

## THE ERASURE OF INDIAN IMMIGRANT WOMEN IN THE U.S. CARCERAL STATE

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### **ABSTRACT**

A simple Google search and immediately the issue arises – Indian women are completely invisible in the analysis of the American incarceration system. With legal and carceral studies' hyperfocus on Indian men and the slim amount of research and scholarship available for analyzing Indian women's experiences of the carceral state, this research focuses on why this erasure has occurred. Indian women will be analyzed using an *intersectional* approach. Coined by civil rights advocate Kimberlé Crenshaw, the term intersectionality is a theoretical framework that was originally used to understand the experiences of Black women by analyzing their distinctive "discrimination condition" as a product of multiple oppressions that include racism and sexism (Crenshaw 140). Building on this term, my work will examine how Indian immigrant and diasporic women in the United States are affected by the intersection of oppressions based on gender, ethnicity, immigration status, colonialism, mass incarceration, and violence. To put it simply, the US incarceration system is a colonial project. As a solution, coalition building among ethnic and racial minority groups will be posed as a solution.

### **INTRODUCTION**

Perhaps it would be the singular case of Purvi Patel that would ignite the long-needed discourse surrounding the incarceration of Indian immigrant and diasporic women. Patel's case, an anomaly in the analysis of the carceral state from a feminist angle, opens up a space to consider the United States incarceration system from a new perspective that raises issues specific to Indian immigrant and diasporic women. Those issues include immigration, asylum, domestic violence, the Indian patriarchy, and Indian people's self-defined and externally constructed proximity to whiteness and complicity with anti-Black racism.

Additionally, this paper aims to address the salient absence of Indian immigrant and diasporic women in incarceration, feminist and genocidal studies and argues that this absence is due to colonialist visions of what Indian women "should" look like. Indian women are simply not recognized as criminals or members of the American carceral state, which raises further issues on how women of color are subsequently affected by the U.S. incarceration system. In these scholarly fields, a singular focus on Indian men renders Indian women invisible as well. This paper shall serve as a feminist continuation of the activism of the Ghadar Party, but with a new contextual and feminist lens. This paper also focuses on what Preet Kaur Viridi, author of "South Asian Diasporas: Barriers to Canadian Justice: immigrant Sikh women and *izzat*" calls "legal consciousness" in the United States. The term *legal consciousness* refers to current legal systems that do not address Indian immigrant women and their needs, a form of systemic neglect that silences Indian immigrant and diasporic women. With this paper, I aim to make visible Indian immigrant and diasporic women's experiences of the carceral state in scholarly fields and I work to find new ways of creating community alternatives as opposed to prisons from a different, and often overlooked, perspective.

In Kimberlé Crenshaw's "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," intersectionality allows for a more nuanced approach when discussing the inequalities faced by Black women. Crenshaw writes, "With Black women as the starting point, it becomes more apparent how dominant conceptions of discrimination condition us to think about subordination as disadvantage occurring along a single

categorical axis" (140). This perhaps, most potently illustrates the multidimensional systems at play when it comes to the analysis of the oppression of Black women.

The methods used in this paper will be (1) using an *intersectional* lens to analyze the systems that cause the invisibility and silence of Indian immigrant and diasporic women and do so with attention to the interconnection of class, gender, ethnicity, immigration status, colonialism, mass incarceration, and violence; (2) Establish a new theoretical framework that addresses the current "legal consciousness" of Indian immigrant and diasporic women and their needs; And, (3) make educated guesses based on existing scholarship and empirical evidence such as the collective experiences of Indian immigrant and diasporic men, and in doing so, highlight what it means to be an Indian immigrant woman situated in the United States.

### **HISTORICAL CONTEXT**

The year 1899 would become an historical landmark for Indian immigrants. That year, four Sikh men arrived in San Francisco and were hailed as "dashing soldiers in the service of the British crown" (Lee 351). However, this praise would not last as less than two decades later, the US federal government—entirely composed of white US American men—South Asians barred from becoming citizens of the United States. The Immigration Act of 1917 was passed by Congress to prevent "undesirables" from immigrating to the U.S. Until the *ethnocratic*<sup>1</sup> immigration ban of 1917, British colonial rule of India as well as economic distress created new waves of Indians who were hungry for a new life in the United States with the hopes of amassing personal fortunes and living in a country they were told was governed by democratic values that were absent in their life in India.

In the United States, the Ghadar Party would retaliate against British colonial rule in India as it was an international activist movement. However, the ethnocratic immigration policies adopted by the U.S. government and Indian patriarchal gender traditions limited Indian women's migration. Historian Erica Lee observes, "Traditional gender roles that discouraged women from leaving home, the expense of immigration, discrimination in the United States and Canada, and immigration policies that made it almost impossible for women and children to come kept the South Asian immigrant population mostly male" (Lee 363). This would be the first of many historical predecessors as to why Indian women are largely left out of scholarly and mainstream U.S. media discourse regarding their legal rights as well as the hyperfocus on Indian men. One specific case of this hyperfocus in the white media would occur in 1907 on Bellingham Bay in Washington State, when a "whites only" policy was enforced at the Whatcom Falls Mill Company. When a mass firing of Asian workers at the mill was unsuccessful, protests ensued. Eventually, "a mob of white men began pulling South Asians out of their residences and bunkhouses, dragging them off streetcars, and driving them out of town or to the city jail. By the end of the night, 200 South Asians were in jail" (Lee 381). This would begin the chain of criminalization of Indian men, with its roots beginning right at the labor mills. Hindu and Sikh immigrants who were willing to do cheap labor received backlash as the white U.S. media dubbed their presence in the United States as the "Hindu Invasion" or "Tide of the Turbans". The more the Ghadar Party fought back, the more "U.S. immigration officials...enforce[d] U.S. immigration policies to achieve an informal system of exclusion" (Lee 388).

### **CRIMINALIZING INDIAN WOMEN**

The racialization of ethnic and minority groups is part of a larger white colonial nation-making process in the US, Canada, and Europe. In "Shifting U.S. Racial and Ethnic Identities and Sikh American Activism", the author writes, "...racial classification in the United States has been, from its inception, an inherently political project" (Kurien 81). The politics of white supremacy affect all minoritized people in the United States, and Indian immigrant and diasporic women are inherently affected by these processes. The caste system that is in place in India is uniquely reproduced in the U.S. and subsequently causes the silence of

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<sup>1</sup>The term *ethnocratic* acknowledges that South Asians consist of multiple ethnic and national identity groups whose identities are racialized in the United States. In a white supremacist colonialist US, South Asians, then, are targeted for interpersonal, institutional, and systemic discrimination based on their racialized ethnic identities.

Indian immigrant and diasporic women. As of 2015, there are over 500,000 undocumented South Asian Americans, with Indian immigrants comprising the largest number of undocumented Asian Americans. No accurate estimate of how many Sikhs live in the U.S. currently exist which speaks volumes about how *fear* is used as a primary motivating factor. Whether it is fear of deportation due to being undocumented or non-citizens. Sikhs of all genders, including women, do not self-report as such to people and organizations measuring the US population. Inconsistencies in data are subsequently caused which work to prevent creating more accurate solutions for Indian immigrants and diasporic people.

The “salient absence” of South Asian women in not only the historiography of the United States, but in the study of genocidal and incarceration studies, is a glaring issue in the broader analysis of the US incarceration system (Ranganath 66). This absence of South Asians in general and Indian women specifically highlights the legal conundrum of how this demographic of women is dealt with legislatively, and how they are racialized and policed in the United States. Uncovering the historical experiences of Indian women reveals a rich and cathartic historiography of what was once denied to this subset of women and horrifying record of historic violence and realities of what Indian detainees are experiencing. In the article “Privilege of South Asian American Studies,” scholars Tamara Bhalla and Pawan Dhingra assert that “...South Asian American studies and Asian American studies more generally might develop if we were to openly confront and centralize issues of privilege, particularly class privilege, and are at play in many South Asian American lives...the field can grow – and must grow – by tackling head-on how class privilege and racial hierarchy are lived and reproduced by large numbers of Asian Americans” (308). The scarcity of written sources on South Asian women, apart from Purvi Patel’s case<sup>2</sup>, necessitates the demand for new frameworks of thinking in understanding the nation’s legal system.

Scholarly dissections of Indian women’s experiences often begin with immigration and migration. In “Double Passage: Marriage and Migration in Punjabi American Women’s Narratives”, Nicole Ranganath states that the 1965 *Watershed Immigration Act* enacted severe restrictions on Asian immigration to the US, permitting entry to only a well-educated professional and economic elite and their family members. This law implicitly enforced the Indian caste system as well, as only higher caste members in India could afford a respectable education at the time. The U.S. government helped produce an immigration pipeline that strengthened class privilege and ethnoracial hierarchy among South Asians in the country. The reality that a tiny subset of elite South Asians could migrate to the US helped generated the *model minority myth*, a societal mythology that is alive to this day–i.e., the ethnoracist popular fiction that all immigrant and U.S.-born South Asians are well-educated and economically successful. In reality, “South Asian Americans [including] Pakistanis, Nepalis, Bangladeshis, and Bhutanese” are among ethnic and racial communities with disproportionately high poverty rates (Strengthening South Asian Communities 4). To illustrate the over-representation of South Asian Americans among those living in poverty, the white poverty rate is instructive. While the *majority* of poor people in the US are *white*,<sup>3</sup> 10% of white people are poor–white people’s poverty rate, then, is disproportionately low (United States Census Bureau).

The myth of Asian success is alive in the U.S. legal system and white mainstream media. The highly publicized trial of Purvi Patel initiated the short-lived discourse around the legal issues Indian Americans face. Patel’s trial showcased the fabricated model minority myth often used against Indian Americans. In 2015 in Indiana, Purvi Patel, an Indian Hindu woman, was prosecuted under the conviction of feticide for terminating her own pregnancy and was sentenced to twenty years in prison.

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<sup>2</sup>The case of Purvi Patel would take place in 2015, when an Indiana court sentenced her to twenty years in prison after having been convicted of feticide and neglect of a dependent.

<sup>3</sup>The US Census Bureau provides aggregate data for white identified people that live under the federal government established poverty line. The Census also disaggregates this data, distinguishing between Hispanic whites and non-Hispanic whites. As a whole, white people comprise the majority of poor people in the US. Non-Hispanic whites make up nearly half of the US’s 34.5 million\* poor people.

\* This number is an approximation

Apart from Patel's trial, which remains one of the sole initiators in the discussion of the incarceration of Indian women, the "legal consciousness" surrounding the needs of ethnoracial minority men and women remain startlingly underdeveloped. The current political climate has resulted in legal institutions and discourses that fail to address the specific needs of Indian women. In the article, "South Asian Diasporas: Barriers to Canadian Justice: immigrant Sikh women and *izzat*", Preet Kaur Viridi demonstrates that a Punjabi-Sikh woman's understanding of access to legal justice is mediated through the *izzat*, the practice of maintaining personal dignity or respect. This has resulted in white "Western media and society ascribing the label of 'culture' to [ethnic and racial minority groups] while failing to view the behaviour of [white] Western persons as culturally conditioned" (300). South Asian Americans experienced the greatest number of hate crimes among Asian Americans, even before September 11, 2001, as exemplified with the infamous "Dot Busters", a Hindu-phobic hate group active from 1975 to 1993. From a legal perspective, "...South Asian Americans are comparable to other Asian American groups, also known to have segments with high and low socio-economic status, with emphasis on their conditional legality rather than their economic privilege" (309).

The racialization of Indian Americans lies on an unstable ideological foundation as it is built on the model minority myth and other factors, promoting anti-Black beliefs. In Raymond Magsaysay's article, "Asian Americans and Pacific Islanders and the Prison Industrial Complex", Magsaysay writes, "Even people who are sympathetic to civil rights in general, including other people of color, sometimes resist mentioning civil rights and [AANHPI's<sup>4</sup>] together in the same sentence. It is as if [AANHPI] civil rights concerns can be ruled out categorically without the need for serious consideration of the facts, because everyone [wrongly believes] ... that [all AANHPIs] are prospering" (Magsaysay 452). The model minority myth implies that AANHPI communities are flourishing. However, the exclusion of AAPIs in the discourse of the actual scale of the carceral state, erases intra and interracial dynamics of power, marginalizes criminalized AAPIs and reinforces anti-Blackness and other toxic ideologies. The model minority myth is an "anti-Black racial project" because the ideology is predicated on the false notion that all Asian minority communities are prosperous, and therefore are either unhindered by racism or living proof that white racism is not systemic and no longer exists. The myth of Asian success then prompts and validates the question, "If Asian communities can succeed, why can't Black people?" (Magsaysay 455).

Through an excavation and mining of the minimal amount of publicly available data on AANHPI prison populations, Magsaysay demonstrates that AANHPIs are mass incarcerated by highlighting the lived experiences of AANHPI youth with the school-to-prison pipeline. Adopting multidisciplinary and multimodal methods, Magsaysay identifies and analyzes distinct forms of ethnoracial profiling and racialized bullying that drive AANHPI students out of schools and into prisons. Ironically, much of this pipeline is a byproduct of the model minority myth, the "whiz kid" as Magsaysay puts it (Magsaysay 42). Because of this, "the needs of struggling AAPI students often become neglected since teachers believe that AAPI students are naturally smart... These students can fail or drop out, increasing the probability of entanglement with the criminal system," (Magsaysay 42). Ethnic studies in terms of the incarceration system can serve as a remedy specifically towards AANHPI communities where the potential to engage in critical coalition-building.

Reproductive justice, or lack thereof, for Indian women is another vantage point as to how Indian women are oppressed in the US. Biases in medical data are one of the biggest barriers in providing that reproductive justice. In Joel Brind, Steven Condly, Angela Lanfranchi, and Brent Rooney's article, "Induced Abortion as an Independent Risk Factor for Breast Cancer", examines the breast cancer epidemic in South Asian women in the US. The article addresses the biases present when reporting induced abortions. The authors write, "...there is a striking discordance between cases and controls in the number of subjects for which abortion data are missing" and South Asian who were interviewed were "not asked to specify the type of abortion", creating major bias between cases (44). Medical biases are present even when reporting data from willing participants.

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<sup>4</sup>AANHPI is an acronym for Asian American, Native Hawaiian, and Pacific Islander. The term is a significant rhetorical step towards acknowledging the vastness and diversity of Asian ethnic group identities in the US.

**INDIAN MEN AND BOYS**

The issues of asylum, religious freedom, and immigration are also illustrated in the treatment of Indian immigrant men. The article “Sikhs in America: Perpetually Foreign, Automatically Suspect, and Potentially Terrorist” provides a historical blueprint in how Sikhs, a religious minority in India, “were disproportionately policed” by the U.S. government, which “further aggravat[ed] their experience of isolation and discrimination.” In the early twentieth century, Sikhs who immigrated because they suffered political and religious persecution in India were prevented from receiving asylum in the U.S. Most importantly, the Ghadar Party formed in response to the treatment persecuted Sikhs endured. Throughout history, the most glaring issue for Indian immigrants remains seeking asylum. These issues coincide with asylum seeking cases in which Indian men are often put into detention centers and are incarcerated.

In the mid-1500s, the first South Asians—the overwhelming majority of them men—encountered the Americas as “sailors, servants, and slaves on Spanish trading vessels” along with other voluntary, forced and coerced migrants from China, Japan, Philippines, and Southeast Asia. (Lee 38). South Asian women and girls arrived as servants (coerced by poverty) or were trafficked and sexually enslaved (i.e., captured forced to migrate by slave traders) (Lee 39). Historically, South Asian men have had a long and more established presence in the United States with the first traces of a South Asian presence being in the early 1900s. South Asian women and girls appear in small numbers, usually as the family members of their male counterparts in locations that include cities, such as New Orleans, Detroit, and Harlem (Bald 128). Because Indian women’s histories are entangled with that of Indian men, given the invisibility of Indian women in legal and carceral studies, it is logical, necessary, and useful to ask what Indian immigrant and diasporic men’s lived realities might tell us about that of Indian women.

What do Indian immigrant men’s experiences of the carceral state suggest about Indian immigrant women’s carceral experiences? When Indian women appear in legal and carceral studies, they do not appear as empowered agents or resisters. There is a frequent focus on domestic abuse cases that project a singular image of Indian women as victims. At a structural level and among the broader public, Indian women are simply not viewed as criminals in the United States, which further alienates Indian women in conflict with the law from receiving help. Based on Purvi Patel, who ran her family business and was the sole breadwinner for her family, her criminalized abortion opened a can of worms for women of color and its intersectionalities with reproductive justice. Kandaswamy writes, “As the first woman to be convicted of feticide for termination of her own pregnancy, Purvi Patel’s case set a dangerous precedent” (Kandaswamy 219). This precedent is arguably rooted in consumer capitalism, class, and caste relations with the U.S. immigration system, and the social/gendered, political, and economic barriers therein, whether it be a criminalization rooted in racism or the pro-life versus pro-choice debate.

**ABOLITIONIST SOLUTIONS: BUILDING COALITION AMONG ETHNO-RACIAL MINORITIES**

One thing is for certain: the immigration status of one group tends to affect another. This is one motivation as to why coalition building can and should be possible. According to Lee, “Stranger intimacy helped foster community and survival in a hostile land” (Lee 370). A way I wanted to answer this question was by positing that many Indian immigrants come to the U.S. because of political unrest caused by white supremacy, and in India’s case, British colonialism which raped Mother India from all its resources and wealth.

Rather than confiding in solidarity with the Black community, the Indian community has become implicitly complicit with anti-Black violence. Mia McKenzie in *In The Solidarity Struggle* writes “Non-Black people of color, when offered a choice between solidarity with Black people and more access to whiteness, choose the latter virtually every time” (Building An Asian American Feminist Movement 6). Despite the criminal justice system affecting Indian immigrants by creating a legal framework by which the rights and benefits of citizenship are stripped away from US citizens until they mirror (and, at times,

dip below) those of noncitizen immigrants within the United States,” the assimilation to whiteness and to colonialist visions as to what the US should look like continue to be predominant in the community (Hernández 55). More meaningful coalitions between and among various groups that integrate a truly intersectional, interconnected, “both/and” analysis of race, power, and justice. The poverty created by white supremacy has forced poor people of color to deal drugs, starve, and are ultimately driven to conduct crime in order to survive. The incarceration system is a fundamentally flawed system due to these reasons.

The lack of access to resources as well as the lack of a political education can lead to consequences which may threaten the possibility of coalition building among minorities. Mon M. writes in “South Asians for Abolition: Beyond Gilded Cages”, “A lack of political education structures and community accountability structures (conflict mediation, transformative justice) meant there was no shared political analysis, which threatened the groups’ existence. In some cases, there were members who even felt that the group could be apolitical” (South Asians for Abolition 2). Despite the AAPI community being incarcerated in smaller numbers, they were incarcerated, nevertheless. By not partaking in coalition building among minorities, the lived experiences of incarcerated and criminalized Indian women and AAPIs becomes further erased, “obfuscat[ing] the scope of mass incarceration, perpetuates the model minority myth, and hinders collective solutions” (Magsaysay 454).

## CONCLUSION

This paper aims to fundamentally shift how Indian immigrant women are viewed in hopes of improving the current state of the US incarceration system. By highlighting how intersectionality affects Indian women and analyzing how gender, ethnicity, immigration status, colonialism, mass incarceration, and violence subsequently impact them, abolitionist solutions can arise. Building coalition amongst minority groups remains a long-standing solution to the issue of the current predicament that is the US carceral state due to the shared experiences brought upon intersectionality, and to an extent, the white colonialist patriarchy.

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