

Women's Nyaya Samitis: A Gender Just Response to Violence against Women

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Violence against women is on the rise so also is the assertion by the women in several parts of the world, to report on the violence and seek justice. However the justice giving mechanisms open to women whether statutory or social have severe limitations and drawbacks in extending what is just and 'right' to women. Extra legal strategies and alternate platforms are proving much more effective in aiding women in their quest for justice. Rooted in cultural and community norms, the alternatives, actively engage the women and the community in a dialogue on what is just and right. Such a process manages to take the discourse to a higher level and challenges and at times, changes community norms. Born out of a process of empowerment and a consciousness of rights among women the Nyaya Samiti's are quasi legal platforms that are proving to be fitting alternatives to violence against women.

SWATI- Society For Women's Action And Training Initiative. has been working for the social and economic empowerment of women in Suendranagar district of Gujarat state.

The district is popularly known as Jhalawad since most of it was ruled by the Jhala Rajputs who gave to the district its highly feudal culture. The main sufferers of which were and continue to be the women and the lower caste groups. Several indicators including the low sex ratio (**869 per** 1000 males) and the second lowest rate of enrolment of girls in the state are reflective of the discriminatory attitudes and practices that women in the region face. While the incidence of domestic violence seems high it is not directly reported but is reflected in a contorted way by the high number of maintenance case in the courts and legal aid cells.

Women do not seek recourse to justice primarily because of lack of support at home and in the community, lack of information and confusion on whom to approach and what needs to be done. Another reason is experience with unscrupulous lawyers who often misguide and try to prolong the case. The fear of the legal system, which most women find unfathomable, is another major reason.

SWATI works in four blocks through block level Women's Collectives, called the Mahila Vikas Sangh (MVS). Over six thousand women in three blocks are members of the MVS . SWATI has taken up the issue of violence against women and has systematically built up a facilitative environment of awareness and support at the village level and professional as well as institutional support mechanisms at the organizational level.

Typically, SWATI's initial work on violence involved working with the formal system for addressing of violence cases. This it did through:

- 1) Establishing legal aid and counseling support services for women facing violence and discrimination.
- 2) Creating legal rights awareness and mobilizing community support at the village level through various forums, including formation of vigilance committees at village level. However the formal legal system was found too distant and unresponsive and addressing domestic violence at the village sangh level had certain limitations of women facing rebuttal and pressure of the relational and neighborhood ties.

A need for an objective and capable forum that could overcome some of these issues was felt. Thus a more structured paralegal platform for handling issues of violence and exploitation or for advising and supporting the women was created at the level of the Mahila Vikas Sangh. The 'Mahila Nyaya Samitis' (Women Justice Committees) , as these forums are called, are administered by women, trained and equipped (with a perspective) to do so, in a gender just approach.

The Nyaya samitis have been activated over the last one year, through a process of training and actual handling of cases¹. The Samitis are today active in two blocks of Patdi and Dhranghdra in Surendranagar district.

This article seeks to analyse the role of the Nyaya Samiti's in seeking redressal for women and it's importance and potential as an alternative to the other redressal mechanisms available mainly the:

A) Jati Panch/panchayat set up by the community and governed by customary norms and rules that the caste has set out for itself

B) The statutory mechanism set up by the Indian State

Formation Of Mahila Nyaya Samitis

In order to equip and orient the Mahila Nyaya samitis, SWATI carried out intensive trainings of sangha (village collective) level women leaders. Over 45 women in the two blocks of Patdi and Dhranghdra were trained. The training program covered building a feminist perspective to Violence against Women, knowledge of the laws for women, legal and extra legal mechanisms, counseling, record keeping and arbitration skills. The Mahila Nyaya samiti is already functioning in patdi and Dhranghdra blocks under the aegis of the Mahila Vikas Sangh. The platform has given it a community based identity and a sanctity that spans across communities.

Jati Panchayats as Arbitrators :

Caste in the several parts of India is referred to as Jati, nati or nat.

Every caste has a Jati Panch (caste leaders) and Jati Panchayats (caste assemblies). The main role that a Jati Panchayat plays is to uphold and guard the customary practices that form the identity of the caste. In most castes these customary practices take on the symbolic value of caste 'honor' and identity and if transgressed or acted against can attract punishment, ranging from monetary fines to being declared an 'outcaste'. The stigma of being an outcaste extends to the entire family and future generations of the transgressor(s). This proves to be particularly hurtful because it may cut off the social interaction ranging from food to marrying one's children within the caste.

Jati Panchayats also regulate social relations and conduct of the jati members – they mediate disputes in marriages, property and inheritance.

It has been observed that, the Jati Panchayat is a major institution that sanctions and promotes violence against women. Like Robert Hayden in his study of the Nandiwalla caste panchayats observes *“Despite the fact that the caste panchayats are admired for their non – violent and self reliant conflict management /resolution capabilities, there is no denying of the fact that this “folk system” has not been fair to Dalits and other weaker sections of society”* (Hayden April1999).

Traditionally, no women anywhere, who so ever, are part of the panch. In most communities women unless they are the accused or are the accuser, are not allowed into the meetings of the Jati Panch. Not only does the entire system work against providing any sort of basic rights to women but it also condemns any sort of attempt at seeking justice from other justice giving mechanisms.

Amongst the several cases that have come to the Nyaya Samiti the case of Harkhu Thakore (a koli patel woman) deserves to be analysed as it marked the beginning of SWATI’s understanding of the role of the Jati Panchayats in upholding and perpetuating the violence against women. The Nyaya samiti with the backing of the Mahila Vikas Sangh has questioned the functioning of the Jati Panch and has confronted it directly

The Issue Is Perspective, Not Proof

Harkhu ben Ganesh Bhai of Dasada village was forced by her husband and father In law to leave her marital home. Her husband alleged that their child was not his. {Incidentally it came to be known that Harkhu’s father in-law had at an earlier time made the same allegation on her mother- in- law, - his first wife and forced her to leave house)

Her father in law called for a meeting with 'Jati Panch' and sought a divorce for his son. The panch summoned Harkhu and her family and forcibly made Harkhu sign the divorce papers. Having achieved this the panch then levied a fine of rupees 15,000 on her family for divorcing her husband. Technically they were correct. The law made by the Jati PanchPanchayt said that ‘if a women divorced her husband, she would have to pay a fine of 5000 rupees. In this case they also levied on her the charge of infidelity and fined 15,000. The panch gave Harkhu’s father a notice to submit the amount by 5th May 2003.

Nani ben a Dalit woman of village Nagwada, advised them to seek help of the Mahila Nyaya Samiti in Patdi . Harkhu and her family came to the Mahila Nyaya Samiti on 3rd March 2003.

The case of Harkhu was discussed at the monthly meeting of the village representative, who were angry at the treatment meted out to Harkhu. Discussions also revealed that every one had an instance of the unfair and ad hoc judgments that the Jati Panch doled out. It was also said that the Jati Panch is a highly partisan and corrupt institution, and judgments are always made in favor of the rich and the powerful. Since due to cultural restrictions, women do not speak out in the Jati Panch, most of the time the rulings of the Jati Panch tend to fault and punish the woman and her family. Rulings even when given in favor of woman are in a patriarchal mode, and so almost always tend to be easy on the men.

Among VANKARS a dalit community, a man can divorce a women by paying a fine of 1000 rupees . However a woman has to pay Rs. 5000 if she gives a divorce

Amongst Darbars a male can marry any number of times, while women can not marry even if widowed in their teens or child hood.

The jati panch fined jassi a dalit woman Rs.2000 for approaching the nyay samiti for justice and getting the court to arrest her husband for non payment of maintenance amount of rupees 800 per month.

The panch forced harkhu to sign the divorce papers, and then levied a fine of 15,000 for divorcing her husband.

Kanchan bahen, Achwara village, a victim of domestic violence, registered her cases for maintenance in the court. The court awarded the maintenance. But the husbands families approache the caste panch , who fined KanchanRs 1,500 for doing so.

At the meeting, it was decided to confront the Jati Panch for their decision on Harkhu. On 3rd March, representatives of over 20 village sanghas, went to village Sushia and questioned Tala Bhai, a member of the Panch, for his decision in Harku's case. He was taken aback but agreed that the Panch had done wrong in Harkhus case.

The women came back, and asked the Nyaya Samiti to summon the Jati Panch. The Panch ignored the first summon.

However the case had received tremendous publicity and the Jati Panch felt the pressure of clearing their stand. A factor that contributed to this was that on 8th March, at a sammelan to mark the International women's day, Harkhu and her father spoke openly in front of a gathering of 400 women about the treatment meted out to her and their family.

The Jati Panchs were summoned a second time . It speaks for the pressure that the Mahila Nyaya Samiti could build up, that on their written summons, the Jati Panch Leaders from 14 villages s came to the Mahila Vikas Sangh office for a discussion. Harkhu's parents and her husband's family and the women from various village

sangathans were also present. At the meeting Harkhu lashed out at the panch and her father-in-law. She publicly exposed him by saying that he had thrown out her mother-in-law with exactly these accusations. Her father-in-law was livid and the Jati Panch was left with no basis for why they had forced her to sign the divorce papers.

The Panch now did a volte-face and made Harkhu's accusation on her father-in-law into an issue of disrespectful behavior. They walked out threatening dire consequences for SWATI, the Mahila Nyaya Panch and Harkhu's family.

Harkhu's struggle and her family's harassment by the Panch continues. In the mean time Harkhu has filed for maintenance in the court. However since then, one more woman who suffered atrocities at the hands of the Jati Panch has approached the Mahila Nyaya samiti for justice.

Attitudes Shape Norms That Go Against Women

The patriarchal value system of the Jati Panch has been documented elsewhere too. In the case of the Nandiwalla gram Panchayats if a kallar man misbehaves with a woman (which is termed in local parlance *madipitittu elluttal*, pulling the saree), the village panchayat often passes the judgement that the sister of the offender be brought to the village square and her saree pulled by one of the male members of the affected woman. It has to be the offender's sister and not his wife since she has come from another man's family after all. Contorted Justice because it is at the cost of the women (Hayden, 1999).

...But Men Are More Equal Than Women: Some discriminatory customs and judgments of Jati Panchayats

SWATI during its discussions with the various communities came across the following norms and instances that illustrate the above point further:

- ♂ Among Vankars, a dalit community, a man can divorce a woman by paying a fine of 1000 rupees. However a woman has to pay Rs. 5000 if she gives a divorce
- ♂ Amongst Darbars a male can marry any number of times, while women can not marry even if widowed in their teens or childhood.

- ♂ The Jati Panch fined jassi a dalit woman Rs.2000 for approaching the Nyaya samiti for justice and getting the court to arrest her husband for non payment of maintenance amount of rupees 800 per month.
- ♂ The Panch forced harkhu to sign the divorce papers, and then levied a fine of 15,000 for divorcing her husband.
- ♂ Kanchan bahen, of Aechwara village is a victim of domestic violence. She registered her cases for maintenance in the court. The court awarded the maintenance. But the husband's families approached the Jati Panch, who fined Kanchan Rs1,500 for doing so.

The Basis of the Jati Panchayat's Authority

The question to be asked is, that in spite of the experiences related to the integrity of the Jati Panch, why do people still approach them. Answering this question may also give pointers to the reforms required and strategies for reforming this institution.

One immediate reason is the Indian judicial system, with its expensive, long and tiring procedures. The Jati Panch at least achieves a quick disposal of justice. It does not matter if in the process justice itself is disposed of.

The other reason is in the alienation of the legal system from the cultural and community norms and social practices. It is this that is used by communities to prevent women from approaching the courts. Taking recourse to law is seen as an external intervention in to what is personal and private to a family or in a wider sense to the caste/community.

It is also here that the Mahila Nyaya Samitis hold out hope. They have the inherent sense of the community sensibilities, at the same time have as their frame of reference, a gender just perspective shaped by the feminist ideology and informed by the law of the land. They score over other systems for they work on changing attitudes and community norms. This is analysed in the following section.

Functioning of the Samiti:

The Mahila Nyaya Samiti functions as a formal system on an informal platform. This means that the women have undergone intensive legal trainings in a gender just framework. They meet on fixed days in a month in the premises of the Mahila Vikas Sangh and people who have complaints come to get their cases heard.

The Nyaya samitis follow certain procedures that are quasi legal and are similar to existing **legal aid support and social security** forums. The Mahila Nyaya samiti thus, minutes all its discussions and the decisions arrived at are written up as formal documents signed by both parties and witnesses. A primary feature of the methodology followed is in converting the private complaint of a woman into a public debate. The mandal women/ leaders, the working committee of the MVS constitute a strong presence at the arbitration forum. This plays a crucial role in converting family dynamics into topics for democratic discussion on what is right and wrong. The case of Jamna –a koli patel woman, illustrates this well:

Jamna of Naradi is a member of the sangathan. Jamna has five children and she and her husband work as casual laborers. Jamna's husband drank heavily and use to beat her up in an inhuman manner . Several times Jamna had left home for her parents place, but was forced to come back because of the children. Matters really got out of hand when her husband beat up jamna by placing her hands between two stones. Jamna's hand was mutilated. When the village sangha women came to know of this they were incensed. They insisted that this was not to be tolerated and Jamna should complaint to the police. Jamna approached the Mahila Vikas Sangha, who helped Jamna file a police complaint against her husband . The police was requested by the women to give jamna's husband a 'thorough' beating and keep him in lock-up for a while. Jamna's husband was arrested on her complaint and the police did exactly what the women had requested. Jamna's husband has come back . The sangha women confronted him and he now drinks less and has not dared to beat her again.

The above case illustrates an important function that this process and approach can play. It brings on to public debate hitherto what was private. This has tended to play a very crucial role in pushing the community to think in terms of what is just and unjust and helped in taking progressive decisions that have acceptance and consent of the community. Other wise it would be very difficult if not impossible to imagine a situation were a man who is arrested and beaten up at his wife's instance , not just accepts her, but is apologetic. Not just that but the community too accepts this.

In a typical court case even if the man is awarded six months of punishment, it does not mean he has changed, or the situation for the woman has improved or that the woman has got justice. Justice will prevail only if the woman is allowed to live her life with respect and in peace, with her rights intact. For this the man, his family and the community need to realize that this kind of conduct is wrong and should not be accepted.

Reshaping Norms through Participatory Discourse

The samitis work on changing community's understanding of what should be acceptable and what is not. In the process (of doing so) the samitis have reshaped community norms . These forums have expanded the definition of maintenance to include the time the woman spends away from the matrimonial family without formal divorce. This is an important community norm being reshaped . How this happens is exemplified in the case of Nagji ben below.

Nagji ben of village Dasada in Patdi block had come away to her parental home due to dissatisfaction with the arrangements at her marital home. She approached the Nyaya Samiti to help reconcile. Her husband and his family agreed and it was decided that Nagji ben would go after he would arrange for things the way she wanted. He has agreed to take her after three months. In the meantime he would be paying a maintenance of rupees 1000 a month till she comes back to her marital home.

This is symbolic of true attitudinal change and has implications for setting up of new community norms

What distinguishes the Nyaya Samiti from other methods of addressing violence are the perspectives that informs them and the processes which follow. Take the case of Harkhu, illustrated earlier .How can any 'proof' solve this problem, when it has actually got it's roots in the attitude and perspective around relationships.

Acceptance of These Forums

The Nyaya Samiti is an inexpensive and an accessible forum. What adds to the acceptability of the forum is the fact that the decision-making involves giving time to think of the best

solution, rather than focusing on absolute positions of wrong and right. And includes the possibility of renegotiating if the decision does not work out. The women who arbitrate at the forum are from the local socio-cultural milieu. Along with the sensitivity to women's issues and an understanding of violence, they also draw upon an intuitive cultural sense of the beliefs, values and normative codes of the area. This contributes to the effectiveness of their judgment, which is based on an understanding of the cultural value system and the information gathered from the immediate community about the family and situations. This is used during the process of negotiation. In sum the biggest strengths of these women is a sense of right/s, gender justice and an understanding of the legal system and a woman's rights under that. All this packaged in the local cultural idiom and mores have made the acceptance of these forums high (Bhatla and Rajan, April 2003).

Recognition and acceptance of the rights of the women to publicly arbitrate and dispense on matters of justice is a fundamental reshaping of norms about women's public roles.

How do these forums get their sanction?

It would be difficult to visualize such a forum coming up without a strong basis in movement for mass awareness and support. It needs to be understood that the samiti draws its power and sanction from having its basis in a larger collective or platform. The Mahila Vikas Sangh and the Nyaya samiti represent a constituency of membership – of women who are its members. They support this process and promote it. That it has the possibility of going beyond is unquestionable. *“For it represents the effort to reinvent the local conflict management/resolution heritage without perpetuating the exclusion of women, dalits, minorities and other weaker sections of the society, and the domination and exploitation of landlords”* (Hayden 1999).

It would be simplistic to assume that the women's Nyaya Samitis are a substitute or an answer to all justice related needs. The Nyaya Samiti has some limitations in terms of:

- High stake cases such as property disputes do not come to them.
- The forums are becoming representative of women's issues and not community arbitration forums. In that sense their influence can be limiting. They perhaps need to

debate on how the role of the forum can be broad based to include other issues of discrimination and exploitation.

- They are in their present form able to influence mainly matrimonial relationships and the norms related to the same. Issues related to say other forms of gender based violence, caste etc.. remain outside their purview.

The Nyaya samitis in a sense are bi-legal forums where it does take recourse to the formal legal system, if it's mediation and judgement is not adhered to. There is need for such initiatives to expand, and seek wider legitimacy in the social as well as judicial domain. Such plural conflict management/resolution mechanisms and processes would add to the socio-economic-political health of India. They would also become quite vital in India where justice is often delayed (and hence denied) by the slow, overburdened and increasingly expensive courts². (Robert Hayden,1999)

Notes:

1.SWATI is an organization working for the socio economic empowerment of women and rural communities. The other interventions of the organization include health, livelihood, disaster preparedness in communities and women's involvement in land and water. The author is director of SWATI- Society For Women's action and training initiative. Contact Email: pswati@sify.com

2. The Mahila Samakhya Society in Gujarat, India has developed similar forums in the district of Baroda and Rajkot.

References:

1.Robert M. Hayden, (April 1999)Disputes And Arguments Amongst Nomads: A Caste Council In India,

1. Bhatia Nandita and Rajan Anuradha, April 26, 2003 Private concerns in Public Discourse- Women Initiated Community Response in Domestic Violence, Economic and Political Weekly.

2. Shramjibee Mahila Samiti: April 26, 2003, Shailishi in West Bengal – A community Based response to Domestic Violence. Economic and Political Weekly .

3. Udayakumar S. P., Book Review, Number 2, 2001

Disputes And Arguments Amongst Nomads: A Caste Council In India, Robert M. Hayden, (April 1999)

¹ The Mahila Samakhya Society in Gujarat, India has developed similar forums in the district of Baroda and Rajkot

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