

BEYOND PRICE: RETHINKING ANTITRUST IN THE DIGITAL ERA

A Critical Examination of Consumer Privacy in Data-Driven Mergers

Nimrat Kalirai

1. *Introduction*

In recent years, the growing importance of data in the business landscape has prompted concerns about the adequacy of current United States (US) antitrust laws. This concern is particularly pertinent when examining mergers and acquisitions involving substantial data assets. Antitrust laws, originally formulated to nurture fair competition and curb monopolistic practices, now grapple with new challenges in dynamic digital industries (Vassallo). High-profile cases like the mergers of Google-DoubleClick, Facebook-WhatsApp, and Microsoft-LinkedIn underscore the critical role of acquiring and integrating data assets to gain a competitive edge in digital services (Geoffrey 1327). As companies increasingly pursue data-driven mergers, where the main goal is combining or exchanging data assets, questions arise regarding the sufficiency of current antitrust regulations. Specifically, there is concern about how well these regulations oversee consumer privacy during merger evaluations (Geoffrey 1329).

The foundation of US antitrust laws lie in the Consumer Welfare Standard, a framework based on economic principles advocated by the Chicago School of Economics in the 1970s (Stucke and

Ezrachi). This framework, adopted by the Federal Trade Commission (FTC), serves as the guiding principle in evaluating the impact of mergers within their respective markets (Cseres 123). Due to narrowly defined, economically driven criteria, the Consumer Welfare Standard prioritizes the aspects of price efficiency and output maximization through the facilitation of low prices (123). The FTC, as the federal agency entrusted with antitrust regulation in mergers, adheres to this framework. Its mandate revolves around “protecting consumers and competition by preventing anticompetitive, deceptive, and unfair business practices through the application of US antitrust laws” (Posner 54).

This paper posits that when mergers involve products offered to consumers without a monetary cost, relying on data collection as the revenue model, the conventional economic focus embraced by antitrust laws proves inadequate in addressing potential harms to consumers. If safeguarding consumers and competition is indeed the objective of antitrust laws in merger assessments, this paper argues the necessity of a broader approach that goes beyond economic considerations. This paper investigates the challenges in data-centric mergers within the framework of

current US antitrust laws, focusing on the Facebook-WhatsApp merger. This paper examines how this merger has engendered harm to both competition and consumers through the lens of consumer privacy—which encompasses the collection, management, and utilization of sensitive personal information (Dengler 503). Section two presents a background of the merger, critically assesses the FTC's pre-merger evaluations, and identifies two key shortcomings in recognizing potential harms to competition: (1) A narrow definition of Facebook's market that failing d to include all the markets in which Facebook operated. (2) A misunderstanding of platform substitutability, which refers to how easily consumers could switch between different platforms or services offering similar functionalities. The examination then extends to three post-merger theories of harm concerning product quality, consumer choice, and innovation. In section three, a proposed framework for integrating consumer privacy into merger assessments is outlined, introducing three approaches: post-merger antitrust enforcement, the provision of opt-out options for consumers facing privacy changes, and research on data usage and competitive advantages. Through this analysis, this paper highlights deficiencies within current antitrust merger practices in relation to consumer privacy, and advocates for a comprehensive approach that addresses the evolving dynamics of data-driven markets.

2. Facebook-Whatsapp Merger Case Study

The 2014 Facebook-WhatsApp merger, initially sanctioned by the FTC, raised no immediate red flags (Esayas). Both

platforms provided communication services, yet their consumer privacy approaches diverged: Facebook's Messenger collected user data for free access, while WhatsApp, operating on a nominal fee, refrained from extensive data collection and operated on end-to-end encryption. However, in 2016, apprehensions surfaced when Facebook altered WhatsApp's privacy policy, incorporating a collection of user information, such as account details, phone numbers, usage patterns, interactions, and IP addresses (Polyak 131). This policy shift triggered concerns about unfair competition. In response, despite the initial approval, the FTC reversed its stance in 2021, advocating for the dissolution of the tech giant due to anticompetitive behavior (Esayas). This unexpected turn of events prompted a crucial reevaluation of the initial approval process, exposing potential gaps in US antitrust laws concerning consumer privacy. This leads to the question: How did a merger, eventually deemed anticompetitive, manage to initially evade scrutiny within the U.S. regulatory framework?

FTC's Merger Assessment Shortcomings
The FTC's evaluation of the Facebook-WhatsApp merger lacked foresight in addressing emerging consumer privacy concerns, especially after substantial changes were made to WhatsApp's privacy policy. There were two critical deficiencies in the FTC's analysis, stemming from oversights in consumer privacy post-merger: a narrow market definition of Facebook and a misjudgment of platform substitutability.

Firstly, the FTC's heavy reliance on economic tools, specifically the Small but Significant and Non-Transitory

Increase in Price (SSNIP) and Herfindahl-Hirschman Index (HHI), exhibited a narrow focus (FTC). The analysis was primarily centered on the digital advertising market, as these economic tools could only be applied where revenue was generated. Facebook's Messenger being free to users and, therefore, not contributing to revenue in that market, was not included in this analysis (Carlson). This concentration on the digital advertising market, where Facebook held a 10% share, led to a failure in recognizing WhatsApp's unique position as a non-participant in digital advertising (Carlson). The oversight, which omitted consideration of the dynamics of multi-sided networks, hindered the acknowledgment of how Facebook's dominance in digital advertising could spill over into the messaging market. Facebook's dominance in digital advertising meant it had significant influence over advertisers and their spending (Carlson). This influence extended beyond just advertising itself; as it could also affect other areas of Facebook's operations, such as its messaging platforms like WhatsApp. For example, Facebook could leverage its dominance in advertising to cross-promote its messaging services, attract more users, or integrate advertising features into messaging apps. The conclusion that the merger wouldn't lead to a dominant market share overlooked Facebook's ability to gain significant market power by accessing WhatsApp's extensive user data through a post-privacy policy update.

Secondly, the FTC categorized Facebook and WhatsApp as non-competitors due to an 80-90 percent user base overlap (Kimmel 48). This oversimplified perspective neglects the

intricate dynamics of “multihoming,” where users engage with multiple platforms within the same market but each for distinct purposes (Belleflamme 21). In this context, users might have chosen each platform based on differing consumer privacy policies (Belleflamme 32). The failure to recognize how this user overlap could be utilized as a competitive advantage and the potential of combined user data for targeted advertising led the FTC to overlook Facebook's strategic advantage in the digital advertising market.

Consequently, the FTC's analysis failed to discern Facebook's strategic leveraging of extensive user data collected via WhatsApp in the digital advertising market. The narrow definition of the relevant market and the misjudgment of platform substitutability hindered a comprehensive understanding of the merger's impact on consumer privacy. These identified shortcomings collectively underscore a critical issue: the inadequate scrutiny of Facebook's ability to alter WhatsApp's privacy policy post-merger, enabling the company to leverage user base overlap for strategic advantages, such as providing more targeted ads and consolidating its position in the digital advertising market (Sokol 1129).

Three Theories of Harm Emerging Post-Merger: The FTC asserts that US antitrust laws aim to thwart mergers that might substantially reduce competition, ultimately harming consumers (FTC). Competitive markets are characterized by their pursuit of lower prices, higher-quality products, increased choices, and enhanced innovation (Caldwell 247). This paper will delineate three theories of harm in the Facebook-WhatsApp merger,

demonstrating a decline in competition and harm to consumers based on the FTC's criteria: diminished quality, reduced consumer choice, and suppressed innovation (FTC).

Reduction in Product Quality

In the realm of US competition, according to the Organization for Economic Cooperation and Development, the quality of products and services is a crucial factor that goes beyond mere pricing (OECD). This emphasis on delivering high-quality offerings is evident in superior product features and design, defining a business's competitive edge (OECD). The Facebook-WhatsApp merger, however, can be viewed as a reduction in product quality. Before the merger, WhatsApp set itself apart from Facebook Messenger by prioritizing consumer privacy, reflected in a robust policy refraining from extensive user data collection (Esayas). This commitment to privacy was integral to WhatsApp's initial success, evident in its annual subscription fee of \$0.99 that users willingly paid (Esayas). The post-merger altered privacy policy, allowing data sharing with the Facebook family of companies, thus signified a noticeable decline in quality of privacy policies. This shift to a "less-privacy protective structure" raises concerns about consumer welfare, particularly for individuals who highly value privacy (Bird 17).

Considering WhatsApp's strategic positioning reveals the merger's impact on competitive constraints, especially regarding product quality. As a late entrant into the messaging platforms market, WhatsApp attracted consumers from Facebook by offering enhanced data privacy at a nominal fee (Bagnoli

15). This change in stance is significant, considering that Facebook Messenger offered a broader range of features and functionality compared to WhatsApp including features such as video calling, games, and extensive customization options. This further emphasized the success of WhatsApp's initial approach (Karapanos 893). This privacy-focused approach was instrumental, given that 80-90 percent of WhatsApp users were also users of Facebook's social network (Kimmel 48). The altered WhatsApp privacy policy, allowing increased data collection, indicates a departure from the initial commitment to privacy, potentially lifting competitive constraints on WhatsApp. Users faced a messaging service with diminished quality, as the altered privacy policy compromises the unique feature that initially attracted users from Facebook's social network.

Reduction in Consumer Choice

In a competitive market, consumer choice encompasses the array of products and services available to consumers, reflecting the options they have when deciding what to purchase or use (Foxall). The Facebook-WhatsApp merger can be interpreted as a reduction in consumer choice. Initially, consumers had a clear choice between two platforms: WhatsApp, which offered strong data protection for a small annual fee, and Facebook Messenger, which provided less privacy protection but more features at no cost. This coexistence enabled users to select their preferred privacy level or utilize both platforms for varying purposes. However, the 2016 alteration of WhatsApp's privacy policy post-merger eliminated this choice. The merger shifted the landscape to two platforms with a singular model—a free service

with diminished privacy protection (Polyak 159). Consequently, users valuing privacy and willing to pay for it experienced reduced welfare due to the removal of their preferred choice. The merger restricted options and compromised users' ability to choose a privacy model aligned with their preferences.

Critics argue that dissatisfied WhatsApp users could turn to alternative messaging platforms like Threema and Telegram, which maintained similar privacy features before the merger (Kalyani). However, these alternatives, while offering enhanced privacy, had much smaller user bases (Esayas). Despite their privacy features, the influence of network effects cannot be ignored. Users tend to prefer platforms where they can easily connect with their existing family and friends, which creates a network effect that boosts a platform's value as more users join (Stobierski). Examining the significance of user bases highlights a lack of substantial competition. Meaningful competition necessitates an adequate number of competitors, each with a significant market share, exerting competitive pressure (Pike 11). WhatsApp's extensive user base, surpassing one billion monthly active users at the time of the privacy policy change, suggests a deficiency in such competition (Carlson), especially when compared to Threema's approximately 400,000 active users and Telegram's 50 million active users (Esayas). Despite the privacy changes, WhatsApp did not experience a noticeable decline in users (Carlson). This could suggest that while users may have turned to alternative platforms for some purposes, these alternatives were not effective in curbing WhatsApp's post-merger privacy prac-

actices or serving as viable replacements.

Suppression of Innovation

In the realm of US competition, a maverick is a company that plays a disruptive role in the market, introducing significant changes, innovation, or challenges to established norms within a specific industry (Baker 135). Disruptors have the ability to shake up traditional business models, create new market dynamics, and potentially redefine the competitive landscape (Bromfield). Facebook's acquisition of WhatsApp can be interpreted as the suppression of a maverick firm and therefore a suppression of innovation.

In 2009, when WhatsApp was launched, Facebook had already surpassed Myspace as the dominant social networking site with over 360 million users (Robards 193). Globally, innovation centered around 'free' business models heavily reliant on the collection and analysis of substantial personal data, financed through targeted advertising (Bromell 60). Facebook became a success story by championing such models and solidifying its market position (Creser 289). In contrast, WhatsApp positioned itself as a distinct alternative to Facebook's approach to user privacy and data handling. Offering users an ad-free experience with superior privacy protection, WhatsApp operated on a nominal yearly subscription fee (Esayas). This strategic positioning marked WhatsApp as a maverick in the industry, challenging the prevailing model of data harvesting for targeted advertising. The merger between Facebook and WhatsApp raises concerns about the loss of a disruptive force that could bring new benefits to

consumers. WhatsApp, known for its innovative strategies like a modest subscription fee, limited data collection, and a commitment to avoiding targeted advertisements, directly challenged conventional data-centric business models. The merger might be perceived as an attempt to suppress innovation by absorbing a company that prioritized privacy-focused practices.

3. Integrating Consumer Privacy in Antitrust Merger Assessments

Companies including Facebook and WhatsApp argue that data collection enhances their services by providing insights into consumer behavior (Baser). The concern, however, is not merely about data collection but about how merging firms, each with distinct approaches to consumer privacy, alter their post-merger practices. This paper demonstrates how the FTC's oversight of consumer privacy during merger assessments has resulted in harm to both consumers and competition in the Facebook-WhatsApp merger, contrary to its prevention mission. Given these identified harms, a key question emerges: What measures can be taken to ensure the consideration of consumer privacy in mergers?

In response to the Facebook-WhatsApp merger case, this paper suggests three approaches to address this issue: (1) Utilizing post-merger antitrust enforcement, (2) Ensuring companies offer opt-out options to consumers in privacy changes, and (3) Researching and understanding data usage, collection practices, and the competitive advantages it provides to develop tools that can effectively capture potential harms arising in merger assessments. Regarding the first approach, in the

domain of US antitrust, the FTC exercises jurisdiction for both ex ante and ex post merger reviews (FTC).. This dual approach allows the FTC to proactively identify potential anticompetitive issues and address concerns post-merger, ensuring a comprehensive oversight of the competitive landscape (FTC). However, despite this framework, historical data reveals the limited number of ex post merger reviews since 2006, averaging approximately three cases per year (Kwoka 1307). Enforcement actions have typically taken place shortly after the completion of mergers, suggesting that investigations often conclude post-merger consummation (13070).

The identified limitations in the FTC's merger assessment underscore the speculative nature of such evaluations. Recognizing the challenges in predicting post-merger developments, it becomes imperative to empower the FTC to address alterations that arise after merger approval. Notably, this proactive measure was not taken when Facebook changed WhatsApp's privacy policy in 2016, highlighting a gap in enforcement scrutiny (Esayas). This paper proposes that the FTC should utilize its ex-post merger jurisdiction by requiring companies to notify the agency of any changes related to consumer privacy. This proactive strategy advocates for consistent monitoring of privacy policy modifications to evaluate potential anticompetitive actions.

For the second approach, the Facebook-Whatsapp merger exemplifies the need for clear regulatory guidance within US antitrust laws regarding how companies, especially in digital markets, can impose and introduce privacy policy changes post-merger. When WhatsApp's

consumers were presented with a notice upon opening the application. This notice not only outlined the shift toward collecting user data but also provided users with the sole option to "Accept", accompanied by a deadline for acceptance—a mandatory condition for continued WhatsApp usage (Abrar). Consequently, consumers had no choice but to accept, regardless of their preferences regarding data collection.

In the context of protecting consumers, particularly in digital markets, clear guidelines need to be established specifically addressing options for users to opt out of such post-merger privacy changes. This recognition is based on the understanding that consumers initially joined these platforms under different privacy standards. As emphasized earlier, although alternative platforms may exist, users are inclined to gravitate toward platforms where they can connect with existing friends and family (Stobierski). This creates a network effect that amplifies the value of a particular platform (Stobierski). This underscores the role of US antitrust regulators in ensuring consumer protection, particularly when consumers may not always be able to choose products aligning with their privacy preferences. Therefore, regulatory guidance that allows optout options for users in cases of substantial changes to privacy policies could enable the preservation of competition and the safeguarding of consumer interests during digital mergers.

To complement the previously outlined approaches, the third approach advocates for a thorough exploration of how data is utilized, collected, and the competitive advantage it confers within the realm of digital mergers. Digital

platforms heavily depend on user data for revenue generation and competitive positioning (Geoffrey 1336). Thus, it is crucial for US antitrust regulators to delve into the specifics of data practices employed by merging entities. By understanding how companies use data in mergers, a nuanced toolkit and metrics can be crafted to evaluate potential anticompetitive behavior. This may involve scrutinizing the extent and depth of data collection, the level of user consent and understanding, and the repercussions of data sharing on competition. Metrics could be designed to gauge the concentration of data in a market, ensuring that the dominance of a merged entity does not impede competition.

Additionally, research can illuminate the competitive advantage derived from data assets. Understanding how data-driven advantages contribute to market dominance enables the identification of potential risks to competition. For example, if a merged entity gains a substantial competitive edge by leveraging consumer data, regulatory intervention may be necessary to prevent monopolistic practices (Witt 287). This research-driven approach offers a more comprehensive understanding of the dynamics in digital mergers, extending beyond the economic considerations highlighted by the Consumer Welfare Standard. It champions the development of tools aligned with the complexities of data-driven markets, ensuring that antitrust regulators are equipped to safeguard consumer interests and promote fair competition in an increasingly data-centric business environment.

Concerns about consumer privacy within the realm of antitrust extend far

beyond individual mergers, penetrating the very core of the US regulatory framework that navigates the intricate landscape of data-driven markets. The Facebook-WhatsApp merger is but one glaring example, illuminating the necessity for a dynamic adaptation of antitrust laws amid the ceaseless evolution of the digital terrain. In the relentless transformation of technology and commerce, the agility of antitrust regulation is paramount in confronting

the distinct challenges posed by mergers rooted in data-driven strategies. Departing from a narrow fixation on price is imperative to encompass the multifaceted harms that reverberate across both competition and consumers — including but not limited to concerns about consumer privacy. In this paradigm shift, only through such comprehensive measures can antitrust regulations assert their effectiveness and fulfill their mandate in the digital age.

Works Cited

- Baker, Jonathan B. "Mavericks, mergers, and exclusion: Proving coordinated competitive effects under the antitrust laws." *NYUL rev.* 77 (2002): 135.
- Bagnoli, Vicente. "Questions that Have Arisen Since the EU Decision on the Whatsapp Acquisition by Facebook." *Mkt. & Competition L. Rev.* 3 (2019): 15.2): 135.
- Baser, David. "Hard Questions: What Data Does Facebook Collect When I'm Not Using Facebook, and Why?" *About Facebook*, 16 Apr. 2018, about.fb.com/news/2018/04/dataoff-facebook/.
- Belleflamme, Paul, and Martin Peitz. "Platform competition: Who benefits from multihoming?." *International Journal of Industrial Organization* 64 (2019): 1-26.
- Bird, Daniel, and Zvika Neeman. "The effect of privacy on market structure and prices." *The Journal of Law, Economics, and Organization* (2023).
- Bromell, David. "The Business Models of Big Tech." *Regulating Free Speech in a Digital Age: Hate, Harm and the Limits of Censorship*. Cham: Springer International Publishing, 2022. 55-80.
- Bromfield, Joseph. Maverick firms and merger policy. Diss. Aston University, 2016.
- Caldwell, Nigel, et al. "Promoting competitive markets: The role of public procurement." *Journal of Purchasing and Supply Management* 11.5-6 (2005): 242-251.
- Carlson, Nicholas. "At Last — the Full Story of How Facebook Was Founded." *Business Insider*, 5 Mar. 2010, www.businessinsider.com/how-facebook-was-founded-2010-3.
- Creser, Olivia T. "In Antitrust We Trust?: Big Tech Is Not the Problem-It's Weak Data Privacy Protections." *Fed. Comm. LJ* 73 (2020): 289.

- Cseres, Kati. "The controversies of the consumer welfare standard." *Competition Law Review* 3.2 (2006): 121-173.
- Dengler, Sebastian, and Jens Prüfer. "Consumers' privacy choices in the era of big data." *Games and Economic Behavior* 130 (2021): 499-520.
- Esayas, Samson. "Competition in dissimilarity: Lessons in privacy from the Facebook/WhatsApp Merger." *University of Oslo Faculty of Law Research Paper* 2017- 33 (2017).
- Esayas, Samson. "Competition in dissimilarity: Lessons in privacy from the Facebook/WhatsApp Merger." *University of Oslo Faculty of Law Research Paper* 2017- 33 (2017).
- Foxall, Gordon. *Understanding consumer choice*. Springer, 2005.
- Kalyani, Pawan. "An Empirical Study on “Whatsapp Privacy Policy” Analyzing the Real Cost of “Free” Apps in an Online Social Network:: In Contrast to Other Player like Telegram, Signal etc." (2020).
- Karapanos, Evangelos, Pedro Teixeira, and Ruben Gouveia. "Need fulfillment and experiences on social media: A case on Facebook and WhatsApp." *Computers in Human Behavior* 55 (2016): 888-897.
- Kimmel, Lisa, and Janis Kestenbaum. "What's up with WhatsApp: a transatlantic view on privacy and merger enforcement in digital markets." *Antitrust* 29 (2014): 48
- Kwoka, John, and Tommaso Valletti. "Unscrambling the eggs: breaking up consummated mergers and dominant firms." *Industrial and Corporate Change* 30.5 (2021): 1286-1306
- OECD. *The Role and Measurement of Quality in Competition Analysis* 2013. 2013, www.oecd.org/competition/Quality-in-competition-analysis-2013.pdf.
- Parker, Geoffrey, Georgios Petropoulos, and Marshall Van Alstyne. "Platform mergers and antitrust." *Industrial and Corporate Change* 30.5 (2021): 1307-1336.
- Peerzada Abrar. "WhatsApp Updates Privacy Policy, Makes Facebook Data Sharing Mandatory." *@Bsinidia*, Business Standard, 6 Jan. 2021, www.businessstandard.com/article/companies/whatsapp-mandates-data-sharing-with-facebook-inupdated-privacy-policy-121010601431_1.html.
- Pike, Jon. "Why ‘Meaningful Competition is not fair competition." *Journal of the Philosophy of Sport* 50.1 (2023): 1-17
- Polyak, Gabor, and Gabor Pataki. "The Value of Personal Data in the Competition Law Assessment of the Facebook-WhatsApp Merger Case." *Pro Futuro* (2018): 131.
- Posner, Richard A. "The federal trade commission." *The University of Chicago Law Review* 37.1 (1969): 47-89.

- Rancati, Luca, and Elisabeth de Ghellinck. "The intersection between antitrust and data protection. Lessons from the Facebook/Whatsapp merger and the Bundeskartellamt's decision on Facebook's terms and conditions." *Faculté des sciences économiques, sociales, politiques et de communication, Université catholique de Louvain* (2019)
- Robards, Brady. "Leaving MySpace, joining Facebook: 'Growing up on social network sites.'" *Continuum* 26.3 (2012): 385-398
- Sokol, D. Daniel, and Roisin Comerford. "Antitrust and regulating big data." *Geo. Mason L. Rev.* 23 (2015): 1129.
- Spulber, Daniel F. "Consumer coordination in the small and in the large: Implications for antitrust in markets with network effects." *Journal of Competition Law and Economics* 4.2 (2008): 207-262.
- Stobierski, Tim. "What Are Network Effects?" *Business Insights - Blog*, 12 Nov. 2020, online.hbs.edu/blog/post/what-are-network-effects.
- Stucke, Maurice E., and Ariel Ezrachi. "The Rise, Fall, and Rebirth of the U.S. Antitrust Movement." *Harvard Business Review*, 15 Dec. 2017, hbr.org/2017/12/the-rise-fall-and-rebirth-of-the-u-s-antitrust-movement.
- Vassallo, Michael. "Big Tech and Antitrust Policy." (2022)
- Witt, Anne C. "Excessive Data Collection as a Form of Anticompetitive Conduct: The German Facebook Case." *The Antitrust Bulletin* 66.2 (2021): 276-307.

OF WOMEN, BY WOMEN, FOR WOMEN: THE GULABI GANG AND THE POTENTIAL FOR VIGILANTE JUSTICE AS AN EFFECTIVE ALTERNATIVE TO LEGAL FRAMEWORKS FOR WOMEN'S RIGHTS

Victoria Bui

Despite its notional commitment to women's rights, as expressed through its signature of the United Nations Declaration of Human Rights (UDHR) and its specific ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), India's social climate does not embody these documented promises (Deva, 2016). Rather, the perception of female inferiority pervades cultural norms and institutional practices, emanating from a patriarchal history, which has normalized gender-based oppression in everyday life (Rayala, 2021). India's 2019-2021 National Family Health Survey (NFHS-5) illustrates this reality, stating that 29% of adult women (aged 18-49) reported experiencing physical violence since the age of 15 (International Institute for Population Sciences, 2021) — a statistic that does not account for barriers to admitting to victimization. Even with protective legislation, frequent practices such as domestic violence, child marriages, and dowry demands endanger the livelihoods of many Indian women (Thakkar, 2018).

The dissonance between India's declared dedication to gender parity and its tangible enforcement of it indicates the failure of its existing legal systems to actualize women's rights; moreover, it

demonstrates a demand for on-the-ground protections for Indian women, which has been instead addressed by independent community actors, including a vigilante group known as the Gulabi Gang. By analyzing the role of the Gulabi Gang's activism in enacting women's rights despite the structural constraints of India's institutionalized women's rights frameworks, this paper elucidates the efficacy of vigilante justice as an alternative mechanism to conventional legal instruments for the pursuit of access to human rights.

Contextualizing the state of women's rights in India requires the integration of an economic lens, namely with respect to India's caste system. Based in Hindu religious tradition, the caste system classifies citizens into one of four castes upon birth using "blood purity" as a mechanism for differentiation. The caste system creates social stratification and causes inequitable distribution of economic and personal rights (Mayell, 2003). Although constitutionally prohibited for almost 75 years, the implications of the caste system persist due to its religious roots, particularly through systemic exclusion of Dalits (Mayell, 2003). Otherwise known as the "untouchables," Dalits were historically excluded from the caste system and therefore occupied the lowest stratum