THE CURIOUS CASE OF CRIMINALIZABLE CORPORATE HARMS IN INDIA: THE 1991 ECONOMIC REFORMS AND THE NEOLIBERAL TURN

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ABSTRACT

In this study, I argue that the rationale determining criminalisable corporate harms has undergone a radical transformation from protection of public interest to boosting ease of doing business in India. The economic reforms (reforms) of 1991 is identified as the root cause of such transformation. I argue that corporate harms were initially criminalised majorly to protect public interest in the pre-reforms era. With the new mandate of creating a market-friendly economy, the reforms transformed this rationale having public interest as its major focus, to ease of doing business. Consistent with the neoliberal framework of the reforms, the ease of doing business rationale and the consequent decriminalisation of corporate harms are justified as incentivising private participation and generating wealth, benefitting all through the trickling-down effect. However, the data on economic inequality in India post-reforms suggests that, in practice, the reforms have disproportionately benefitted a few. On this basis, I argue that the ease of doing business rationale, stemming from the reforms as an important tool to achieve its promise, inherently carries this contradiction of the reforms between its promise and actual effects. Finally, I argue that this rationale, with its focus on profits benefitting a few, is contradictory to the purpose of criminal law to benefit the interest of all.

Keywords: *Corporate harm, Ease of doing business, Decriminalisation, Neoliberalism, Economic reforms, Public interest.*

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1. INTRODUCTION

In India, with the recent passing of the Jan Vishwas (Amendment of Provisions) Act, 2023, the nature of criminalisable harms relating to corporate entities is undergoing a significant transformation. The Act proposes decriminalising 183 provisions in 42 laws, including environmental, pharmaceutical, intellectual property, public liability insurance laws, and so on., to promote 'ease of doing business' and 'ease of living' in the country. This Act can be situated in two contexts. In the narrow context, the Act is consistent with the current government' recent measures to decriminalise various laws to boost the ease of doing business. In the broader context, it is consistent with the larger agenda of 1991 economic reforms ('reforms'), which aimed to liberalise, privatise, and globalise the Indian economy. Since the reforms aimed to promote private capital and create a market-friendly economy, the government took various measures to deregulate the private sector and boost ease of doing business. However, this was a radical shift from the pre–reforms era, where the state structured its relationship with the market on socialistic lines, thereby having extensive control over the private sector. The reforms instilled a new economic rationality radically different from the preceding era, resulting in a paradigm shift in the state's policies. Considering the political context in which the reforms were formulated, this new economic rationality was not implemented in its entirety immediately after the reforms (Kaviraj, 2012, p. 266). Instead, it was instilled in various institutions of the state in stages, resulting in the gradual yet inconsistent shift of the Indian state from socialistic to neoliberal rationality. The current trend of decriminalising corporate harms in India, which I will be analysing in this paper, can be situated in this gradual shift of the state post-reforms.

Although the broad focus of the study is the decriminalisation of corporate harms in the post-reforms era, the study specifically aims to analyse an underlying significant phenomenon in the decriminalisation process: the transformation of the rationale determining criminalisable corporate harm from pre- to post-reforms era. In the pre-reforms era, corporate harms affecting the public and commons were extensively criminalised to protect public interest. Essentially, the protection of public interest was used as a rationale to determine whether a particular corporate harm should constitute *a crime* or stay criminalised. However, in the post-reforms era, with its mandate to create a market-friendly economy, various such corporate harms were decriminalised to boost the ease of doing business. In other words, the need to boost the ease of doing business is now employed as the rationale to determine criminalisable corporate harms. This study aims to theorise and

critically analyse this radical transformation of rationale from protecting the public interest in the pre-reforms era to boosting ease of doing business in the post-reforms era in the context of shifting economic policy of the Indian state and its impact on the nature and extent of state's penal control over the market.

The second section of the paper surveys the existing literature on the interplay between shifting economic policy of the state and its impact on the rationale determining criminalisable corporate harm. The third section elaborates the methodology and framework adopted to carry out this research. The fourth section analyses the impact of economic policy on the rationale in the pre-reform era. The fifth section elaborates on the nature of the 1991 economic reforms and the consequent shift of the state from a socialist framework to a neoliberal framework. The sixth section deals with the impact of neoliberal mandate of the reforms on the transformation of rationale determining criminalisable harm related to corporate entities in the post-reforms era. The seventh section attempts to critically analyse this transformation and cull out certain inherent contradictions with the rationale of boosting the ease of doing business. Thereafter, I conclude.

2. LITERATURE REVIEW

The trajectory of penal control of the state over the market in India has been highly unpredictable. Post-independence, the Indian state, with its socialist ideology and consequent dirigiste policies, gave itself extensive regulatory control over the market. According to Kaviraj (2012), a significant reason for this extensive control was the general mistrust on the capitalist class primarily due to colonial experiences with exploitative tendencies of corporations. Tripathi and Jumani (2013) and Varottil (2016) also acknowledge the existence of this mistrust post-independence. The state's extensive control over the market naturally led to extensive criminalization of corporate harms. This era, for the purpose of this study, may hence be called an era of 'mistrust-based criminalisation'. Varottil (2016) also argues that the post-independence period witnessed extensive criminalisation of company law while infusing it with the 'concept of public interest' .

However, the reforms of 1991 resulted in a paradigm shift in the state-marker relationship from socialistic to neoliberal lines (Gupta, 2016). As per Gupta (2016) and Ganti (2014), these reforms were neoliberal in nature demanding the state to 'roll back' from the market and significantly reduce its control over it to liberalise, privatise and globalise the economy. Bell (2011) argues that the 'neoliberal turn' transforms the state from a 'public service provider' to merely a 'facilitator of market solutions', signifying the prioritizing of market efficiency over welfare concerns. While

certain literature (Manor, 2020; Ranjan, 2018) argues that India is not neoliberal because her economic policies are still welfare-oriented, Peck, Brenner, and Theodore (2018) argue that the form of neoliberal policies is highly subjective to the socio-political context of the state instead of having a universal objective form. India, has been significantly welfare-oriented since reforms; hence, will incorporate the same even in its policies post-reforms. Bell (2011) and Harcourt (2011) agree with this view. With the new-found trust in the market post-reforms, the extent of the state's penal control over the market also underwent a significant transformation to align it with the mandate of the reforms and this translated to the decriminalisation of numerous laws to boost the ease of doing business in the country. Hence, the corporate penal policy transformed from 'mistrust-based criminalisation' in the pre-reforms era to 'trust-based decriminalisation' in the post-reforms era. This suggests that the economic policy of the state significantly impacts the nature and extent of its penal control over the market.

Doshi (2019) highlights the extensive decriminalisation of numerous provisions of certain laws relating to the market post-reforms, including in company law, while Paliwala (2023) observes the widespread decriminalisation of numerous offenses, especially in the last decade. The transformation from mistrust to trust-based decriminalisation is also evident from the preamble of the Jan Vishwas (Amendment of Provisions) Act, 2023, which aims to decriminalise numerous provisions across various laws 'to boost ease of doing business'. Further, a survey of decriminalisation post-reforms also suggests the radical transformation of rationale determining criminalisable corporate harms, from the 'protection of public interest' (leading to extensive criminalisation) in the pre-reform era to boosting 'ease of doing of doing business' (leading to extensive decriminalisation) in the post-reform era. For the sake of convenience, let us call the new rationale as 'EoDB' rationale. Decriminalisation of the Public Liability Insurance Act (Maheswari, 2020), labour laws (Sharma, 2022), environment laws (Sinha et al, 2023), etc., to boost ease of doing business, initially criminalised to protect the public interest, are some examples of this transformation. The purpose of this decriminalisation aligns with the neoliberal mandate of the reforms to boost the ease of doing business, resulting in the generation of wealth that would benefit the least well-off through its trickle-down effect.

However, as Anand and Thampi (2016), Chauhan et al. (2015), Chancel et al. (2021), Bharti et al. (2024), and many other literatures suggest, there is an outbreak of income and wealth inequality in India post-reforms. This challenges the core promise of the reforms to general wealth that would

benefit all sections of society through its trickle-down effect. Harvey (2007) also highlights the inherent contradictions within a neoliberal framework between its 'publicly declared promise of the benefit of all' and 'its actual consequence', which is the 'benefit of a few'. The data on widening economic inequality also suggest a similar contradiction with the neoliberal framework of the 1991 reforms. Consequently, the actual effect of various measures that stem from the neoliberal framework of the reforms is also in stark contrast with the promise of the reforms. In this context, broadly, this article argues that, *first*, the EoDB rationale, being a crucial product of the neoliberal framework of the reforms formulated to achieve its objectives, inherently carries this contradiction, too; *second*, that the EoDB rationale acts as a powerful force, among many other measures of the reforms, that reinforces, exacerbates, and proliferates this contradiction and; *third*, consequently, using this rationale to determine criminalisable corporate harms have a significant adverse impact on public interest and the functioning of the criminal law.

Essentially, the literature surveyed indicates a radical transformation of the Indian state from 'mistrust-based criminalisation' to 'trust-based decriminalisation'. Concomitant to this, a survey of laws suggests a transformation of the rationale determining corporate criminalisable harm from the 'protection of public interest' to boosting 'ease of doing business'. Considering, *first*, the decriminalisation of laws has become a trend, especially in recent times, and; *second*, there is a dearth of literature analysing the transformation of the rationale from pre-reform to post-reform era and its impact on public interest and the function of criminal law, this study aims to fill this research gap and provide an analysis of how the change in the economic policy of the state impacts the nature and extent of its penal control over the market. This research will lay down a foundation to analyse the future impact of the Indian state's shifting economic policy on the nature and extent of its penal control over the market

3. RESEARCH METHODOLOGY

This study employs an analytical doctrinal approach to critically examine the radical transformation of the rationale determining criminalisable corporate harms. To carry out this exercise, this study adopts a law and economics framework. Specifically, the transformation of the rationale is critically analysed in the context of shifting economic policies of the state and its impact on the nature and extent of state's penal control over the market. By examining this impact, this study aims to critically analyse the dynamic interplay between legal reforms and its economic objectives. Further, this framework focuses on the economic justifications for the transformation

of the rationale, precisely the promise of wealth generation and its trickle-down effect, and contrasts it with the empirical evidence on rising economic inequality in India. This study also illustrates how market efficiency has been employed as the dominant rationale in restructuring corporate penal policy, resulting in the marginalization of the concept of public interest. Informed by the works of scholars such as of Peck, Brenner, and Theodore (2018), Gupta (2016), Ganti (2014), Harvey (2007), and others, this study employs a critical neoliberal theoretical lens with the law and economics framework. Adopting such a lens allows the author to critically analyse the core precepts and the inherent contradictions within the neoliberal reforms and their impact on the rationale determining criminalisable corporate harms in India.

Further, since the transformation of the rationale is analysed in the context of shifts in the state's economic policy, specifically from the socialist framework post-independence to a neoliberal one post the economic reforms of 1991, historical analysis is central to the methodology. Such an analysis helps locate the socio-political-economic context and the key moments in the history of independent India, which resulted in significant changes in its economic policy and the consequent changes in the nature and extent of its penal control over the market. The historical analysis mentioned above is further supplemented by a legislative analysis of numerous laws and policies since independence. Various legislations introduced in India to regulate the market, such as company law, environmental laws, etc., are analysed to identify the transformation of the rationale determining criminalisable corporate harms from the 'protection of public interest' to the boosting of 'ease of doing business'.

Further, this research integrates empirical evidence to supplement its theoretical, historical, and legislative analysis by incorporating various data on economic inequality in India since reforms. Primarily, this study relies on the most recent data on economic inequality in India, such as the report by the World Inequality Lab (Chancel et al, 2021) and Bharti et al. (2024). This is further supplemented by other data sources such as Oxfam (2023), Wani (2023), Bardhan (2022), Jayaraj & Subramanian (2018), Anand & Thampi (2016), Chauhan et al. (2015), and so on. The purpose of analysing this data is to highlight the inherent contradiction existing in the neoliberal framework of the reforms and its policies, such as the EoDB rationale, between its 'publicly declared promise' and its 'actual effects'.

Essentially, the methodological approach of the study, through a confluence of theoretical, historical, legislative, and empirical analysis, facilitates a comprehensive analysis of the shifts in

economic policy in India and the consequent radical transformation of the rationale determining criminalisable corporate harms from the 'protection of public interest' to the boosting of 'ease of doing business'. The findings of this research substantiate the argument regarding the adverse impact of the 'EoDB rationale' on public interest and in the functioning of criminal law.

4. PRE-REFORMS: ERA OF MISTRUST-BASED CRIMINALISATION

Post-independence, it was common knowledge that the Britishers had left the country, draining all its wealth and leaving a highly stratified society, socially and economically. Therefore, the Nehru government's primary agenda was to develop infrastructure, technology, and other resources essential to create a strong foundation for the Indian economy. With the global crisis of capitalism and its detrimental consequences at the beginning of the century, a strong interventionist state was considered necessary to revive the Indian economy. Living amid extreme poverty, the public readily agreed to a strong interventionist state that would actively pursue policies for their welfare (Kaviraj, 2012, p. 246). Interestingly, the Indian capitalist class pushed for a strong state with economic nationalist policies, too (Kaviraj, 2012, p. 242). They understood that only a strong state could provide them with the necessary economic infrastructure amidst scarcity of resources and provide protection from foreign competition. Hence, there was a 'rare economic consensus' among the state, the public, and the capitalist class to establish a 'mixed economy' wherein economic functions crucial to the development of the state are carried out by the state, leaving the rest to the capitalist class (Kaviraj, 2012, p. 246).

However, there was a '*theoretical mistrust of the capitalist class*', primarily due to the social and economic crisis brought out by capitalism at the beginning of the century (Kaviraj, 2012, p. 245). The pre-independence experience of the nation with the exploitative nature and tendency of corporations, such as the East India Company, and the black-marketing and profiteering during the inter-war years further cemented this mistrust (Kaviraj, 2012, p. 245). Agreeing with Kaviraj (2012), Tripathi (2013, p. 19) observes '*that the dominant mood in the country in 1947 was one of antipathy, if not downright hostility, towards the private enterprise system as a whole*'. Also, the popular consciousness of all countries under colonial subjugation equated colonialism and capitalism as inseparable (Tripathi, 2013, p. 19). Further, the general global trend of economic policy moving towards Keynesian economics also reflected this mistrust on capitalist class (Tripathi, 2013, p. 20). Due to this antagonistic mood, any attempt to structure the Indian economy on capitalist lines would have gone against the general mood of the country (Tripathi, 2013, p. 18).

Umakanth (2016) also observes that the state desired extensive control over the market, via numerous laws and policies, including company law due to this general mistrust on the capitalist class. In this context, for the limited purpose of this study, the state-market relationship in the post-independence period can be characterized as that of '*mistrust-based governance*'.

This 'mistrust-based governance' meant that the state would assume enormous regulatory powers over the private sector**.** In the penal policy sphere, this mistrust, coupled with the state's socialistic inclinations, where the public interest is given paramount importance, translated into criminalising various harms such businesses *cause* (Varottil, 2018, p. 387). Criminalisation was thus seen as a necessary step to *protect the public interest*. This led to the introduction of numerous penal provisions across various statutes, such as the Capital Issues Control Act, 1947, the Imports and Exports (Control) Act, 1947, the Essential Commodities Act, 1955, the Companies Act 1956, the Mines & Minerals (Development & Regulation) Act 1957, various labour laws, and so on. In 1973, the government passed the Foreign Exchange Regulation Act (FERA), having penal provisions in almost all sections. Further, the global environmental movement introduced a host of environmental legislations with penal provisions during the latter half of the twentieth century. This included the Environment Protection Act 1986, the Air Act 1981, the Water Act 1974, etc.

The passing of the above legislations, coupled with the larger socialistic framework of the state, how it structured its relationship with the market on the lines of mistrust and its need to protect the interest of the poverty-riddled population, suggests that the fundamental purpose of criminalising corporate harms was to protect the public interest and to promote the welfare *of all* citizens. This purpose was also consistent with the general purpose of criminal law to protect the interests of all citizens. Hence, the protection of public interest was employed as a rationale to determine what constitutes and should remain criminalisable harm related to corporate entities. However, with the introduction of the reforms, which radically changed the relationship between the state and the market, this rationale underwent a radical transformation too.

5. THE NATURE OF REFORMS: THE NEOLIBERAL TURN.

The reforms can be understood in two contexts: global and Indian. In the global context, the reforms form part of a larger neoliberalisation of various economies since the 1970s. It starts with the post-war consensus of 'embedded liberalism' premised on Keynesian policies failing to achieve its desired results, leading to crises in many Western countries. The search for a new economic rationality led to the revival of classical liberalism but in its aggressive form – neoliberalism. At

its core, the *theory* of neoliberalism holds the integrity of the market as sacred. It aims to achieve human progress by protecting the free market, free trade, and private property (Harvey, 2007, p. 2). The presence of a strong state is seen as a situation of unfreedom because it allocates privileges and burdens on an arbitrary basis (Harvey, 2007, p. 37). Further, the state has only imperfect information about the market. Therefore, its artificial intervention with the market, such as, policies of redistribution of wealth, is looked at with utmost caution.

Consequently, only the market and its forces are seen as the legitimate institution that can allocate privileges and burdens because, first, it is natural, unlike the state, and second, it possesses perfect information regarding the working of the economy (Ganti, 2014, p. 92). Hence, it condemns any interference, including that of the state, with the 'natural' functioning of the market. Further, the market is also assumed to have a 'self-correction' mechanism, which would correct any irregularities in the economy using its invisible hand (Harvey, 2007, p. 2). An example is the 'Kuznets's Bell Curve'. According to Kuznets, as capitalist societies develop, inequality initially rises, peaks, and eventually decreases (Piketty and Goldhammer, 2014, p. 13).

Essentially, the state transforms from a 'public service provider' to merely a 'facilitator of market solutions' (Bell, 2011, p. 4). The state, thus, 'rolls back' from its traditional welfare functions and creates a neoliberal state apparatus to assist the market in its functions (Bell, 2011, p. 140). It proposes disinvestment in the public sector, reduced government spending, deregulation of welfare laws, privatisation, liberalisation of the economy, and, thereby, minimal state intervention. This rolling back of the state leads to wealth generation, and which is assumed to trickle down to the least well-off, ensuring the progress of all. Upon transformation, the fundamental purpose of the state is to protect and promote private capital and to eliminate barriers to the ease of doing business. The logic of neoliberalism now substitutes the logic of welfare underlying the state's policies. This logic has penetrated numerous countries since the 1970s, including the U.S., the U.K. and, certain Latin American countries. The wave of neoliberalism sweeping across the globe reached India, too.

Towards the beginning of the 1980s, the economic consensus of Nehruvian thought started to disintegrate primarily due to the weak implementation of economic policies, excessive bureaucratic power leading to corruption, and the gradual recomposition of the economic classes due to socialistic policies (Kaviraj, 2012, p. 256). Although these factors weakened the economic

consensus, it did not garner enough political will to oppose the same for a more liberal economy strongly. However, the situation started to change in the late 1980s.

The 1991 balance of payment deficits led to a severe economic crisis in the country. The IMF and the World Bank discontinued their financial assistance to India. They exerted pressure to carry out structural adjustments in the Indian economy and to implement policies to liberalise, privatise and globalise the economy. This garnered enough political will to discard Nehruvian policies and implement new economic reforms. Consistent with the neoliberal framework, it primarily involved making the Indian economy more market-friendly by protecting and promoting private capital, including foreign investments and boosting the ease of doing business.

Consequently, various measures radically different from the Nehruvian thought were introduced by the state. It included privatisation, deregulation, disinvestment, tariff reduction, promoting foreign investments, etc. The wealth, thus, created by the capitalist class was believed to have the *trickle-down effect*, benefitting the least well-off and benefiting *all classes* of society. Therefore, the Indian state radically transformed, discarding Nehruvian policies that were socialist in nature and incorporating neoliberal rationality in its state apparatus.

i. Is India Neoliberal?

At this juncture, it is pertinent to address the argument that India, although liberalised, is not strictly a neoliberal country (Manor, 2020; Ranjan, 2018). As per the argument, the reforms do not fit within the above theoretical framework of neoliberalism since the Indian state is still primarily welfare-based and has not aggressively rolled backward from the economic sphere. This argument has certain issues. First, this argument primarily arises from a wrong assumption that neoliberalism has one universal objective manifestation as formulated in the West. However, according to Brenner and Theodore (2002), neoliberalism does not have one universal objective definition or form; rather, its manifestations depend upon the country's socio-cultural-political-economic context. They named it *'actually existing neoliberalism*' (Brenner & Theodore, 2002, p. 351). Essentially, neoliberal policies take different forms in different jurisdictions based on the state's ideological inclinations and its subjective context. For instance, the implementation of neoliberal policies in a country with socialist inclinations will be different from that of a country with liberal inclinations primarily because the form such policies take depends upon the pre-existing ideological inclinations of the state. India, being a welfare-oriented state since independence with

policies formulated in a socialistic framework, may not aggressively pursue neoliberal policies as opposed to the U.S.A., which was liberal.

Second, the nature of 'actually existing neoliberalism' can be understood if a distinction is made between neoliberalism *in theory* and neoliberalism *in practice*, which are often contradictory to each other. For instance, despite neoliberalism, in theory, demanding the state to aggressively roll back from the market, in practice, a neoliberal state simultaneously rolls back and forth (Bell, 2011, p. 140). This is primarily because a neoliberal economy, in practice, cannot survive without the continuous intervention of the state. For example, the Thatcher government in the U.K. used extensive state power to make the trade unions powerless to pursue its neoliberal policies (Bell, 2011, p. 140), or the U.S. government created a 700-billion-dollar fund to bail out the financial sector post-2007 financial crisis (Johnson, 2008). In both these instances, the state has used its regulatory power to build or sustain the neoliberal economy. Free markets are created and sustained by the state through rules and regulations (Harcourt, 2011, p. 15). This phenomenon is often called the 'free economy and the strong state' (Gamble, 1994).

Third, in the Indian context, neoliberal policies did not take an aggressive form because of the political context in which they took place and the intentional strategy of the Narasimha Rao government to implement the policies in phases. Those policies that would give short-term results were preferred over long-term ones for securing legitimacy to the entire liberalisation process and, thereby, his weak government (Kaviraj, 2012, p. 266). This resulted in the gradual but inconsistent implementation of neoliberal policies. Therefore, considering the above arguments, while the case of India does not fit within the objective understanding of neoliberalism or 'neoliberalism in theory', it is consistent with the framework of 'actually existing neoliberalism' or 'neoliberalism in practice'.

However, despite these contradictions in the neoliberal framework, the larger agenda of neoliberal policies to protect and promote private capital and market interest remains constant regardless of its subjective forms. Now, let us understand how economic reforms, being neoliberal in nature, transformed the rationale that determines what constitutes criminalisable harm related to corporate entities.

6. POST-REFORMS: ERA OF TRUST-BASED DECRIMINALISATION

As mentioned above, neo-liberalisation involves a fundamental transformation of the economic rationality of the state and the relationship between the state, the market, the public and the

commons. Such transformation occurs through the instillation of neoliberal logic in the state and its institutions, either aggressively or gradually, depending upon the socio-political-economic context of the state. Naturally, neoliberal logic penetrates the criminal justice system as well.

According to certain scholars, neoliberal logic has resulted in the transformation of the penal functions of the state (Cavadino et al, 1999; Garland, 2001; Bell, 2011). When the Western countries took the 'neoliberal turn', these countries witnessed mass incarceration, increased prison budgets, criminalisation of poverty, decriminalisation of corporate offences, and so on. The focus of the present study is the phenomenon of decriminalisation of offences related to corporate entities specifically on the transformation of rationale that determines criminalisable corporate harm.

As discussed in the previous section, neoliberal logic demands the state to 'stay away from the market' and leave the market and its institutions (such as corporations) to govern themselves. The state must deregulate the private sector and only undertake minimal intervention when it is indispensable without violating the sanctity of the market. Essentially, the state must *trust* the market and its institutions, and this '*trust-based governance'* will boost the ease of doing business and bring prosperity to all citizens. This trust, coupled with the need to boost the ease of doing business and create a market-friendly economy, naturally translates into decriminalising offences related to corporate entities, among other measures. In the Indian context, such decriminalisation meant a radical shift from the post-independence era of extensive criminalisation of corporate offences.

Post reforms, the Indian government took various measures to decriminalise numerous provisions across various laws, citing the rationale of boosting ease of doing business. The first such instance was the repeal of the Foreign Exchange Regulation Act, 1973, which had penal provisions in almost all the sections and was replaced by the Foreign Exchange Management Act 1999, the violation of which constituted only civil wrongs (Doshi, 2019). Similarly, the Imports and Exports (Control) Act, 1947, which contained penal provisions, was replaced by the Foreign Trade (Development and Regulation) Act, 1992, which only had civil wrongs (Doshi, 2019). However, recently, decriminalising corporate offences citing the rationale of boosting ease of doing business has become a trend. Forty-eight provisions of the Companies Act 2013 were decriminalised in two phases since 2019 (Doshi, 2019). Various penal provisions in the labour laws have been decriminalised in the new labour code to boost the ease of doing business (Sharma, 2022). Further, over the last decade, around 3400 legal provisions were decriminalised to boost the ease of doing

business (Paliwala, 2023). However, certain divergences from this trend exist, such as the Companies Act 2013, which brought in numerous penal provisions. This was mainly in response to certain corporate scandals that occurred in the first decade of this century and not because of the general mistrust of corporations (Varottil, 2016, p. 289). However, this divergence has gradually been reversed with the recent decriminalisation of the Companies Act, 2013.

In the Indian context, this 'trust-based governance' and the consequent decriminalisation of corporate offences meant a radical change from the earlier regime of extensive regulatory control over the private sector through criminalising corporate harms. *In other words, implementing the reforms meant a radical shift from 'mistrust-based criminalisation' to 'trust-based decriminalisation'.* Essentially, the overarching neoliberal logic, with its focus on protecting and promoting private capital and market interest, now defines what harms committed by corporate entities should constitute or remain criminalised. Decriminalising corporate offences aims to boost the ease of doing business and generate wealth, which will benefit all economic classes through a trickle-down effect.

Following this logic, the latest and significant addition to this radical shift occurring in the corporate penal policy sphere is the Jan Vishwas (Amendment of Provisions) Act, 2023, which proposes decriminalising 183 provisions across 42 acts to boost ease of doing business. The list of acts includes the Environment Protection Act (1986), the Water Act (1974), the Air Act (1981), the Public Liability Insurance Act (1991), the Legal Metrology Act (2009), The Food Safety and Standards Act (2006), etc. The preamble of the Jan Vishwas (Amendment of Provisions) Act, 2023 reads:

'An act to amend certain enactments for decriminalising and rationalising minor offences to further enhance trust-based governance for ease of living and doing business.'

This statement clearly indicates that the state's policy with regard to determining criminalisable harm related to corporate entities has undergone a radical transformation from mistrust-based criminalisation to trust-based decriminalisation.

Further, from a survey of laws mentioned in the previous section, although a few provisions decriminalised are only minor offences that can be dealt with as a civil wrong, in many provisions, there is a conflict between two interests – public and private**.** For instance, the Environment Protection Act 1986, which has a public interest element behind the criminalisation of offences, is now proposed to be decriminalised under the Jan Vishwas (Amendment of Provisions) Act 2023

(Sinha et al, 2023). Under the same act, the Public Liability Insurance Act 1991 enacted post 'Bhopal Gas Tragedy' to ensure immediate relief to the victims of accidents involving hazardous substances is proposed to be decriminalised (Das, 2022). In both these instances, corporate harms, such as pollution or industrial accidents and its compensation, criminalised to protect the public interest are now decriminalised, citing the rationale of ease of doing business, which I will argue in the next section as benefitting private interests. This conflict is present in other instances, such as decriminalising other environmental laws or provisions of the Companies Act, 2013, such as CSR norms, violation of Section 8 companies, provisions for default in complying with public offer requirements, and so on.

In all these instances, the rationale determining criminalisable corporate harm in the pre-reforms era (to protect the public interest) is now being replaced by neoliberal logic (to boost ease of doing business) in the post-reforms era and, thereby, leading to the decriminalisation of many such harms. For convenience, let us call the latter the 'Ease of Doing Business' rationale ('EoDB rationale'). The state, thus, 'stays away from the market' or 'rolls backwards' by decriminalising corporate harms and converting the same to civil wrongs, where the state does not play any significant role. As private enterprises are wary of criminal sanctions, the EoDB rationale relieves them of criminal liability, thereby incentivising their participation in the Indian economy. This participation would generate profits, which would trickle down to the least well-off, thereby benefitting all is essentially the justification for the EoDB rationale. Therefore, the decriminalisation of corporate harm, citing EoDB rationale, is consistent with the neoliberal framework of the reforms.

Thus, we see a paradigm shift of the Indian state in its corporate penal policy sphere from mistrust-based criminalisation in the pre-reforms era to trust-based decriminalisation in the post-reforms era. This paradigm shift simultaneously resulted in another radical transformation, that of the rationale determining criminalisable corporate harm from the protection of public interest to boosting ease of doing business.

7. THE EODB RATIONALE: UNVEILING INHERENT CONTRADICTIONS.

While the use of EoDB rationale in the decriminalisation process can be criticised from multiple standpoints, in this study, I intend to strike at the genesis of the rationale by highlighting certain inherent contradictions within it. The first contradiction lies in the stark contrast between the purpose, on paper, of the neoliberal framework in which the rationale is formulated and its actual

effects in practice. The EoDB rationale, being a product of the neoliberal framework of the reforms, inherently carries this contradiction, too. The second contradiction lies in the stark contrast between the purpose of such rationale and the fundamental purpose of criminal law. By dissecting the rationale and exposing its contradiction at its core, I argue that the use of EoDB rationale in determining criminalisable corporate harm is fundamentally flawed and has numerous adverse impacts on the public interest.

i. Indicators of Contradiction: The Economic Inequality Data Post-Reforms.

As mentioned above, the purpose of the neoliberal framework of the reforms was to boost economic activity in the country and thereby generate wealth, which would eventually trickle down to the least well-off and benefit all. The EoDB rationale, being a product of this neoliberal framework, was formulated as an essential tool to achieve this purpose, among many other measures the government took to achieve the same. However, the fundamental problem with using EoDB rationale in determining criminalisable corporate harm is precisely that it stems from a neoliberal framework. This is because, although, in *theory*, the neoliberal framework promises progress for all, in *practice,* it tends to function towards the benefit of a few privileged minorities. (Harvey, 2007, p. 79). In other words, the promise of the neoliberal framework on paper and its actual effect, in practice, are contradictory to each other. Consequently, various measures that stem from the neoliberal framework for achieving its objectives, such as the rationale, inherently carry this contradiction, too.

The fact that the neoliberal framework and, thereby, the EoDB rationale, *in practice*, tends to protect and promote the interest of a few is evident from data regarding the proliferation of inequalities in economies post-neoliberalisation. For instance, in the U.S., between 1979 and 2019 (40 years after neo-liberalisation), the earnings of the bottom 90 percent increased by only 46 percent, while the incomes of the top 1 percent increased by a frightening 229 percent (Horowitz et al, 2020). Regarding wealth inequality in the U.S.A., in the early 1980s, the wealth held by upper-income families was 3.4 times and 28 times that of middle-income and lower-income families, respectively (Horowitz et al, 2020). However, as of 2016, the wealth held by upper-income families shot up by 7.4 times and 75 times that of middle-income and lower-income families, respectively (Horowitz et al, 2020). According to Piketty and Goldhammer, after a brief decline in the income and wealth inequality levels in the post-war era, inequalities consistently rose since the neo-liberalisation of the economies across the globe, and as of now, the global

capital-income ratio has reached 500 percent (Piketty & Goldhammer, 2014, p. 245). According to his predictions, the same "*could approach 700 percent before the end of the twenty-first century, or approximately the level observed in Europe from the eighteenth century to the Belle Époque*." (Piketty & Goldhammer, 2014, p. 245)

In the Indian context, in 1991, when the reforms were introduced, the average share of national income of the bottom 50 percent, top 10 percent and top 1 percent were 19.08 percent, 38.75 percent and 13.26 percent respectively (Chancel et al, 2021, p. 197). However, in 2022, around 30 years of the reforms, the average share of income of the bottom 50 percent was reduced to 13.1 percent, while the income of the top 10 percent and the top 1 percent increased to 57.1 percent and 21.7 percent, respectively (Chancel et al, 2021, p. 197). It is crucial to note that the average share of national income of the top 10 percent in 2022 is higher than the group's share in the pre-independence period (around 53 percent), a period of extreme inequality (Chancel et al, 2021, p. 197). Chancel et al. (2021, p. 197) notes that the average national income of the Indian adult population is INR 204,200. While the bottom 50% earns INR 53,610, the top 10% earns more than 20 times more INR1,166,520, this study (Chancel et al, 2021, p. 197) observes that '*India stands out as a poor and very unequal country, with an affluent elite*'. Further, since the 1980s, the share of national income of the bottom 50 percent has reduced by 40 percent while the top 10 percent has risen by 80 percent and the share of the top 1 percent has risen by a staggering 180 percent (Ghatak et al, 2022).

Regarding wealth inequality in India, at the time of the reforms, the average wealth owned by the bottom 50 percent, top 10 percent and top 1 percent was around 9 percent, 54 percent and 22 percent, respectively (Chancel et al, 2021, p. 198). However, in 2022, the share of the bottom 50 percent in average wealth owned reduced to 6 percent, while the share of the top 10 percent and the top 1 percent increased to 65 percent and 33 percent (respectively (Chancel et al, 2021, p. 198). Further, private wealth grew in India from around 350 percent of national income in 1991 to 555 percent in 2020 (Chancel et al, 2021, p. 78).

The data mentioned above is taken from the World Inequality Report, 2022, published by the World Inequality Lab and prepared by renowned economists such as Lucas Chancel, Thomas Piketty, Emmanuel Saez, and Gabriel Zucman. The inequality data is collated by more than 100 researchers from around the globe in collaboration with universities, tax authorities, statistical institutions, and international organisations, with United Nations Development Programme as its

scientific partner (Chancel et al, 2021, p. 10). However, the inequality data regarding India, especially in recent years beginning in 2014, must be read carefully because of the lack of high-quality data. The data before 2014 relies on the data released by the Indian Income Tax Department, All India Debt and Investment Survey, and All-India Consumer Household Expenditure Survey (Chancel & Piketty, 2019). For the data post-2014, where the data is missing, they assume a 'neutral inequality growth rate between the years' (Ghatak et al, 2022).

However, a recently released report by the World Inequality Lab (Bharti et al, 2024) which extends their series (Chancel & Piketty, 2019) on economic inequality in India from 1922 – 2014 to 1922 – 2023 by incorporating new data for the period post-2014 suggests a similar trend in the widening economic inequality in India. As per the report (Bharti et al, 2024), both income and wealth inequality in India in the period between independence and reforms (1950 – 1991) declined while the post-reforms period (1991 – 2023) witnessed an unprecedented increase in income and wealth inequality reaching a record high in 2023. The report (Bharti et al, 2024, p. 3) suggests that India, as of 2023, is more unequal than pre-independent India, an era considered of extreme inequalities. While data from other sources (Anand & Thampi, 2016; Chauhan et al, 2015; Deaton and Dreze, 2002; Jayaraj & Subramanian, 2018; Oxfam, 2023; Radhakrishna, 2014; Sarkar & Mehta, 2010, Wani, 2023) may exhibit some variations from the World Inequality Report, there is a consensus across these sources that the economic inequality in India is indeed widening post-reforms.

Apart from economic inequality among the masses, there are other indicators of contradictions of the neoliberal framework as well. For instance, Marcellus (2020), in 1990, while the share of the 20 most profitable firms in total corporate profits was 14 percent, it was 30 percent in 2010 and grew rapidly to 70 percent in 2019. This study also observes that this staggering increase in profit share can largely be attributed to market power of certain firms rather than to the 'invisible hands' of the market. This data suggest a high degree of capital concentration in India. Regarding employment growth post-reforms, Bardhan (2022) indicates the deceleration of the same, specifically in the case of less-educated workers. He notes that (Bardhan, 2022, p. 180), 'India now has one of the lowest labour force participation rates in the world. All this has ominous implications for both the economy and the polity…'. With respect to the share of wages, Thakur (2022) notes that while the profit share in the 'net value added' has consistently increased and risen more than the pre-reforms rates, the share of wages has decreased. All these data indicates a

growing contradiction with the promise of the reforms and its actual adverse effects on the economy.

ii. EoDB Rationale and its Contradictory Roots.

From the data presented above, we can arrive at certain deductions. First, on paper, the promise of the reforms and its neoliberal framework that liberalising the Indian economy would lead to the generation of wealth, which would eventually trickle down to the least well-off, is in stark contrast with reality. Instead of the promised trickle-down effect, the data across sources suggests that the reforms have led to the concentration of wealth at the top of the class hierarchy. As per the World Inequality Report, 2022, '*Since the mid-1980s, deregulation and liberalisation policies (in India) have led to one of the most extreme increases in income and wealth inequality observed in the world*' (Chancel et al, 2021, p. 41). This is evident from the fact that the share of income and wealth of the top 10 percent and top 1 percent has consistently risen to alarming levels, while the share of the bottom 50 percent has consistently declined. Similarly, private wealth and profits have consistently soared while wages have consistently declined.

However, Harvey (2007, p. 79) has observed that there exists a fundamental contradiction between 'the declared promise of neoliberalism', which is the progress of all, and 'its actual consequences', which is progress of a few, leading to 'restoration of class power'. The data regarding the economic inequality in India post-reforms suggests the existence of a similar contradiction with the neoliberal framework of the reforms. The widening income inequality, the concentration of wealth, and no trickling down of the same indicates that the promise of the reforms and its effects are diametrically opposed to each other. In practice, led to the progress of a few while making the conditions of the least well-off worse.

Second, as discussed above, EoDB rationale was introduced as a measure, among many other measures, to fulfill the promise of the reforms – of the progress of all. However, as suggested above, the reforms' promises and effects contradict each other. Consequently, any measure that stems from the reforms to aid it in achieving this promise inherently carries this contradiction, too. *In other words, the fact that these measures stem from a parent framework whose promises and actual effects are contradictory to each other means these measures, including decriminalising corporate harm using the EoDB rationale, inherently carry this contradiction between its promise and its effect*. While using the exact promises and justifications as the reforms, the EoDB rationale, in practice, tends to reinforce the contradictions of the neoliberal framework of the reforms.

At this juncture, *it is strongly emphasised* that the present analysis does not suggest a causal relationship between the neoliberal framework of the reforms or the underlying EoDB rationale and the rise of inequalities in India. Instead, the argument is that the data discussed above strongly indicates that the reforms and, consequently, the rationale act as a powerful force that reinforces, exacerbates, and proliferates economic inequality. *As a consequence of this contradiction, the decriminalisation of corporate harms using the EoDB rationale, in practice, tends to become a dangerous tool to aid the neoliberal framework of the reforms to benefit the interest of a few than of all.*

iii. Merging the Opposites: EoDB Rationale and Criminal Law.

Further, since the EoDB rationale carries this effect of aiding the neoliberal framework of the reforms in profit and wealth accumulation, essentially, such rationale tends to focus on procuring profits rather than protecting the public interest. For instance, let us take the case of decriminalisation of the Public Liability Insurance Act of 1991. It was enacted after the infamous 'Bhopal gas tragedy' of 1984, where thousands of people died due to a gas leak from the Union Carbide's plant in Bhopal (Maheshwari, 2020). Its effects are continuing on the victims. Since only meagre compensation was ordered to be given by the courts to the victims after five years of the tragedy, the Public Liability Insurance Act was enacted to ensure immediate compensation to victims of industrial accidents involving hazardous substances even without proof of fault. Consequently, various non -compliances under the Act, such as taking insurance and renewing the same, were criminalised to ensure immediate relief (Maheshwari, 2020). Essentially, the provisions of the Act were criminalised to protect the public interest in case of hazardous accidents. However, as per the gazette notification, numbered G.S.R. 765 (E) released by the Ministry of Environment, Forest and Climate Change, Govt. of India on 18th October 2023 in pursuance of the Jan Vishwas (Amendment of Provisions) Act, 2023, these provisions are set to be decriminalised from 1st April 2024 to boost ease of doing business. Here, private interest (of profits benefitting only a few) is replacing public interest (of immediate adequate compensation) as the dominant rationale in case of hazardous industrial accidents. *In other words, using EoDB rationale in decriminalisation means that profits, and not public interest, tend to become the dominant rationale to determine whether a particular harm related to corporate entities should constitute a crime or stay criminalised*. The same analogy can be extended to decriminalising offences involving public interest in other laws, including environmental, labour, company laws, etc.

This leads us to another significant contradiction in the use of such rationale in the decriminalisation process. This arises when one shifts the focus from this inherent contradiction within the rationale to its contradiction outside of it – with the general purpose of criminal law. The fundamental purpose of the criminal justice system, including criminal laws, is to protect the interests of all. Instilling the tendency to attain profits regardless of its cost to public interest in the criminal justice system raises significant concerns due to its inconsistency with this fundamental purpose of the system itself. *Essentially, the process of decriminalising corporate harm using the EoDB rationale involves the merger of two antithetical ideas and purposes: one that of criminal law, whose purpose is to protect and promote the interest of all, and the other that of the neoliberal framework, which tends to, in practice, prioritise interest of a few. This merger essentially instrumentalises criminal law to further the good of the few private interests based on the principle of profits.* The argument here is not that profits or private interests must never be considered as a rationale in determining criminalisable corporate harm. Instead, the concern here is that - should the EoDB rationale, which tends to prioritise profits benefitting a few, be used as a criterion to determine criminalisable corporate harm? The need for criminal laws to be economically efficient must be an important consideration. However, attaining such efficiency must never override the need to protect the public interest.

8. CONCLUSION.

This study aimed to identify and analyse a crucial phenomenon occurring in the criminal justice system in India with respect to corporate harms – the radical transformation of the rationale determining criminalisable corporate harm post-reforms of 1991. In the pre-reform era, the socialistic tendencies of the state, its general mistrust of the capitalist class, and the socio-economic context of the country suggest that the rationale determining criminalisable corporate harm was the protection of public interest. However, the reforms and its neoliberal framework led to the radical transformation of the Indian state from socialistic in nature to a market-friendly one, which resulted in a paradigm shift in the method of regulating corporate crimes, among many other things. With its new mandate of creating a market-friendly economy based on the new-found trust in the capitalist class, the rationale underwent a significant transformation from the protection of public interest to boosting ease of doing business. The use of EoDB rationale was portrayed and justified as advancing public interest since decriminalisation of corporate harms would incentivise private participation in the economy leading to the creation of wealth that would trickle down to

the least well-off, thereby benefitting all. Essentially, the reforms and its neoliberal framework facilitated the radical transformation of the rational, and the current trend of decriminalisation of corporate harms can be situated in this context.

However, this transformation of the rationale determining criminalisable corporate harm, especially considering the fact that it is occurring within the criminal justice system, raises significant concerns. As Harvey (2007, p. 79) pointed out, an inherent contradiction exists with publicly declared promises of neoliberalism, the benefit of all, and its actual consequences, the benefit of a few. The data regarding the proliferation of economic inequality post-reforms discussed above strongly indicates the existence of such a contradiction in the reforms. The data suggest that the reforms, in practice, tend to work for the benefit of a few regardless of its cost on the interest of all. The EoDB rationale, stemming from the reforms and formulated as a crucial tool to achieve its publicly declared promise of the benefit of all, inherently carries this contradiction too. In this process, indirectly, the need to procure profits and protect private interests regardless of its cost to public interest tends to become the criteria to determine what corporate harms should constitute a crime or stay criminalised. Instilling the tendency to prioritise profits over the public interest in the working of criminal law through the EoDB rationale is alarming and contradictory. Criminal law, whose purpose is to protect the interests of all and not merely a few will, in practice, tends to become another tool to further the good of the few private interests based on the principle of profits. It is alarming to incorporate this tendency in the working of criminal law, specifically with respect to determining criminalisable corporate harm. Essentially, the neoliberal framework of the reforms, through the EoDB rationale, is resulting in a radical transformation of the purpose, methods, and province of criminal law in India with respect to the nature of criminalisable corporate harm.

Here, it is essential to discuss the case of General Electric (G.E.), a company incorporated in the U.S. and one of the world's most reputed and profitable companies. However, the company was fined more than 40 times between 1990-2001 for violating various laws, including environmental, commercial, and labour (Bakan, 2012, p. 75). The total fines paid by G.E. during that period went up to billions of dollars and, in one instance, 2 billion dollars (Bakan, 2012, p. 77). One may wonder why, despite being fined multiple times with exorbitant amounts, G.E. kept on violating the law. Moreover, the case of G.E. is one among numerous such violations of various laws. This is primarily because corporations make decisions based on 'cost-benefit analysis'. Corporations

would go ahead with doing 'A' if the benefit of doing 'A' outweighs its cost, even if it means a violation of law. Thus, as Bakan (2012) has argued, it is in the inherent institutional nature of corporations to relentlessly pursue profits. In such pursuit, the socio-economic-political impacts of the harms committed by it are depoliticised and become secondary and mere technical impediments to profits.

Further, the case of G.E. shows that, in a neoliberal framework, where the state is constantly implementing policies to create a market-friendly economy and boost ease of doing business, the tendency of the corporation to relentlessly pursue profits at the cost of public interest is intensified and incentivised. The neoliberal framework, in theory, requires the state to trust the corporations to not soullessly pursue profits at the cost of public interest. However, in practice, it mandates the state to assist the corporations in such pursuit regardless of its cost to the public interest. As a product of such a framework, the EoDB rationale carries this mandate, too. It seeks to decriminalise instances of corporate harm and to absolve corporations from accountability for such harms. By converting the prosecution of corporate harms into a civil dispute, where corporations are accountable to private parties rather than the public through the state, the rationale essentially eliminates the requirement of public accountability of corporations. Further, the consequence of committing harm would ensue only payment of fines which corporations consider to be a mere cost for the benefit derived from such harm. This lack of public accountability and the mere payment of fines further encourages corporations to commit harm. *Therefore, in a neoliberal framework, where the EoDB rationale and not the public interest rationale determines what constitutes criminalisable corporate harm, criminal law, directly or indirectly, facilitates and incentivises corporate harm*.

The argument in this study is not that boosting ease of doing business or profits must never be a consideration specifically to determine criminalisable corporate harm or generally for making laws and policies. Economic efficiency must be an essential consideration. Instead, the argument is that the need for laws to be economically efficient must never triumph over the need to protect the public interest. Especially considering the socio-economic context of India, where most of the population lacks social and economic capital, laws cannot afford to triumph profits that do not trickle down to the least well-off over the public interest. However, the policy of decriminalising corporate harms using the EoDB rationale tends to do precisely the same by focusing on 'Profit *over* People' instead of 'Profit *and* People' (Chomsky, 1999). The current trajectory of

decriminalising corporate harms in India, coupled with the government's proposal to draft Jan Vishwas Act 2.0 (Jayaswal, 2023) to further decriminalise numerous laws to boost the ease of doing business in the country, warrants the need to formulate innovative solutions to reconcile the conflict arising from the need to foster a profitable business environment over the protection of public interest.

REFERENCES

Anand, I., & Thampi, A. (2016). Recent trends in wealth inequality in India. *Economic and Political Weekly, 51*(50), 59–67.

Bakan, J. (2012). *The corporation: The pathological pursuit of profit and power*. Constable.

Bardhan, P. (2022). Inequality and capitalism in India. *Studies in Indian Politics, 10*(2), 176-184.

Bell, E. (2011). *Criminal justice and neoliberalism*. Palgrave Macmillan.

Bharti, N. K., Banerjee, A., Kumar, S., & Sen, R. (2024). Income and wealth inequality in India, 1922–2023: The rise of the billionaire raj. *World Inequality Lab*. Retrieved from https://wid.world/wp-content/uploads/2024/03/WorldInequalityLab_WP2024_09_Income-and-Wealth-Inequality-in-India-1922-2023_Final.pdf

Brenner, N., & Theodore, N. (2002). Cities and the geographies of actually existing neoliberalism. *Antipode, 34*(3), 349–379. https://doi.org/10.1111/1467-8330.00246

Cavadino, M., Crow, I., & Dignan, J. (1999). *Criminal justice 2000: Strategies for a new century*. Waterside Press.

Chancel, L., & Piketty, T. (2019). Indian income inequality, 1922–2015: From British raj to billionaire raj? *Review of Income and Wealth, 65*(1), 33–62.

Chancel, L., Piketty, T., Alvaredo, F., Zucman, G., & Saez, E. (2021). *World inequality report 2022*. World Inequality Lab. Retrieved from https://wir2022.wid.world/www-site/uploads/2021/12/WorldInequalityReport2022_Full_Report.pdf

Chauhan, R. K., Mohanty, S. K., & Panda, B. (2016). Regional estimates of poverty and inequality in India, 1993–2012. *Social Indicators Research, 127*(3), 1249–1296. https://doi.org/10.1007/s11205-015-1006-6

Chomsky, N. (1999). *Profit over people: Neoliberalism and global order*. Seven Stories Press.

Das, A. (2022, July 8). Centre proposes decriminalising law providing safety to workers. *Newsclick*. Retrieved from https://www.newsclick.in/centre-proposes-decriminalising-law-providing-safety-workers

Deaton, A., & Dreze, J. (2002). Poverty and inequality in India: A re-examination. *Economic and Political Weekly, 37*(36), 3729–3748.

Doshi, M. (2019, December 7). Decriminalisation of company law and other U-turns. *Bloomberg Quint*. Retrieved from https://www.bloombergquint.com/law-and-policy/decriminalisation-of-company-law-and-other-u-turns-2

Gamble, A. (1994). *The free economy and the strong state*. Macmillan.

Ganti, T. (2014). Neoliberalism. *Annual Review of Anthropology, 43*, 89–104. https://doi.org/10.1146/annurev-anthro-092412-155528

Garland, D. (2001). *The culture of control: Crime and social order in contemporary society*. Oxford University Press.

Ghatak, M., Raghavan, R., & Xu, L. (2022, September 19). Trends in economic inequality in India. *The India Forum*. Retrieved from https://www.theindiaforum.in/economy/trends-economic-inequality-india

Gupta, C. D. (2016). *State and Capital in Independent India: Institutions and Accumulations*. Cambridge University Press.

Harcourt, B. (2011). *The illusion of free markets*. Harvard University Press.

Harvey, D. (2007). *A brief history of neoliberalism*. Oxford University Press.

Horowitz, M., Igielnik, R., & Kochhar, R. (2020, January 9). Trends in income and wealth inequality. *Pew Research Centre*. Retrieved from https://www.pewresearch.org/social-trends/2020/01/09/trends-in-income-and-wealth-inequality/

Jayaraj, D., & Subramanian, S. (2018). The distribution of household assets in India: 1991–1992 to 2012–2013. *Indian Journal of Human Development, 12*(2), 181–203. https://doi.org/10.1177/0973703018789244

Jayaswal, R. (2023, November 9). Govt may soon table 2nd edition of Jan Vishwas bill in Parliament. *Hindustan Times*. Retrieved from https://www.hindustantimes.com/india-news/govt-may-soon-table-2nd-edition-of-jan-vishwas-bill-in-parliament-101699470219886.html

Johnson, A. (2008, October 2). Bush signs $700 billion financial bailout bill. *NBC News*. Retrieved from https://www.nbcnews.com/id/wbna26987291

Kaviraj, S. (2012). Politics of liberalisation in India. In *Trajectories of the Indian state: Politics and ideas* (pp. 234–271). Orient Blackswan.

Maheshwari, M. (2020, May 25). Understanding the Public Liability Insurance Act, 1991. *Live Law*. Retrieved from https://www.livelaw.in/columns/understanding-the-public-liability-insurance-act-1991-157266

Manor, J. (2020). India's far from neo-liberal economic order in the Modi era. *Economic and Political Weekly, 55*(44), 12–15. Retrieved from https://www.epw.in/journal/2020/44/commentary/indias-far-neo-liberal-economic-order-modi-era.html

Marcellus. (2020, May 13). *Behold the Leviathan: The remaking of Indian capitalism.* Marcellus Investment Managers. Retrieved from https://marcellus.in/blogs/behold-the-leviathan-the-remaking-of-indian-capitalism/

Oxfam India. (2023). *Survival of the richest: The India story*. Oxfam, The India Supplement. Retrieved from https://d1ns4ht6ytuzzo.cloudfront.net/oxfamdata/oxfamdatapublic/2023-01/India_Supplement_2023_digital.pdf

Paliwala, M. (2023, February 1). 39,000 compliances reduced, over 3,400 legal provisions decriminalised to enhance ease of doing business in India: Finance minister. *Live Law*. Retrieved from https://www.livelaw.in/top-stories/union-budget-2023-ease-of-doing-business-legal-provisions-decriminalised-section-276a-income-tax-act-220416

Piketty, T., & Goldhammer, A. (2014). *Capital in the 21st century*. Belknap Press of Harvard University.

Radhakrishna, R. (2014). Performance of Indian economy in the post-reform period. *Indian Journal of Human Development, 8*(1), 5–27. https://doi.org/10.1177/0973703020140101

Ranjan, P. (2018, July 28). What's so neoliberal about Narendra Modi's India anyway? *The Wire*. Retrieved from https://thewire.in/political-economy/neoliberalism-modi-bjp-congress-india

Sarkar, S., & Mehta, B. S. (2010). Income inequality in India: Pre- and post-reform periods. *Economic and Political Weekly, 45*(37), 45–55.

Sharma, Y. (2022, June 6). Decriminalisation of labour penalties relieves employers. *The Economic Times*. Retrieved from https://economictimes.indiatimes.com/news/economy/policy/decriminalisation-of-labour-penalties-relieves-employers/articleshow/92026852.cms

Sinha, D., Ahlawat, H., & Pandey, S. (2023). Analysis of proposed amendments to the environmental laws in Jan Vishwas (Amendment of Provisions) Bill, 2022. *Vidhi Centre for Legal Policy*. Retrieved from https://vidhilegalpolicy.in/research/analysis-of-proposed-amendments-to-the-environmental-laws-in-jan-vishwas-amendment-of-provisions-bill-2022/

Thakur, A. (2022, May 29). Surge in income inequality since 1991 reforms: Survey. *Times of India*. Retrieved from https://timesofindia.indiatimes.com/business/india-business/surge-in-income-inequality-since-1991-reforms-survey/articleshow/91863263.cms

Tripathi, D., & Jumani, J. (2013). The Oxford history of contemporary Indian business. OUP Catalogue.

Varottil, U. (2016). The evolution of corporate law in post-colonial India: From transplant to autochthony. *American University International Law Review, 31*(2), 253–326.

Varottil, U. (2018). The stakeholder approach to corporate law: A historical perspective from India. In H. Wells (Ed.), *Research handbook on the history of corporate and company law* (pp. 381–400). Edward Elgar Publishing.

Wani, A. A. (2023). Mapping the "Indian plutonomy": The political economy of rise and growth of the superrich in India. *India Review*, *22*(4), 361-396.