

# WOMEN ENTERING THE LEGAL LANDSCAPE: NEGOTIATING LEGAL GENDER REFORMS IN A ‘TRIBAL’ WOMEN’S FORUM IN SOUTH RAJASTHAN, INDIA<sup>1</sup>

Mengia Hong Tschalaer

## Introduction

This essay examines the ways ‘tribal’ women of the Meena community<sup>2</sup> in rural

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<sup>1</sup>I gratefully acknowledge the comments given by Shalini Randeria and Yüksel Sezgin on earlier versions of this article.

<sup>2</sup>The Meena are a subgroup of the Bhil, the third largest group of tribes in India, who live in four states in central and north-western India (Madhya Pradesh, Gujarat, Rajasthan and Maharashtra). From a political perspective, the Meena fall into the category of ‘scheduled tribe’ in the state of Rajasthan, which in independent India means “the disadvantaged sections of the population, which deserve and need ‘special help’” (Galanter 2003: 187). According to The Constitution of India, Article 342, the President is empowered to draw up a list of tribes that are referred to as “scheduled tribes” in order to promote the educational and the economic interests of the so-called “weaker section” of the population and to protect them from “social injustice”. The majority of the Meena are classified as Hindu and there is a very small Christian minority. The conversion of Bhils to Christianity dates back to the end of the 19th century, when Christian Missions made their entry into the tribal belt in south Rajasthan. The Meenas, whether Hindu or Christian, still adhere to their animistic practices while incorporating Hindand Christian rituals into their belief system. The literacy rate for women is

south Rajasthan create a new legal space for the (re)negotiation of gender norms and women's identities within patriarchal structures in modern India. It focuses on processes of a selective appropriation of modern norms of gender and social equality by rural women within a newly established women's judicial body, known as the Social Reform Committee. The Social Reform Committee, that is both similar to and different from the 'traditional' caste *pānchayat*<sup>3</sup>, was set up 1998 by Astha in Udaipur, a state-registered non-governmental organisation concerned with tribal and women's issues (Astha Sansthan n.d.). The establishment of a new hybrid arena, straddling 'tradition' and 'modernity' and offering an alternative to modern and expensive state courts as well as the 'traditional' corrupt and male-dominated caste councils (*pānchayat*), can be considered as characteristic of India's *entangled modernities* (Randeria 2002, 2003, 2004b). Such an innovative legal institution, which allows poor rural women to negotiate norms of 'gender justice', reflects the unevenness of the processes of modernisation (Therborn 1995; Eisenstadt 2000) in the postcolony. It illustrates the complexity of modernity in India that defies the unilinear scheme of modernisation theory. The complex legal pluralistic landscape in south Rajasthan, comprised of modern state courts as well as 'traditional' non-state legal institutions for the settlement of family disputes, should not be seen as a failure of state hegemony or a sign of state weakness. It is rather a feature of state-community relationships in post-colonial societies that afford recognised ethnic communities limited spaces of self-organisation, as Randeria (2002) has argued. The very fact that it is modern women's NGOs that support communities in shaping this space and stretching its limits testifies to the everyday intermingling and interplay of 'tradition' and 'modernity', which are conceptualised not only as binary opposites but as sequential stages in modernisation theory.

Using empirical material from South Rajasthan this essay first explores the possibilities and constraints that tribal women face in their quest for what is usually described in modernist and individualistic terms as gender equality and

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said to be 31.8 % and for men 52.2% (Source: Rajasthan Scheduled Tribes Census 2001).

<sup>3</sup>*Pānchayat* designates a gathering of male members of a sub-caste. It settles relatively autonomously disputes regarding marriage, separation, property and inheritance and suchlike through mediation. *Pānchayats* are very common in rural areas among low-caste communities. Its jurisdiction is *de facto* recognised by the state, especially in the realm of family law.

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women's rights. Despite the plurality of arenas of dispute resolution in South Rajasthan, including those which are family- and community-based as well as state authorities, the legal space for tribal women to negotiate 'justice' is highly restricted. It will be argued that gender equality and women's rights are not to be realised within the already existent judicial bodies but that new avenues have had to be found for these women to render their grievances and issues visible to the public. NGOs as well as tribal women felt the need for the establishment of an innovative legal tribal women's forum. This legal body is considered here as a space of resistance, where gender and power relations are actively challenged and (re)negotiated in an otherwise patriarchal setting. This is due to women's attempt to do 'justice' in the shadow of state law and institutions in a mainly female legal arena, where 'modern' liberal legal morality is introduced and negotiated within a 'traditional' patriarchal social setting. The second section focuses on one particular longstanding marital dispute to investigate the representation of gender relations by women and men during the mediations in this newly created body, where the different norms of morality for kin and affines are contested in public. It will be demonstrated that this hybrid legal institution offers a public arena for the negotiation of divergent norms on gender relations. These norms range from patriarchal discourses that stress male superiority to the rather abstract and liberal discourses of gender equality and women's rights. This case study exemplifies the discrepancy between the modern individualistic concepts of women's rights and gender justice as proclaimed by the state and NGOs and women's claim for respect and recognition within and outside of the family/community. Arguing within the theoretical framework of *plural* and *entangled modernities*, this essay examines the potential and limitations of alternative non-state legal forums as possible arenas for the translation of ideas of gender and social equality in modern India. Light is shed on women's strategies to construct women's identities and female representations in a context where solidarities and responsibilities within gender and kin relations are often given priority over individual claims. Thereby, a case will be made for a less monolithic understanding of modern legal concepts by acknowledging the complexity of marital and kin relations that give meaning to women's identities and lives in rural Rajasthan. The engagement of rural tribal women in narratives on individualistic modern women's rights and gender equality not only puts into question family and community solidarities and values but also affects their identity as good mothers, wives, daughters, daughters-in-law etc. The Social Reform Committee is therefore an important space for tribal women to contest norms of gender equality and justice according to the working and functioning of conflict resolution within their own community.

## Legal Pluralism in India

Legal pluralism in India is a direct result of colonial and (post)colonial politics (Agnes 1999: 41). Because of the variety of ideological and religious sources by which family and personal matters were regulated in (pre)colonial India, the colonial administration did not succeed in formulating a set of regulations pertaining to issues of personal and family laws. Under colonial rule, an official body of Muslim and Hindu personal law had been established (Agnes 1999: 41. Some authors such as F. von Benda-Beckmann (2003: 185) and Mukhopadhyay (1998: 15) speak in this context of a reinvention or a rediscovery of customary law that is a distorted interpretation of the local legal situation). But in practice disputes in the realm of personal and family laws were still negotiated within the so-called ‘traditional’ or ‘customary’ forums.

After Independence the process of nation -building and modernisation in India strongly focused on the creation of individual citizens governed by a secular Uniform Civil Code, but Indian society has never been unified under a single set of laws. In fact, the colonial classification of Hindu and Muslim personal laws within the state legal structure was retained and provided a fertile soil for the political assertion of religious and communal identities after Independence., Women and the family have been considered to be pivotal in this contest and a crucial component in the preservation of religious culture and traditions (Sarkar 2004:238–239; Sunder Rajan 2003:2; Das 2004:145; Hasan 1999:128). In a context where women are mere markers of culture and tradition rather than right-bearing individuals, the promotion of liberal women’s rights and gender equality becomes difficult. The Indian feminist Sunder Rajan (2003: 165) laments that the Indian state has so far failed to deploy its role on behalf of women to initiate social reforms within the legal body. In fact, the rise of Hindu-Muslim communalism in the 1980s prompted the government to locate family laws in the private sphere of religious and ethnic communities and thus render them unreachable by legal reforms by the state (Hasan 1999: 132). Subsequently, some feminists argued for a return to community values and solidarities whereas others like Agnes (1999: 106), Hasan (1999: 132) and Sunder Rajan (2003: 158) expect the Indian state to secure social and gender equality within ethnic and religious communities. So today, the Indian state tolerates, besides the different religious family laws within state legal structure, *de facto* a coexisting multiplicity of ‘traditional’ and ‘customary’ legal authorities and institutions (Randeria 2002:

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301).<sup>4</sup> The latter category of non-state legal institutions features a variety of informal legal bodies and authorities ranging from the local caste councils (*pâñchayats*) and family assemblies that exclude women to the newly established women's courts such as the *All India Muslim Women's Personal Law Board* in Lucknow, the *Jyoti Sangh* in Ahmedabad or the *Social Reform Committee* in south Rajasthan, that is at the centre of this study.

Unfortunately, little is known about the functions and workings of non-state legal institutions in India. They are generally frowned upon. Both political science and women's studies have shied away from including the category of non-state legal forums in their debates on the plurality of personal and family laws. Consequently, the question of gender equality and women's rights in India has largely been discussed and debated within the framework of the political and academic debates on the issue of religion-based personal laws *within* state structure and there is an urban and statist bias inherent in these debates. Whereas the political debate has been divisive for established political parties as well as the women's movement, the academic debate has been largely confined to the field of political science (Austin 2001; Baird 2005; Engineer 1999; Khory 2005; Mahmood 2005; Rudolph and Rudolph 2001) and women's studies (Agnes 1999; Sunder Rajan 2003; Basu 1998a, b; Hasan 1998, 1999; Menon 2002; Kapur and Cossmann 1996; Mukhopadhyay 1998). This paper intends to break with this preserved background of political and women's studies and law that tend to highlight the achievements of the exceptional and educated few urban women. It sheds light on the grassroots resistance offered by less extraordinary tribal women in south Rajasthan within an extraordinary women's judicial body.

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<sup>4</sup> This *de facto* tolerance is given expression in the Provision of the *Pâñchayats* (Extension to the Scheduled Areas) Act, 1996. This extends to the Scheduled Areas the provisions of Part IX of the Indian Constitution relating to *Panchayats*, but provides in section 4(a):

A state legislation on the *Pâñchayats* that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources.

## Legal Pluralism Within the Context of India's Multiple and Entangled Modernities

The emergence of new hybrid legal bodies for the promotion of women's rights and gender equality in modern India renders it unrealistic to regard the state legal system as the sole field in which legal reforms may be promoted, as proclaimed by modernists. It is necessary to look into the options and constraints for social actors to do and to get 'justice' within the complex landscape of legal pluralism. By studying a legal women's forum that is both similar to and different from the 'traditional' caste *pānchayat*, this paper delineates the workings of hybrid modernities in a particular setting. This extraordinary legal women's body constitutes a special feature within the complex landscape of legal pluralism in Rajasthan that is otherwise defined by strong gender and power hierarchies and has hitherto excluded women from participation. However, although without state authority, this institution cannot be understood without reference to the state and state policies. As I have mentioned above, the process of nation -building in India after Independence focused strongly on the creation of individual citizens to be governed by a secular Uniform Civil Code. The fact that communal identities particular ties to may well change their form but do not necessarily transform themselves into the site for secular individualism became evident with the rise of communalism in the mid-1980s. The reintroduction of so-called 'traditional' legal forums for the promotion of legal reforms as proclaimed by various feminists is thus not a return to (pre)colonial legal structures, but the result of political and legal discourses and debates on how to face the challenges of Indian modernity. Menski from a post-modern perspective argues:

... that there has been a remarkable shift of emphasis, away from law and the state's claim to rule the roost, towards society and greater recognition of the potentially beneficial role of social norms and obligations (Menski (2001: 28).

In his view, the explanation for the recent popularity of Hindu law outside the area of state intervention lies beyond the dichotomy of tradition and modernity but has to be seen as a reaction to modernist Western assimilation pressures. From this perspective it would be rash to categorise local forums such as the local caste *pānchayat* as pure traditional pre-colonial relics as Hayden (1999) in his classical anthropological study on the caste *pānchayat* among the Nandiwallas tends to do. Neither is this newly established tribal women's judicial legal body whose

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functioning and structure is similar to the caste *pâncayat* a fallback on old tradition. Although recognising pre-colonial social linkages such as kin, caste and community, the Social Reform Community meets the requirements of modern India. With the institutionalising of such a women's forum, these tribal women create a space to openly claim fundamental rights such as the right to assembly, the right to free speech and freedom of movement that are otherwise absent as a result of social and cultural practices.<sup>5</sup>

This women's forum that is anchored in both 'modernity' and 'tradition' demonstrates the plurality and variety of ways and schemes that emerge through global and local processes of modernisation (Therborn 1995). From this perspective, the processes of modernisation are not a motor of westernisation and homogenisation. Rather modernity may assume different shapes and recitations on a national (Eisenstadt 2000) as well as a local level (Randeria 2002, 2003, 2004a). The approach of *multiple modernities* as theorised by Eisenstadt (2000) renders it possible to overcome the dichotomies of the West and the rest and to recognise historical interdependences and developments. Modernity here is not considered as a homogenous set of indicators in terms of democracy, liberalism, individualism etc., but as a changeable and negotiable concept of norms and values (Beck at al. 2001). Thus, the various non-state legal institutions in India and the lack of the state's exclusive right to govern family laws are in fact an inherent feature of India's specific texture of modernity, where different cultural and historical concepts co-exist (Randeria 2004a). This hybrid women's forum can be thus considered to be an intrinsic part of these *entangled modernities*, as Randeria terms it, and to constitute an example of the ambiguities of the selective appropriation and disavowal of modernity in this tribal rural area in south Rajasthan. Modernity is therefore not only an analytical, sociological category but also a term of self-representation for social actors, a part of the social imagery (Randeria 2004a).

To discuss and examine local caste *pâncayats* and newly established legal bodies within the framework of *plural* or *entangled modernities* means to perceive these forums of dispute settlement not as insular but as interactive and susceptible.<sup>6</sup> This

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<sup>5</sup> These legal principles have been laid down in the Declaration of Human Rights and in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). India became a signatory to CEDAW in 1980 and ratified the convention in 1993.

<sup>6</sup> See also S. Moore on her theory of the semi-autonomous social field:

approach enables us to investigate more adequately the entanglement of different patriarchal and NGO-influenced discourses on law, justice and norms of gender relations as well as processes of resistance and change within the legal landscape of South Rajasthan. Recent anthropological studies of local *pānchayats* in the context of marriage policing in Haryana (Chowdhury 2004) and of customary divorce in rural India (Holden 2003) fail to shed light on the processes and dynamics of such local institutions within the wider context of legal pluralism. Similarly Erin Moore's (1993) study of Muslim women's strategies of resistance against non-state and state legal institutions does not succeed in unearthing a deeper insight into the multiplicity of strategies of women who represent different moral standards on gender norms within so called 'traditional' non-state and 'modern' state legal institutions. This article seeks to fill this lacuna of anthropological studies. Using empirical material from south Rajasthan, the constraints and possibilities for Meena women to access and use particular state and non-state legal institutions for the settlement of disputes in the realm of family law will be first examined. Drawing on a case study, the contestation of stereotypical constructions of gendered ascriptions by social actors of blame, duty and responsibilities will be discussed in a second part. In order to locate the new

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[A]n inspection of semi-autonomous social fields strongly suggests that the various processes that make internally generated rules effective are often also the immediate forces that dictate the mode of compliance or non-compliance to state-made legal rules....

One of the most usual ways in which centralized governments invade the social fields within their boundaries is by means of legislation. But innovative legislation or other attempts to direct change often fail to achieve their intended purposes; and even when they succeed wholly or partially, they frequently carry with them unplanned and unexpected consequences. This is partly because new laws are thrust upon going social arrangements in which there are complexes of binding obligations already in existence. Legislation is often passed with the intention of altering the going social arrangements in specified ways. The social arrangements are often effectively stronger than the new laws. (S. Moore 1973: 721, 723)



avenues by which women's rights and aspirations for gender equality enter Meena society, their legal situation will be roughly sketched in the following.

### The Legal Landscape in Rural South Rajasthan

An analysis of the variety of non-state and state institutions that are *theoretically* available to Meena women reveals that access to and choice of institutions is limited in a context where 'justice' is moulded by strongly hierarchical power and gender relations. Meena have access to four different institutions of dispute settlement, namely the family gathering, the caste *pâñchayat*, the state courts and the Social Reform Committee.

The *family gathering* is the first authority where marital discord and other disputes in the family are discussed. The family gathering is a semi-public affair, at which not only members of the family of the aggrieved parties are present but also the presence of the village elders (*mukhiyâ*) and other influential persons from the village is indispensable. The family gathering is not primarily concerned with doing justice for women but it is rather a site for the (re)-negotiation of power relations among men. The family gathering is thus by no means fertile soil for gender reforms.

The public non-state dispute-processing forum most frequently addressed by the Meena is the caste *pâñchayat*, called *jajam* by the Meena community. *Jajam* refers to the place of the assembly that meets, most likely somewhere in the village under a tree. Disputes regarding marriage, separation, inheritance, spousal abuse and land ownership and claims are negotiated within this assembly. The word *pâñchayat* is formed from *pâñch* (Indo-Aryan) 'five' and refers to the number of the permanent members, the *pâñch*. Additionally, there is a chief, hereditary or elected and generally in the position for life who is the president of the assembly and referred to as *sarpâñch*. But the assembly of the *pâñchayat*, including onlookers, the contesting parties and the dignitaries, can easily comprise up to a hundred people. The *pâñch* and the *sarpâñch* are responsible for bringing infringements to its attention and convening the assembly when the need arises (Dumont 1980: 174). The *pâñchayat* is thus not a forum presided over by a designated person who directs the proceedings, but one in which disputes and quarrels are settled by negotiations between the disputants. The discussions can last for hours or even for days and the task of the *pâñchayat* speakers is to characterise actions as improper, thereby identifying the actor as one who has

behaved improperly. Decisions are made without any reference to statutory law. ‘Law’ in this context is not a vernacular word and the term is only used when referring to national and trans-national modern legacy. For ‘law’ among the Meena can be best perceived as social rules and codes of behaviour that regulate social life and define *what* has to be controlled and sanctioned in day-to-day interaction (Bourdieu 2002: 112).

The caste *pānchayat* was and is in most villages still primarily a men’s assembly where women are not allowed to participate, although the decisions involve them in an important way. Women could or can only bring up infringements for mediation within the *pānchayat* through their male neighbours or relatives. However, the majority of my female informants stated that a woman approached the *pānchayat* only in case of severe physical abuse and violence. Otherwise she had to swallow injustice in silence. Due to the work of various women’s groups in the tribal area in south Rajasthan since the late 80s and early 90s, some significant changes have taken place recently. According to a young tribal woman, women are now allowed in the *jajam* and an older tribal woman said laughingly, “[i]f five men gathered in the village five women would join them”. Yet as anthropological studies on the caste *pānchayat* in Haryana (UP) (Chowdhry 2004) and the Muslim council in Rajasthan (Erin Moore 1993) have made clear, local caste *pānchayats* in rural areas remain largely a mainly men’s forum that strictly excludes women from participation. The concept of ‘justice’ in the caste *pānchayat* is shaped by monetary rather than ethical standards. My Meena informants, men and women, have rolled their eyes in a gesture of annoyance or have lamented angrily that bribery is still very prevalent and presents a major hindrance to justice and gender reforms. In the run-up to the negotiation, the disputants have to pay a considerable bribe (rupees 500–2’000) to the *mukhiyâ* and additionally bear the expenses for alcohol and *beedis* (local leaf-cigarette). An elder tribal man states, “the *mukhiyâ* [village elder] can easily be bribed and he drinks. His mood depends on how much money you are able to give.”

The *state courts* are, according to a lawyer at the family court in Udaipur and legal advisor for Astha, not interested in solving the cases of the poor and especially not poor tribal. But above all, the state courts are inefficient and sluggish. A case can take several years before a decision is made, if it is at all. Tribal people perceive state institutions as corrupt, indifferent towards their grievances and above all not trustworthy. Therefore, the Meena prefer to use *pānchayats* to solve problems. Community based forums of jurisdiction have the advantage of using norms that are socially binding and in accordance with local customs rather than the

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unfamiliar law that distant state courts apply (Randeria 2003: 15). Although the state courts are not necessarily more expensive than the caste *pānchayat*, where large sums of money are spent on feeding caste members, on payments to the leaders and suchlike, people tend to view money that is paid within the community as an investment in social relationships that activates and strengthens social ties rather than money lost on strangers in the world of courts (Randeria 2003: 14).

Furthermore, the police are by no means an avenue along which tribal people in general, and tribal women in particular, can hope for help and support to come. The police, as they are interested in making money in this context as in others, are disinterested in supporting penniless tribals.

*Where Do Women Find Justice?*

My discussion of the different legal institutions *theoretically* available to Meena women has shown that *practically* none of these institutions seems to take into account women's concerns. All my female informants unanimously agreed that there was no way tribal women could seek justice within state and non-state legal forums before the setting up of the Social Reform Committee. The only option for women to get justice before the establishment of the women's forum was to give their distress a physical voice by becoming ill or by threatening suicide. Using the body as a tool to give expression to distress and alienation is a current practice among Meena women. Erin Moore (1993) in her study on gender, legal pluralism and Islam in rural Rajasthan termed this phenomenon 'the somatisation of the conflict'. Women thereby express their negative sentiments and respond to their inferior position in the household and the family through illness, the threat of suicide, or both.

In 1998 the local women's group of the Tribal Women's Awareness Society, an organisation of Astha in Udaipur, decided to set up a tribal women's forum, or the Social Reform Committee, that would be both similar to and different from the caste *pānchayat*. The idea of an institution of dispute reconciliation, focusing mainly on women's issues, did not evolve from the local context of the Meena community, but was modelled on the *Jyoti Sangh* in Ahmedabad (Gujarat, West India). The *Jyoti Sangh*, launched 75 years ago, was the first women's organisation inspired by Gandhi to mobilise women for the Quit India movement. The *Jyoti Sangh* has a long history in settling marital discords of women of all castes and classes and has, according to Randeria,

a formidable reputation in following up and enforcing the terms of reconciliation it has worked out with the couple (after extensive consultations with the extended family) (Randeria 2004b: 168).

Like the *Jyoti Sangh*, the Social Reform Committee is mainly concerned with cases of marital discord such as divorce, inheritance, alimony, polygyny, domestic violence and adultery. It additionally deals with cases about land disputes. The Social Reform Committee is an integrated part of the Tribal Women's Awareness Society that works in 104 villages in Girwa and Jhadol Blocks of Udaipur District. In these two Blocks thirty-five percent of the population belong to the category of scheduled tribes (according to the 2001 census). The Social Reform Committee itself counts no fewer than four hundred members, of which the great majority are women associated with the local groups of the Tribal Women's Awareness Society.

The structure of the Social Reform Committee consists of an executive body and a fact-finding committee, called the Case Committee. The executive body, the *pâñch*, is composed of seven women and five men and is presided over by a male *sarpâñch* or president. The Case Committee consists of members of the *pâñch* and two elder dignitaries, the *mukhiyâ*. It is a forum where the cases are analysed, discussed and followed up prior to negotiation. Although the Case Committee is eager to have all cases solved within the Social Reform Committee, cases dealing with manslaughter and murder are not dealt with by the Committee. Here, the Case Committee takes an advisory role, merely guiding the aggrieved party on how to proceed. Every two years the members of the Social Reform Committee elect both the executive committee and the Case Committee.

As I have mentioned in the context of the caste *pâñchayat*, 'law' among the Meena is not to be understood in a positivist sense as formal rules in a statute book. 'Law' in this context has to be perceived as informal rules and codes of behaviour that structure social life and define what has to be controlled in day-to-day interaction. In this regard, the Social Reform Committee is no different from the caste *pâñchayat*. These lengthy dispute settlement proceedings do not aim to do justice in an adjudicative sense or to prove 'facts', as these are already widely known through the gossip that normally spreads in the prior negotiation over a case. The task of the speakers involved is to prove the case rhetorically for the parties and to 'convince' the assembly of its credibility. Sanctions negotiated during the

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reconciliation sessions by the executive committee, the Committee members and the supporters of the two litigant parties, are theoretically binding on both parties. Its ignorance or violation results in a second trial or even excommunication. Excommunicating a particular person or family means their exclusion from communal festivities and interactions for a certain period of time. Monetary fines only play a secondary role. The only money that has to be paid in the Committee is a registration fee of Rs 101 and the cost of one kilogram of *jaggeri*. *Jaggeri* is a molasses made of sugarcane juice that is exchanged between the two litigants as a sign of reconciliation. The decisions are always written on paper bearing a Rs 100 stamp that needs to be signed by both parties. The original is kept in a register of the Social Reform Committee and a copy is sent to the state court for official approval. This stamped paper is a written proof of the litigants' decision and serves as a paper of reference in the event of a re-opening of the proceedings by either the Committee or the state courts. The practice of keeping written records has been adapted from the state courts and is unknown to other non-state legal institutions among the Meena. According to the chairman of the Social Reform Committee, between 1998 and 2006 60 cases out of 80 were settled and 20 are still pending. This relatively small number of cases derives from the fact that the scope and influence of the Social Reform Committee is confined to the activities of the Tribal Women's Awareness Society. These women and men who are not engaged with Astha either do not know about this alternative mode of dispute settlement, or are reluctant to address such a new legal body that lacks the authority of the community, or both. Moreover, a relatively high number of minor infringements are already solved in a more informal way within the women's groups.

The Social Reform Committee is an alternative to the corrupt, male-dominated state and non-state legal institutions. This judicial women's body offers women a platform to publicly tell their stories and to vent grievances that would otherwise be hidden, the women being rendered silent by pressure to maintain virtue and family honour. The fact that these tribal women find the courage to speak out in public and thus break with this code of behaviour is the result of a long process that started off with the institutionalisation of women's groups in the early 1990s by the Tribal Women's Awareness Society. It was in these women's groups that problems and conflicts regarding marriage, divorce, separation, alimony, polygyny, land rights, domestic violence and inheritance were first discussed. The number of cases that have come up in these regular gatherings show that these tribal women together with Astha felt a need to establish an arena where women's grievances and concerns could be made visible and put up for discussion in public. Women here are no longer passive objects, whose idealised female body and

identity provide the sites where power and gender relations are (re)negotiated among men. With the institutionalisation of this extraordinary forum, women have become visible and are heard in the public sphere. In the process, societal norms and practices on gender and power relations are publicly challenged.

Yet relations of power and gender identities when deeply anchored in society, cannot be turned upside down from one day to the next through the mere institutionalising of a women's judicial body. Metaphors such as 'we cannot clap with only one hand' or 'a cart cannot move with one wheel, it needs two,' as used by my informants, reflect the necessity of cooperation between men and women in order to secure social legitimacy for the Committee's decisions and its authority as an institution. As the women's court lacks the authority of the community as well as the formal legitimacy of the state courts, it needs, as a new legal body, to find other avenues to legitimise its decisions. One way is to eschew bribery and other sorts of corruption. The hybrid legal body thus proves to be a cheap and effective legal option not only for women but also for men who cannot afford the high costs common to both state and community legal institutions. Yet, despite the bad reputation of legal state institutions in the tribal community, the state-registered Astha does collaborate with the police and the family court in Udaipur. Very sensitive cases like rape and severe atrocities, for example, require the presence of the police in the Case Committee as well as during the process of mediation in the Social Reform Committee. Another reason to hand cases to the police or the state court is to put non-cooperative men under pressure. To take the case to the family or criminal court in Udaipur would not only delay the mediation but would also considerably increase the cost of resolution.

In rural south Rajasthan the option of 'forum shopping', or the possibilities for social actors to choose from one or the other legal forum available to them is limited. This is on one hand due to the ignorance of state institutions regarding the grievances of tribal people in general, and on the other because of the prevalent gender bias in both state and non-state legal institutions. In this context the Social Reform Committee provides an arena where not only patriarchal norms on gender relations but also societal power hierarchies are (re)negotiated by the socially most disadvantaged sections of society, namely women and the poor tribal communities. It offers not only a social space of negotiation and mediation for women but also an alternative arena for reconciliation for penniless tribal men who belong to the least influential segment of the community. This women's forum offers a new arena for mediation by a body that is not the 'traditional' family or caste-based institution but is still embedded within the social structures of the Meena

community and therefore is not as unfamiliar as the far away modern state courts. Having neither the authority of the local *pānchayats* nor of the state courts, this extraordinary, mainly female legal body constitutes a third way between the family and community and the state. Therefore, this tribal women's forum fits neither the category of tradition nor that of modernity in a modernist sense. It exemplifies the entanglements of traditional procedures of dispute settlement with both patriarchal and modern principles of gender equality and women's rights. My material on the Social Reform Committee in south Rajasthan thus shows the uneasiness of the modernity-tradition dichotomy as a representative category for state and non-state legal bodies. The plurality of sources of norms and legal moral concepts, ranging from traditional-conservative through traditional-moderate to modern-secular, leaves room for social actors to contest international, national and local concepts of law and justice as well as their self-representation within the latter (Appadurai 1996; Arce and Long 2000). Therefore, instead of judging the parallel existence of a plurality of legal forums in India to be a failure of state hegemony it should be rather conceived of as an opportunity for local communities to strengthen their realm of self-organisation (Randeria 2004b: 173).

The following analysis of the Punjibai case illustrates how gender justice and gender equality are negotiated in practice during dispute settlement. The analysis will examine in what ways and how gender, kin and community relations and their expectations of behaviour are challenged, refused or appropriated during the process of mediation.

## 2. Struggle for 'Justice': A Case Study

The case analysed in this section concerns the story of the young tribal woman Punjibai and her daughter born as the result of an affair with the bus driver Ratanlal. Ratanlal is about twenty years older than Punjibai and married to Basantibai. The couple have four children and live in a small village about 20 km from the city of Udaipur. After Punjibai gave birth to a baby girl in 2004 she went to live with Ratanlal and his first wife Basantibai. Punjibai's attempt to gain acknowledgement as Ratanlal's second wife by receiving a bride price or jewellery failed. Ratanlal's family and his first wife made it amply clear that Ratanlal's 'mistress' was unwelcome in their household. As a result of the verbal abuse and physical violence that Punjibai had to endure in Ratanlal's house, she decided to return to her parents' house. There she stayed for over a year. During this period Ratanlal's family tried several times to take her back but without success. Punjibai

insisted that she would return only after having been acknowledged as Ratanlal's second wife and granted a separate house for herself and her daughter. As Ratanlal and his family were not willing to accommodate her as his legitimate second wife she chose to claim alimony. The case went through a lengthy process of negotiation mediated by relatives and community leaders (*mukhiya* and *sarpâñch*). However, the negotiations failed to find a solution both the parties could agree on. After a year without getting any money from Ratanlal for herself and the little girl, Punjibai decided to appeal to the police and file for alimony. Because Punjibai could not afford Rs 1,000 for the police to bring the case to the court, her case remained unheard. Following the advice of her aunt, a leader of the women's group, she approached the Social Reform Committee to seek help and support in December 2005. The case was negotiated in the women's court in January 2006.

The issues raised in the Punjibai case included the attribution of responsibilities and duties between men and women in and beyond the household, concepts of virginity and blame and the relationship between co-wives in the same household. Her story thus offered an ideal site for the contestation and interpretation of gendered norms and codes of behaviour by social actors within the complex fabric of family and community relations. Here the analysis will focus on how the 'protagonists' in the Punjibai case contested norms and codes of behaviour that are inherent to the highly gendered concept of honour (*izzat*) during the process of mediation.

#### *The Process of Mediation*

At least eighty people, men and women, have gathered in the tribal village Pai either to negotiate or to witness the procedure of negotiation in the Punjibai case. The majority of the onlookers, sitting on the ground under the big shady tree, are women. A few of them are completely veiled so that only their silver bangles and anklets can be seen. The assembly is arranged in two opposing half-circles. On the one side is Ratanlal and on the other Punjibai with her family and supporters. In front of them, two men and three women, the speakers, are gathered around a small table, taking notes of the young woman's story. Ratanlal's wife, Basantibai, is standing a little aloof while critically observing the negotiations.

Punjibai is the first to introduce her point of view to the assembly. With a loud but slightly trembling voice, this young woman reports her story to the assembly of at least eighty people. The end of her red and black synthetic sari completely veils



her face. The flow of her words is accompanied by the soft jingle-jangle of her bangles, which dance up and down her bare arms to the rhythm of her gestures.

In her narrative, Punjibai expresses her disapproval of Ratanlal's behaviour before and after the baby was born. Ratanlal's omission to accommodate Punjibai at his and his family's house before the baby was born can be viewed as a refusal to acknowledge Punjibai as his 'socially accepted' second wife and thereby a rejection of his spousal duties. For among the Meena, a marriage to Punjibai *before* the birth of the child and without the consent of his first wife would have been socially accepted and thus possible. To acquire a second wife is a legitimate and widespread practice. But the initiative for such a marriage has to be taken by the male. If there had been such a proper marital bond, Punjibai would have been assured food and shelter by her husband and his family. However, *after* the birth of the baby, a marriage, with the performance of all the required rituals, is not possible any more. They can only live in *nâta*, a form of cohabitation without a proper wedding ceremony. While *Nâta* means forgoing the standard wedding rituals the 'bride' still receives the jewellery and cloths from the 'groom's' family.<sup>7</sup> *Nâta* is thus an accepted form of cohabitation although socially less respected than marriage. As a consequence, living in *nâta* makes a woman's position in her in-laws' house more problematic and difficult and renders her more vulnerable to physical and verbal abuse, as was obviously the case here. The fact that Punjibai had been 'brought from the street', as Ratanlal's first wife termed it, and the loss of her virginity (*izzat*)<sup>8</sup> outside of marriage render Punjibai's situation

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<sup>7</sup> The Meena distinguish between the girl's first and second marriage. The first marriage is performed according the rituals that are mainly adopted from Hinduism. The wedding takes place in the house of the bride, and the bride's parents have to pay for all the expenses of the feast. If the woman is a widow or if she has been 'traditionally' or officially divorced or if she had a baby before marriage she can get married, but important rituals that define the proper wedding are in such a case omitted. Although the bride still gets *dâpâ* (bride-price) and *raqm* (silver jewellery) the wedding ceremony cannot be performed in the bride's natal house but takes place in the groom's house or in the house of the mother-brother or sister-father [meaning of these terms unclear] from the groom's side. This kind of marriage is called *nâta*. In the case where a widow lives together with a man, preferably a widower himself, without having performed any ceremony, this is also called *nâta*.

<sup>8</sup> The loss of the girl's virginity prior to the wedding, though condemned in principle among the Meena, is yet condoned in practice. It does not lead to the

in Ratanlal's household very difficult. She therefore overtly accuses Ratanlal of, first, having spoiled her life by stealing her virginity and, secondly, of neglecting and mistreating her during the time of their cohabitation. She complains: "They didn't care if I had enough food and they beat me up! They scolded me and I had to sleep outside on a sack. He has spoilt my life [by deflowering her] and now I have to sleep on a sack!" But even if Ratanlal was willing to fulfil his spousal duties towards Punjibai, her doubts still linger on by saying; "But if I stayed there, where is my future? I don't want to go there as a servant and to do the work of a servant!" Punjibai's allusion to her ascribed role as a servant rather than wife takes into account the highly asymmetric relationship between the first and the second wives living in the same household, as is common among the Meena. Whereas the first wife is assumed to be the owner of the house, presiding over the household and financial matters, the second wife is a mere servant; even marriage does not equalise her status. She is responsible for the majority of the housework and fieldwork. Facing these circumstances, Punjibai excludes all possibility of doubt by firmly stating; "I saw what I had to endure during these fifteen days I lived there. I won't stay with them!" To Ratan Lal she says: "If you don't keep me in your house you have to give me at least Rs 50,000 rupees for my respect [honour], so my parents and I will be respected in society again." Punjibai's claim clearly emanates from her narrative. She does not want to return to Ratanlal but she wants her and her family's honour to be restored with the payment of compensation for her lost virginity. Once Punjibai's family honour is restored they will be free to wed her off to someone else in *nâta*, despite the loss of the most prized possession of an unmarried girl – her virginity. The amount of Rs 50,000 *izzat ka paisa* claimed here in the Social Reform Committee is far more than that in the family gathering or the caste *pâncayat*, where only rupees Rs 1,000 to 10,000 are requested. But here, the claim for such a huge sum of money reflects the concern of the Social Reform Committee not only to restore respect and honour but also to secure a certain financial security for Punjibai and her daughter while they are living at her parents' house.

Ratanlal's argumentation is obviously driven by the endeavour to reject Punjibai's

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complete rejection of the 'guilty' girl as in so-called high caste Hindu communities. A girl's respect, here also called *izzat*, can even be restored by the payment of *izzat ka paisa* by the alleged perpetrator's family. After having received the money (Rs 1,000-10,000) the girl's parents are free to have her marry someone else with a proper wedding ceremony.

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reproaches and to reinstate his reputation as a man of virtue by saying: "During the time she lived in my house, I gave her everything she needed. I asked her to stay with us but she only said yes tomorrow, after tomorrow..." Ratanlal's narrative depicts Punjibai as a woman of bad temper, who ran away and refused to stay. He complains:

A few days later, Punjibai's parents brought her to my place. [...] The *pâñch* said that we have to live together for six months. After these six months, I will give her jewellery and a decision will be made. But she only stayed for one month and then she left.

In his account, it is not a woman's 'choice' whether she wants to stay with her 'husband' or not, but more of a man's or society's decision, and women have to bear the consequences of a refusal by facing social and financial neglect and marginalisation. Ratanlal completely denies the alleged neglect of Punjibai and further stresses his willingness to live with Punjibai in *nâta* by giving her the jewellery. In this respect, Ratanlal rejects all blame for having deflowered a minor<sup>9</sup> and having failed to pay maintenance for his daughter, and re-claims a reputation as a good and responsible husband. This illustration clearly reflects hegemonic discourses of gender relations, whereby blame and duty are ascribed on the grounds of normative female behaviour. The construction of the ideal female becomes the site for the negotiation of male benefits and female blame that justifies and reinforces gender asymmetries. As a result the outcome of the negotiation often discriminates against women.

After both the aggrieved parties have presented their arguments to the assembly it is now in the hands of Punjibai's and Ratanlal's respective speakers, or their *pâñch*, as referred to by my informants, to 'convince' the assembly of their clients' case.

Ratanlal's speaker is the *sarpâñch* of his village, who begins his argument with an assertion as to whom he considers guilty. He says to Punjibai: "Please don't get angry but I only tell you facts. If a girl roams around in the village..." Here the *sarpâñch*'s narrative highlights the 'fact' that women who stroll around invite

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<sup>9</sup> The legal age of consent by a girl for sexual intercourse according to Indian law is 16 years. Under section 375 of the Indian Penal Code sexual intercourse with a woman even with her consent is rape, if she is below 16 years of age.

trouble. The word *ghumna* in Hindi or ‘to roam around’ in English, when used in relation to women, commonly connotes prostitution or women of easy virtue and thus dishonour. Women’s lives in this rural tribal area are strongly structured by the concept of honour or *izzat*. A woman’s honour is related to her sexual purity. To preserve her purity restrictions are placed on her freedom of movement to protect her from impure and thus improper actions. She has to exhibit chastity and modesty by conforming to a strict code of behaviour and movement. In short, a woman’s chastity, purity and modesty structures the relationships between men and women, the family and the wider community in this rural area in an important way, which is most likely to the disadvantage of women. On that basis female duties and expected behaviour are defined within the argumentative framework of the *sarpâñch*’s indictment of Punjibai. This implies a strongly gendered ascription of the public and the private sphere that locates the female in the private and the male in the public domain. From this perspective, girls strolling around in the public sphere unaccompanied are not acceptable. Whereas chaste and honourable women are sought to be legitimately confined to the household, men and especially bus drivers are depicted as sexual and prone to promiscuity. In this vein, the *sarpâñch* overtly laments bus driver’s weakness for women, by saying, “I don’t believe in drivers. Ratanlal might have many women in his life” but he finally blames Punjibai for having invited trouble by making herself available. He asks Punjibai: “Why did you have to walk into his trap and why are you after married men?” In the paternalistic scheme of the *sarpâñch* respect and honour of the family as well as of the society depends on the correct behaviour and conduct of its women. Men in contrast have to fulfil their financial duties within a conjugal relationship. In his view, a relationship between Punjibai and Ratanlal can only be considered “[I]f he has the means to support his family.”

Punjibai’s speaker is Meerabai, a middle-aged, assertive tribal woman and one of the initiators of the Social Reform Committee. Meerabai is a successful product of the Women’s Development Program in Rajasthan that was initiated by the state in 1984. Based on an interactive network linking government officials, NGO staff and women’s groups, the program aimed to empower rural grassroots women in several districts in Rajasthan. When Meerabai first engaged with a local NGO at the age of seventeen she was in her own words completely illiterate and did not know about her right to talk in public, freedom of movement, the right to assembly, the right to education and the right to work. She proudly says that her engagement with NGOs over twenty years has changed her life profoundly. Today, she is literate and holds a leadership position in the Tribal Women’s

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Awareness Society as well as in the local village *pânc̄hayat*<sup>10</sup>. In 1994 Meerabai received the 'Prime Minister's Award' under P.V. Narasimha Rao, in recognition of her extraordinary and innovative work in the field of women's empowerment. Through her long-term NGO background, Meerabai's view on social norms and values is strongly influenced by liberal NGO discourses and modern concepts of gender equality and women's rights. Here, she creates a strong voice of dissent during the process of mediation. Her rhetoric overtly challenges the patriarchal scheme of the *sarpânc̄h*. In contrast, she asserts Punjibai's right to move beyond the confines of the household without putting her own and her family's honour at stake. In doing so, her narrative focuses on the malaise of girls' abuse among the Meena. In her view, the fact that bus drivers use young girls for their own pleasure and thus ruin their lives (by deflowering them) has to be made topical. Then Punjibai "[w]as just 'one' of these girls but she could have been anybody's daughter or sister sitting here. [To Ratanlal] Don't get angry but whenever these bus drivers see a nice girl they get weak in their knees and only have eyes for this girl. These bus drivers have ruined the lives of thousands of young girls! It is thus not only Punjibai's fault, it is also your fault!" Here, the social construction of men as sex driven and women as mere markers of societal morality is no longer accepted as a matrix for the definition of right and wrong or just and unjust. Men have to be called to account for their actions. To Ratanlal she says angrily: "What right do you have to enter her life?" There is a major difference in the portrayal of the *sarpânc̄h* and Meerabai of how blame and duties are allocated between female and male. Here, Meerabai stresses the equal responsibility of men and women to control their sexuality. She publicly calls for a woman's freedom of movement and the right to talk in public and sheds light on the man's responsibility to retain his sexual urge. One would have liked to get to know more about the deliberations of

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<sup>10</sup> The village *pânc̄hayat* is, unlike the caste *pânc̄hayat* discussed above, a governmental institution. It belongs to one of the three bodies of local governance set up by the state after Independence in order to give the ultimate decision-making power concerning health, education, and management and protection of natural resources to the villagers. Gender reform endeavours have not been promoted solely on the micro level. Promulgations of law by the Indian state clearly indicate, that they are also a state issue. Further, the enactment of the 73rd Constitutional Amendment in 1997 gave an entitlement to reserved seats for Scheduled castes and the Scheduled tribes in the village *pânc̄hayat* in proportion to their population. Among these seats 33% are reserved for women in the same category. In practice, women were given the possibility to participate in local politics seven to eight years ago (Sathe and Joshi 1999).

the other two tribal women presiding over this process of mediation, who, although they approved Meerabai's perception, did not assert their own position.

### *The Decision*

The decision taken by the Committee is based on a mutual agreement reached on the basis of negotiation and is announced as follows:

Ratanlal says that he wants to keep Punjibai. They have to stay together for four hundred months. After four hundred months he will think of giving Punjibai her own house, it depends on his financial situation.

The verdict might come as a surprise because it fails to take into account Punjibai's claim to compensation and alimony. Instead, she has to return to Ratanlal and Basantibai. But it would be wrong not to see the subtle changes brought by this women's forum, where the rights of the first and second wife as well as the man's ability to provide financial security have to be balanced. Then as Basantibai, Ratanlal's wife, reasoned: "You all sitting here should think about this. If she wants to live separately, how can my husband who earns 100 rupees a day manage to afford two stoves?" Paying tribute to the complexity of the issue, the decision discloses a crucial shift in the otherwise hierarchical relationship between the first and second wives:

In the future Ratanlal has to promise the Social Reform Committee that he will treat both women equally in his house and that he will give the same amount of money for maintenance to both of them.

The verdict that clearly stipulates social and financial equality between the two wives acknowledges the right of a second wife that was otherwise absent in this tribal area as well as in the state legal system. In India, although polygamy has been officially outlawed under the Hindu Marriage Act, 1955, 'second marriage' is a common practice in this tribal community as elsewhere in India. The consequence of this discrepancy between law and practice results in the absence of any legal status of the second wife. Under the Hindu Marriage Act a second marriage is considered void, leaving the second wife with nothing but stigmatisation. Since polygamy is still very prevalent in this rural area, to give

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financial rights to the second wife is important. It has to be noted that women in Punjibai's situation are often rejected by their natal family and the chances for them to get maintenance for themselves and the children from their (ex-) husbands or lovers by a court ruling are slim. So, in most cases the only option to save these women from destitution is to send them back to their husbands. The decision taken in this case reflects the need to ensure social and financial support for Punjibai by stipulating her right as a second wife.

From a liberal perspective, the Punjibai case has shown the limitations to the implementation and realisation of gender equality and justice. Ratanlal has not been accused of rape nor has he been committed to pay maintenance for his child. The example of the Punjibai case reveals the difficulties for the disentanglement of deeply rooted patriarchal concepts that are defining for gender identities and the resultant expectations of behaviour within the family and in the wider community. In a context where the situation of an individual within the complex field of family and community relations is a condition of their identity, the decision is ultimately made according to the interests of the family or community and not necessarily in favour of the individual. Thus the contestation of a woman's honour and respect primarily affects the family and kin and the community and not the person in question. Nevertheless, to engage in women's rights narratives using such concepts as the right to maintenance and gender equality means to embark on a legal discourse that perceives women as individuals by neglecting their complex relationships within the family and the community. There is a discrepancy between the liberal categories of women's rights and gender equality and women's claim for respect and social recognition within and outside the family and community. The question of how to "do justice" for Punjibai in a modern liberal sense not only calls into question family and community solidarities and values but also affects her identity as a good mother, co-wife and daughter (Sunder Rajan 2003: 165). As Strathern (2004: 208) concludes from her experience with family disputes in Papua New Guinea, the stumbling blocks on the way to gender equality cannot be attributed solely to customs and traditions but are very often due to an individual's responsibilities and duties within the complex weave of social relationships. Bearing in mind the importance and complexity of social relationships, I would not advocate judging the 'success' of this women's forum by modern and liberal parameters. In fact, I argue for a less monolithic understanding of the categories of gender equality and women's rights. Then the institutionalisation of such a legal women's forum has certainly affected women's life in this tribal rural area in an important way. Having openly claimed their rights to talk and to move in public, tribal women have become visible and their voices are heard in a domain that was

hitherto reserved for men. The Social Reform Committee now constitutes an arena where deep-rooted gendered concepts of behaviour and misbehaviour are challenged and contested by tribal women. The ‘success’ of such an informal women’s body lies first in the fact that tribal women have created a space where they are seen and heard in an otherwise male-dominated area, and, second, that in this space there is room for the (re-)negotiation of otherwise unquestioned relations between men and women both within and outside the family.

## Conclusion

This legal women’s institution, the Social Reform Committee, demonstrates the different ways in which the ‘garb of modernity’ can be worn in India. India’s first Prime Minister Nehru intended to modernise India by slipping on her the ‘garb of modernity’ by virtue of the premises of individualism, democracy, secularism, liberalism and civil society. This new fashion in Indian politics has been welcomed by social reformers and feminists in the wake of the modernisation of the Indian state, putting their hopes for gender and social equality in the new state legal system. But Nehru felt that, in a country where separate family laws are granted to its different religious, ethnic and cultural communities and state hegemony is limited, India never quite fitted into the western ‘garb of modernity’. In fact, India’s modernity, characterised by the co-existence of so-called ‘traditional’ institutions with ‘modern’ state institutions, demonstrates the plurality of trajectories of modernisation as well as the plurality of modernity that emerges from the latter (Therborn 1995; Eisenstadt 2000). Acknowledging these traditional caste and village councils as part of India’s “entangled modernities”, as Randeria (2002, 2003, 2004a, b) puts it, allows one to transcend the binary oppositions of tradition and modernity. On the contrary, so-called ‘traditional’ structures are not conceived as backward or as (pre)colonial relics, but as constitutive elements of post-colonial modernity in India as elsewhere (Randeria 2003: 15).

Within the framework of *multiple* or *entangled modernities* the Social Reform Committee sets an example of selective local appropriation of modern values and practices regarding gender by women in this rural tribal area. The entanglements of modern NGO-influenced discourses and traditional patriarchal discourses on women’s and men’s behaviour and duties during the process of conflict resolution in the Punjibai case demonstrate the selective mix of modernity and tradition in this local context. Similarly this innovative women’s forum is anchored in both ‘modernity’ and ‘tradition’. Set up by an NGO and modelled on the *Jyoti Sangh*,



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an urban women's organisation aimed at reconciliation rather than women's independence, the Social Reform Committee incorporates elements of state courts like written records but also structural elements of the caste *pānchayat* like the procedure of negotiation. Given this multilayered and complex nature of India's modernity, the 'success' of such a women's forum cannot be judged against a set of western parameters. Women's lives are deeply embedded in communal and familial structures, and liberal concepts of citizenship are absent and also unrealistic, since the state provides neither women's shelter, nor social security in the absence of family and kin. So instead of simply trusting in the state legal system for the promotion of gender and social equality, it is worth taking into account alternative legal forums such as the Social Reform Committee for the promotion of women's rights and gender equality. This forum is not as unfamiliar as the far away state courts and its working and functioning is embedded within the Meena community. With this hybrid legal body, tribal women enter the legal sphere that was hitherto exclusively reserved to men, and the forum also renders visible the grievances and concerns of women, otherwise quietly retained behind the *ghunghat* or the veil. The Social Reform Committee creates an important space for these tribal women to openly challenge deeply rooted gender asymmetries and (re)negotiate their identities as wife, mother, daughter, daughter-in-law etc. in the context of the complex fabric of kin and family relations within the Meena community.

*Suggestions to be Made*

The above-discussed Punjibai case provides important lessons for the implementation of women's rights in a local tribal setting, where the influence of state laws is often absent and/or informal legality is given priority to the abstract vernacular of modern legality. I therefore suggest to avert one's eyes from the state legal system as the sole instance for the implementation of transnational laws, and to follow a new advocacy of local institutions of informal justice. Women's rights have to be realised in the context of their embeddedness in affective ties of the family and solidarity of caste and kinship networks in which the lives of rural women are inextricably enmeshed. I therefore argue for a localisation of women's rights with the support of NGOs where, first, the access to universal legal ideas has to be locally ensured and, second, these ideas have to be given meaning within their cultural and societal context. Here the following suggestions are made:

1. For the practical implementation of women's rights it is necessary to

conceptualise women beyond the confines of the family and the household and to render them visible and heard in public. I therefore strongly support the idea of an alternative women's forum as a possible avenue for modern human and women's right to enter an area that is otherwise highly patriarchal or corrupt. In my view, to give women a separate space for engagement with modern liberal ideas and the contestation of gender relations has proved to be a valid alternative to the patriarchal caste *pānchayat* and to the far-away and abstract state courts. But the fact that institutions as such do not change ongoing arrangements of social relations is well known. In order to gain social legitimacy, strategies and mechanisms have to be designed to, first, create rights consciousness on a local level and, second, to make people apply these laws. Such an informal legal institution needs some sort of legitimacy within society by either involving community authorities (e.g. *sarpānch* in the Punjibai case) or by working with the local police or court.

2. The formulations of women's rights are often highly abstract and couched in a language that makes it difficult to understand and to implement on a local level. It is necessary to adopt a context-sensitive approach that includes a thorough study of local legal norms in order to make international legitimacy meaningful in a local setting and so as not to miss local practices that might be more favourable for women than modern law (e.g. as to the rights of the second wife).
3. For the implementation of modern women's rights, a very cautious approach is required in a context where notions of tradition and culture are often used as tools to uphold existing gender hierarchies and exclude modern ideas and ideologies. One way to deal with this dilemma is to adjust international law to an extent that challenges societal mechanisms that put women's fundamental rights at risk. In doing this, one has to be careful not to reinforce already existing gender hierarchies, by customising too much, or to run the risk of rejection by modifying too little. In order to make a difference in a woman's life, the thinking, feeling and actions of people have to be shaped through universal modern principles of equal rights of women and men.
4. Last but not least, it has to be stressed that putting non-state legal institutions into focus for the implementation of human and women's rights is not to deny the state's responsibility to implement and monitor human and women's rights policies. Moreover, the state has to ensure and control the effective implementation of gender equality even in areas where its influence is absent

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by working hand in hand with local NGOs. Therefore, these institutions need to be linked to the state as well as local authorities to ensure the effective implementation and monitoring of international laws.

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