee (or risk jail term) from known predators of the area. These sections continue to this day in the CrPC. The Criminal Tribes Act passed in 1871 allowed for identification and surveillance of groups that were considered to be criminal by birth. These legal acts solidified the idea of hereditary criminality or the sense that a person could be criminal by virtue of their birth, and that strict surveillance could reform them. Nigam describes a case of a person named Laskari Dom in the city of Gorakhpur situated in the northern part of India in the year 1935 (Nigam 1990). Dom was asked to move to an army camp after being declared a member of the criminal tribe. Nigam points to the arguments Dom gave to the government in order to be excused from joining the camp which alluded to his blood status and his status as a law-abiding citizen. Nigam writes, 'Laskari petitioned that he was "never a criminal nor [had] any criminal tendency in his blood due to his descent from a Pathan father." He was, therefore, not a Dom, "being a son of Chand Khan, a Pathan though of course a Domin mother"' (Nigam 1990, 259). This case clearly shows that criminal status in India

was connected to caste/birth contrary to what Radhakrishna posits when arguing that when Indians spoke about being criminals by birth, they simply argued about the passing of caste qualities (of indulging in criminal behaviour) over successive generations and not about hereditary criminality (Radhakrishna 2000).

The idea of ‘habituality’ of crime or even ‘addiction’ to crime, which was how criminal tribes were to be detected during 1900s in India, understands crime as an infliction caused by birth (hence caste) for which it prescribes institutional reform. It stands in opposition to the classical sociological understanding of crime that defines crime as a social act that hurts the collective conscience of a society. According to Durkheim, an act does not hurt the collective conscience of society because it is a crime, but it is a crime because it hurts the collective conscience (Durkheim 1933). Or else, an act of crime upon is defined as such by society and is subject to change in accordance with the transformation of social structures over time or through social or political movements. While new crimes may emerge, offending the collective conscience, what appears to persist in the Indian society is the association between caste and crime, as well as the disproportionate punishment of those at the lowest ranks, or else, the inherent logic of the *Laws of Manu* analysed already by Ambedkar.

The logic of caste persists due to the stubborn persistence of the concept of *addiction* – which, today, implicitly still stands for *caste-based* addiction. This concept can be for instance found in the Criminal Tribes Act (1871) stating that, ‘if the local government has reason to believe that any tribe, gang or class of persons is *addicted* to the systematic commission of non-bailable offences, it may report the case to the Governor General in Council, and may request permission to declare such tribe, gang or class to be a criminal tribe’ (Yang 1985, 109). Even with successive amendments that made portions of people from a tribe, rather than an entire tribe the target of the act, the stigma on entire groups prevailed despite the act having been discontinued in post-independence India.

Sections 109-110 of the CrPC originated in CrPC 1861 but continued even in later versions, such as in the CrPC 1973 used till today in India. Section 109 of 1973 CrPC asks a person to furnish security if they are being suspected of concealing their presence to commit a cognizable offence. Section 110 asks for surety from a person who is a *habitual* offender in a list of crimes and is also so ‘desperate’ and ‘dangerous’ that they are hazardous to the security of the community by being out in the open. These sections, just as Singha mentioned above, have very weak boundary conditions legally and words like ‘desperate’ and ‘dangerous’ can have wide ranging meanings that depend on the interpretation of the law or police (Singha 2015). This makes these sections a handy tool for discrimination at the hands of unjust police officers or courts. Arrests for petty crimes or mere suspicion if used as a reason for demanding money as security for future good behaviour push people into a criminal justice system many do not have resources to get out of. They are unable to pay the sum and thus end up serving a jail sentence even without being convicted of a crime. Using surety for

good behaviour or a jail sentence (if one is unable to pay) as equivalent to a record of conviction is akin to manufacturing criminals without a crime. Anyone asked to provide monetary guarantee for good behaviour against these sections can also be arrested without warrant according to section 41 CrPC, adding to the never-ending cycle of being a permanent entry in police records. Already in 1963, Khan argued that bad livelihoods and vagrancy provisions of the law were non-constitutional and went against the very fundamental features of the Indian state as a welfare state and that rather than for the betterment and supervision, these sections have been used for policing of the marginalised (they are being used till today) (Khan 1963).

The police and district magistrates, in the early 1900s, used more fluid sections 109-110 unlike the Criminal Tribes Act that came with stricter conditions and probably more paperwork. As a result, demanding monetary guarantee (to not commit crimes, from those considered to be routinely doing so) under sections 109-110 CrPC 1861 made the fuzzy concept of ‘habituality’ into a normative and rigid one. A person who had to furnish money as security under these sections no longer remained a mere suspect, but for all practical purposes, acquired a record on par with a convict. While the Indian Jail Committee of 1919-1920 stated that defining habituality should rest on previous convictions and not on character assessments *alone*, it agreed that a mere ‘order to furnish security’ would count as a previous conviction because the committee upheld that such an order was made after a thorough police enquiry and was at par with a judicial order of conviction or acquittal (Singha 2015, 250).

### **Producing Hereditary Criminality of the Lower Castes**

The notion of *hereditary* criminality resulting in *habitual* criminals or those who were *addicted* to crime (and hence needed to be reformed) facilitated a surveillance regime that existed as a combination of keeping a physical watch and intensive record keeping; surveillance and record-keeping went hand in hand, reinforcing each other. In the early 1900s in India, roll calls for attendance, registrations, limitation on movement and the pass system, along with agricultural settlements, reformatory systems of the members of the criminal tribes, created the ‘criminal type’ (Nigam 1990, 257). Classic surveillance measures were already in place to control vagrants, known criminals, before the passing of the Criminal Tribes Act 1871 such as registration with the local police, confinement to a specified village, relocation to specialised settlements in waste lands and movement only with a ticket to leave which became more stringent with the passing of the act and included compulsory fingerprinting of those notified as criminal, separation of children from their parents (Major 1999, 658).

Local governments were empowered to declare any tribe or gang or class of people as ‘criminal tribe’ if they were found to be addicted to the systematic



commission of non-bailable<sup>6</sup> offenses. The groups so declared had no legal recourse to challenge their inclusion but protested this with local officials who were in charge. The criminal tribes were supposed to be put into reformatory settlements and could only move around with a system of passes which specified where the person(s) could go, which officers they would have to present themselves to from time to time and the time for which they could absent themselves from the settlement. The village headman could order additional measures for surveillance and control of the tribes (Yang 1985). These practices, or similar, were in place till the discontinuation of the Criminal Tribes Act in the year 1952.

These were indeed colonial era practices and could be argued to have died down with the demise of colonial rule in India in 1947. And as mentioned, the Criminal Tribes Act 1871 went through several iterations and was finally discontinued in 1952. However, at the same time, different states came up with their own ‘Habitual Offenders Act’ which individualised the lens but kept all other markers of recognising the criminal intact. The former members of the so-called criminal tribes, now denotified, carry the stigma of being ex-criminals. Till today, they continue to be routinely arrested and then recorded as ‘habitual offenders’ in the name of ‘maintaining public order,’ especially during festivals or elections. Those arrested do not receive adequate legal representation and are thus ushered into a lifelong relationship with the criminal justice system (Bokil and Sonavane 2020). From colonial to modern times, it is the lowest castes in the caste hierarchy that are criminalised in this manner (Sonavane and Bokil 2020).

This form of police action is aided by police manuals that guide the surveillance and recording of habitual offenders through preventive policing registers, in all police stations across India. Satish has shown how the continuity between colonial and contemporary police practices has been maintained through the use of preventive policing registers in Karnataka police (Satish 2011). He contends that the record keeping practices of the police are used to discipline marginalized youth by forever keeping them under surveillance and perpetually involved in the criminal justice system. Dhareshwar and Srivatsan (1996) and Khanikar (2018) have done similar studies for Delhi Police and Andhra Pradesh Police. The authors argue that surveillance registers of the police end up constructing the marginalised youth – the slum dweller, the lower class – as criminals. However, these categories should not be seen as a generalised grouping but as a particular case of *caste policing*.

To demonstrate this, I analyse the guidelines for maintenance of preventive policing registers for Delhi Police as prescribed in Punjab Police Rules (PPR), volume three (PPR, 1934) in the coming section. PPR is divided into three volumes and defines all aspects of policing in Delhi, from the conduct of the officers to record keeping practices. This is one amongst the many manuals of Delhi Police but the only one that has the authority over record keeping practices.

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<sup>6</sup> Legal term for offenses where the arrested person cannot demand bail.

## **Habituality and Addiction to Crime**

### ***Delhi Police Record-keeping via the Punjab Police Rules, 1934***

The many surveillance and record registers of the Delhi Police, guided by the PPR, can be seen as a discursive apparatus that provides an objective coating to the caste-based notions of criminality: that of habituality and addiction to crime. As noted earlier, this is the same language to define crime and criminals used in the sections 109-110 CrPC 1861 (till current CrPC 1973 used currently in India) and Criminal Tribes Act 1871.

The Punjab Police Rules 1934 (PPR 1934) last amended in 1983 and 1985 (only related to those sections that applied to appointments of police officers)<sup>7</sup> is a set of rules and directives for police functioning in Delhi and Punjab. Record keeping in Delhi Police is done following the rules laid down by PPR volume three in chapters 22 and 23 which when combined, comprise 25 registers. Some of the registers maintained according to these directives are: a) Personal File which is the first stage in making a record of a suspect according to rules 23.13 of the PPR. It is a detailed record of the personal life of a person who is suspected to be ‘addicted to crime’ (PPR, 644). It is required to be opened ‘as soon as suspicions have come into record regarding an individual to an extent which indicates that he is *addicted to crime* or is associated with criminals’ (PPR, 644). Another is the b) Village Crime Register (Register No. IX), which is according to PPR 23.15, to be maintained to record among other things the ‘special types of lawlessness or crime to which inhabitants of the village are *addicted*’ (PPR, 644). The Village Crime Register has notes on individuals that supplement the information given in their history sheets such as information on ‘habitual railway thieves, cattle thieves etc.’ along with the areas they operate in.

These are the many registers, as directed to be maintained by the PPR 1934, that instruct the Delhi Police to record so-called habitual criminals in the area. I discuss the ‘history sheet’ register in detail because it is the one used in maximum police interventions such as for preventive arrests during festivals; the ‘history sheeters’, as the persons on history sheet registers are colloquially known in police stations in Delhi, are also the first people to be picked up as suspects by the police during an investigation and the first ones to be put on active surveillance by the police. Therefore, the rules for making a history sheet for a person coincide with the discretionary section of the rules of putting their name on the Surveillance Register (Register XA according to PPR). According to the rules, a history sheet is made for all persons who a) have been convicted twice or more than twice of offences mentioned in rule 27.29 of the PPR (This includes all offences from

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<sup>7</sup> There are hardly any references for the amendment to Punjab Police Rules (1934). I could only find this particular court case of a petition for appointment as police constables which contained the reference for the amendment [https://www.casemine.com/judgement/in/5609ac3be4b014971140e57d?locale=en\\_IN](https://www.casemine.com/judgement/in/5609ac3be4b014971140e57d?locale=en_IN) accessed August 20, 2021. According to Manual 5 of the Delhi Police, Punjab Police Rules, 1934 is an amended version of PPR 1914. No other amendments are mentioned in the manual. [https://infopromotion.delhipolice.gov.in/Manual\\_iframe.aspx?Id=6E+hvKed4=](https://infopromotion.delhipolice.gov.in/Manual_iframe.aspx?Id=6E+hvKed4=) accessed August 20, 2021.

cheating, robbery, dacoity, rape, counterfeit currency, to murder, extortion and theft); b) are believed ('reasonably') to be '*habitual offenders*' or receivers of stolen properties *whether they have been convicted or not* and c) persons who have to furnish security under section 109 and 110 of CrPC and lastly d) convicts who are released before the completion of their sentence without any conditions (PPR, 641; parenthesis and emphasis mine).

Only an officer of the rank of inspector, who is in charge of the station or a sub-inspector (under guidance from the inspector), can prepare the history sheet. Of course, with permissions from the ranks of officers of Assistant or Deputy Commissioner of Police.

The guidelines for preparing the document of the history sheet include recording the facial features and other peculiarities of the persons such as 'appearance, gait, speech etc.' so that the supposed criminals may be readily distinguished by their biological features (PPR, 642). Along with that, it is mandated that the details of their relatives and family members should also be recorded so that the police would know where the criminal is likely to hide when wanted by them. The most notable feature of the sheet is the addition of information of the crime to which the person is addicted to: 'the description of crime to which *addicted* should be in some detail, showing not merely the class of crime, but the particular type of that crime, methods followed, localities chiefly frequented, weapons or instruments used etc.' (PPR, 642 emphasis mine). These rules mimic the rules to declare groups or portions of groups of people as criminal tribes as per the Criminal Tribes act, 1871 which testifies to the casteist character of the PPR that lends itself to modern policing in India.

Not only that, but the history sheet also requires the description of people entered in the database, down to their very particular physical features, details of property that would make a baseline of their economic status to indicate in the future if the person on the history sheet is 'at any time living beyond his means.' (PPR 642). This kind of data entry is only possible with 'visible surveillance' mentioned earlier.

### **Data Collection and Maintaining of Preventive Policing Registers**

While I did not have access to the actual preventive policing registers to see their structure or to determine the information stored in them to further confirm their role in the policing of caste, this role is strongly indicated based on the information that I was able to access. Thus far, we have looked at the police manual, The Punjab Police Rules, that inform the making of these registers along with the Act (Criminal Tribes Act 1871) and the sections of the law (Sections 109 and 110 of the CrPC) that in turn inform and influence the manual, in order to piece together the structure of the registers and the kind of information it carries. In this section, we look closer at the police practices of surveillance and data collection for the preventive policing registers.

Drawing a parallel to the digital technological world, like algorithmic systems, I argue that these registers work behind the scenes to provide an objective, legal layer to the arbitrary and caste-based processes of declaring certain people as so-called habitual criminals. And, as in the case of algorithmic systems, it becomes difficult to study them due to lack of access; the registers are in this sense ‘black-boxed’. Drawing on our earlier work (Marda and Narayan 2020, 2021), I thus use interviews to understand how the practices intersect with the given guidelines and how, in actuality, they work to produce so-called habitual criminals.

At the outset, the police officers denied any influence of caste or area of residence as the reason for including a person’s name in the history sheet. ‘We only go by the crime,’ they said, declaring all other features such as place of residence, caste, class, meaningless. However, the disproportionate representation of Dalit and marginalised youth in these registers tells a different story. Moreover, and this is my key point, it can be argued that the choice of crime – mostly petty crimes that necessitate the kind of visible surveillance described in PPR – are an *inherent design element* of these registers that precisely allows for the targeting of specific castes as criminals. This is because this form of surveillance is only practically possible vis-à-vis certain kinds of people whose residential locations, such as un-regularised colonies or slums allow for it, or else, those who suffer ‘urban expulsions’ (Kuldova and Varghese 2017). These slums and un-regularised colonies are uncontested spaces of Dalit and marginalised residence (Shaikh 2021) and policed as such (Khanikar 2018).

Police officers often go to great lengths to stress the intended objectivity of their work, especially during press meetings and interviews with journalists. The news reports on the official declaration of the use of predictive policing in Delhi denied the use of identifying markers such as caste, class or gender or location for the purposes of hotspot mapping.<sup>8</sup> In practice, as I found out during my fieldwork, they were keen to precisely use socioeconomic data to analyse crime data because they believed that ‘poverty begets crime,’ as one of the officers told me during fieldwork. This kind of denial, both in the use of paper-based registers and use of digital technology highlights how both these mediums give a veneer of objectivity to police practices in Delhi.

In the case of paper-based registers, we have seen how these practices are even encoded in the law. When the police deny being discriminatory, they simply hide behind codified practices that in practice perpetuate prejudice. For example, one of the conditions to record a person as a ‘history sheetee’ is the number of arrests. This might look like an objective, bias-free condition unless one looks at the high number of arrests made for petty crimes in India; most of those arrested belong to lowest castes in India or from other marginalised communities (Bokil et al. 2020).

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<sup>8</sup> See the story here and notice the lengths at which Delhi Police has gone to describe predictive policing as objective <https://www.hindustantimes.com/delhi/delhi-police-is-using-precrime-data-analysis-to-send-its-men-to-likely-trouble-spots/story-hZcCRyWMVoNSsRhNBNGOHI.html> accessed August 23, 2021

Also, as mentioned earlier, the choice of crime (property) and the kind of surveillance done (visible, only possible in poor settlements which again are overtly represented by the lowest castes and marginalised populations) is a good enough proxy for the use of caste as a marker for policing.

Police officers in Delhi informed me that they keep a close watch on the suspected people in their area and therefore know about who is helping whom in activities such as pickpocketing or carjacking. One inspector said that there are different ‘schools of learning’ for both these activities, indicating those who pass off their skills in these kinds of crimes to future kids. Though there is no evidence of such ‘schools’ in the literature, the officer insisted that ‘one doesn’t just become a pickpocket or a vehicle lifter one fine day, there are places you go to learn these crafts.’ He said that the police especially keep a look out for such aiders and abettors of crime, which also includes the lawyers who regularly represent them in courts. The aiders and abettors are not the ones who are included in the ‘history sheets’ or ‘ruffian registers’ but their ‘clientele’ is,’ said the officer.

Another police constable, who had 28 years of experience in beat policing, told me that the police especially keep an eye out for youth who live beyond their means, such as ‘if a boy from a poor family suddenly owns a motorcycle or expensive looking clothes, we immediately know something is fishy,’ he said. This is not just a practice that the police developed but also an actual provision in PPR 1934, chapter 23, under ‘modes of surveillance’ where the police have to record the property of history sheeters so that it can be ascertained if they, at any point, are living beyond their means (PPR, 642).

The constable said that in the ‘good old days, frisking (stop and search, now discontinued) of such people was routinely allowed, which immediately gave us evidence if the boy<sup>9</sup> (who seemed to be living beyond his means in the conversation above) was involved in some shady business.’ He said that the police put the names of such people in the ‘register,’ though he did not name which one. Though frisking is not allowed anymore, it is replaced by endless visible surveillance and warrantless searches (police agreed to warrantless searches in slums and shanties) at the slightest hint of suspicion.

History sheets lead us to the Ruffian Registers. ‘Ruffian’ Register is maintained in four parts. Part I is for ‘ruffians’ of the area; part II for ruffians of other areas; part III for ‘bogus surety’ or those who give false ‘guarantee’ to not participating in unlawful activities; and part IV, maintained in two parts is for a) budding criminals and b) problem creators who speak against the police or take part in anti-social activities. Guidelines for maintaining Ruffian Registers are taken from a separate circular, circular number 42/2003, passed in the year 2003 for additional record keeping in Delhi Police. These are not related to PPR hence Ruffian Register is

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<sup>9</sup> Preventive Policing is overtly represented by the male gender as Radhika Singha (2015) has also explained in the case of the ‘badmaash’

called a ‘non-PPR’ register (there are 19 other ‘non-PPR’ registers apart from Ruffian Registers maintained in the Delhi Police).

An inspector in a police station in South Delhi told me that Ruffian Registers are a sort of a ‘pre-record’ of a person for whom a history sheet is to be eventually opened. He said that the opening of a history sheet is a complex bureaucratic process involving permissions from high rank officers and requires information such as photographs and fingerprints, all of which take time to procure. The requests for such permission and data could take days, taking away crucial time of keeping the criminal in check, he said. According to him, opening a Ruffian Register is comparatively easy as it requires only the permission of ‘Station House Officers’ (the rank of inspectors) of the particular police station and thus, much less paperwork. Ruffian registers allow for a more low-key surveillance of the ‘bad characters’ or BCs of the area until they can be put on history sheets and the scale of their surveillance can be increased. This is almost always the case; ‘a bad character is a history sheeteer,’ a police officer told me explaining the near complete lifecycle from a BC to a history sheeteer.

The criteria for declaring anyone a BC are fluid and rest solely on the discretion of the police. The closest reference I could find about a qualitative description of a bad character is in Das and Chattopadhyay who did an extensive study of the village crime records in West Bengal and found that ‘bad characters’ as a category reinforced every stereotype that the British had in mind about criminals, right down to their physical appearance that was described as ‘people with dark complexion who were strongly built, had deep set eyes, broad chins and a monkey face’ (Das and Chattopadhyay 1971, 133). Further, the authors noted that according to the village crime register, it is the ‘lower castes, with their drinking, social isolation, and prejudices against them, that are responsible for crimes such as burglary, theft, and other offenses against property’. The notation in the register also went on to say that men from such low castes were ‘well known to the village communities ... their herding together ... of money always spent on debauchery cannot be concealed’ (Das and Chattopadhyay 1991, 133).

The term BC does not have a straightforward definition in either any of the manuals/legal acts followed in Delhi, such as the PPR or the Delhi Police Act 1978 or the Habitual Offenders Act 1918 and, as mentioned above, is a term that stems from practice to denote any notorious person in the area who requires to be watched by the police. It has again a casteist legacy. BCs ending up as history sheeters shows again the ways in which discretionary practices of the police are legitimized by the preventive policing registers.

### **Policing Caste Under the Guise of the ‘Objective Register’**

Delhi Police preventive policing registers such as history sheets or the Ruffian Registers are sites of manipulation of the lower caste persons into becoming ‘habitual criminals’ or those who are ‘addicted’ to crime. These registers are

‘graphic artifacts’ (Hull 2012, 169) that help the police classify certain castes as ‘habitual’ or ‘addicted to crime’. ‘Habituality’ or ‘addiction to crime’ is a fuzzy concept that, though actively policed, is not defined in the law. It thus gives a lot of discretionary powers to the police to define its scope to correlate with their own social understanding of crime and criminals.

The law and the police manuals, which I have shown are in continuum with the law, define and prescribe the categories of crimes that are to be policed and the modes of their surveillance. In analysing the police manuals, I found that these directives act heavily as a proxy of caste. To be recorded in history sheets, among other things, one needs to be arrested thrice, even for petty crimes. Once on the history sheet, police surveillance is of the ‘visible’ kind: physically following, keeping a watch and calling the person for marking their attendance at the local police stations are part of the protocol. This, as I have argued, is only possible for the low caste residents of the slums and other unauthorised spaces in a city. Majority of slum dwellers or those who live in unauthorised/un-regularised colonies belong to the lowest castes in India (Shaikh 2021). They are also the most likely to be implicated in false cases of petty crimes as is evident by their disproportionate representation (with respect to their populations) in prisons across India.<sup>10</sup>

However, I did not attempt to make police officers speak directly of caste in the making of these registers and they did deny its role in their surveillance and information gathering practices (for the registers). In piecing together the Punjab Police Rules (PPR), 1934, existing work on police records, and laws related to behavioural or group criminality, I could see a pattern between habituality/addiction to crime and its relation to caste based understanding of criminality. I took to historicising from the colonial period because it was the first time then when cultural practices in India were codified (this is the first time any kind of codification other than religious codification came into being in India). I contend that since the colonial ethnographers worked with the upper caste Indians, they codified existing beliefs of criminality being related to caste into laws such as the Criminal Tribes Act 1871 or Sections 109-110 of the CrPC (Berg 2020). A number of criminal laws have remained unchanged since India’s independence and even with changes, the practices that they set in motion remain the same because they were a result of a fundamental understanding of caste and criminality.

Practices that link caste to criminality prevail under the guise of the ‘objective registers,’ which bear material witness to the policing of caste and reproduce the intertwined narratives of addiction and habituality. Preventive Policing registers help in operationalizing the many rules that act as proxy for the correlation between caste and criminality. They act as legal testaments to fuzzy rules of

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<sup>10</sup> According to the Status of Policing in India Report, 2018 <https://www.commoncause.in/pdf/SPIR-2018-c-v.pdf> accessed August 21, 2021

habitual criminality or addiction to crime making it an objective criterion for identifying criminals. This, as we have learnt from studies on digital technological systems (Marda and Narayan 2020) hides the many discretionary decisions taken by the officers while compiling their data or the discriminatory nature of the law itself, into a neat package of ‘scientific’ or ‘objective’ and ‘neutral’ understanding that can have damaging effects on specific communities.

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Shivangi Narayan is currently a researcher with the AGOPOL project, 2021-2024. She has submitted her PhD at Centre for Study of Social Systems, Jawaharlal Nehru University, New Delhi titled ‘Predictive Policing and the Construction of the Criminal: A Study of Bureaucracy and Algorithms in Delhi Police’. Her book titled *Surveillance as Governance: Aadhaar - Big Data in Governance* has just been released in May 2021.

## **Funding**

This work was funded by The Research Council of Norway under project no. 313626 – *Algorithmic Governance and Cultures of Policing: Comparative Perspectives from Norway, India, Brazil, Russia, and South Africa* (AGOPOL).

## **Acknowledgements**

The author would like to thank the two anonymous reviewers for their invaluable comments and Tereza Østbø Kuldova for helpful revisions to the text. She is thankful to the officers of Delhi Police for letting her into their everyday professional lives.

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