



‘Tribal Women’s Experiences of Gender Justice through Alternative Channels in Udaipur region’

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Summary

This dissertation is a study of tribal women's experiences of gender justice through alternative channels in Udaipur district of southern Rajasthan, India. It explores the concept of gender justice, empowerment of women, transformation of men and criticality of collective action for social change. It highlights the multiple factors that enable or prohibit tribal women's access to gender justice through formal legal systems and informal tribal panchayats. The study is based on field experiences and examines how the innovative avenue managed by women's groups and supported by non-governmental organisations has improved tribal women's attainment of gender justice.

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List of Acronym

CEDAW	:	Convention on the Elimination of all forms of Discrimination against Women
FC	:	Family Courts
LK	:	Lok Adalats
NGO	:	Non-governmental organisations
PLA	:	Panchayat Level Associations
SM	:	Seva Mandir
WCPC	:	Women's Counselling and Protection Centre
WRC	:	Women Resource Centres

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Preface

This study is a consolidation of my experiences of almost two decades of association with the tribal and non-tribal communities of Udaipur region of southern Rajasthan, India. Based on secondary sources of information and my own work experiences, the study highlights the low status of tribal women and several elements that influence women's access to gender justice. The study affirms that collective efforts of tribal women can make gender justice a reality for them. It also asserts that by changing attitudes of tribal women and men, the male dominated oppressive tribal *panchayats* can gradually be transformed.

I have always drawn energy, motivation and commitment from these vibrant tribal women and men and I am highly indebted to them. I extend my sincere thanks to Seva Mandir, the organisational family that always encouraged me to learn and grow. I am also thankful to the Ford Foundation International Fellowship Program. I am profoundly grateful to Mariz Tadros my supervisor, whom I respect and admire for her guidance, encouragement and dedication.

I also appreciate the inspiring, tolerant and patient companionship of my friend Rajendra Singh Payal. I would also like to acknowledge the valuable assistance of Ratika Kaushik in meeting the challenges of proof reading of the dissertation.

Introduction

Equality and equity between tribal men and women in Udaipur district of southern Rajasthan in India is still a distant dream. In comparison to other tribal communities in the nation women from this area occupy a 'significantly disadvantaged position.' There is 'social acceptance of discrimination and violence against them' and denial of prospects for their personal growth (Joshi, Banerjee and Ray, 2009, p.2).

This is reflected in their poor health, education, besides, they face violence and discrimination in customary practices related to marriage, bride price etc. These disparities are persistently imposed and reinforced by the hegemony of patriarchal traditional institutions. As pointed out by Elson (2002, p.103), wherein women are dependent on male members and do not have resources of their own, realisation of their rights becomes difficult. Resultantly this impinges upon their ability to protest against their discrimination and seek gender justice.

Gender justice in this dissertation is understood as the notion that recognises the variations among women, in their perceived benefits and ideas of justice. It also acknowledges the gender hierarchies between men and women, and the hegemony of traditional organisations. More significantly, it emphasises the need for creating avenues for transforming these oppressive relations between men and women (Goetz, 2007, p.18, 20).

This study while outlining the status of tribal women, examines issues related to their attainment of gender justice. The key research questions that are dealt with are:

1. What are various paths that tribal women pursue in their quest for gender justice, and in what situations they do so? What are the factors that facilitate and impede their choice and access to the various institutions of justice?
2. What are the emerging possibilities in improving access of tribal women to justice and what are the lessons to be learnt from other geographical locations and communities?

In order to analyse the first question regarding the various channels of gender

justice accessed by tribal women, I will use the framework provided by Kapur (2007, p.118). The three viewpoints included in this are 'protectionism, equality and patriarchy,' and these classifications will be applied to both the formal and informal institutions of justice. To explain the status of tribal women and its impact on gender justice, I shall refer to the 'enabling paradigm' proposed by Goetz 2007, p.19). This approach emphasises that lack of human capabilities such as education, health and political participation restrict women's agency to seek justice.

While studying the innovative empowering avenues of gender justice, I shall use the model suggested by Rowland (1997, p.14-15). This focuses on individual and mutual empowerment of women and on the power to bring about changes in 'close relationships'. Moreover, the gender analysis and development theory that encourages examination of involvement of both men and women in social change will be employed (Young, 1993, p.143).

To present the case of tribal women of Udaipur and their experiences of gender justice, I shall draw upon my involvement of twenty years with Seva Mandir (henceforth referred to as SM) a non-government organisation (NGO) working with tribal communities. For validity, I shall refer to an external evaluation of SM. I will also assess secondary data on gender justice from various sources.

In this study I shall argue that owing to the inequitable and patriarchal state laws and the informal customary laws, tribal women are unable to attain justice. There are other barriers such as the procedural delays, distance, and unfamiliarity of laws, high cost and corruption in the systems. The experience from the field and the analysis of literature suggests that these impediments cannot be countered exclusively by global or national legal reforms. Instead, setting up new avenues of justice through collective action of women is more effective in realisation of gender justice.

Moreover, it asserts that by promoting joint deliberation of tribal men and women the informal customary laws can be challenged and transformed. These empowered men and women can then with their shared experiences demand reformation of the legal system and establish justice in the larger society. Mathur

(2004, p.12) supports this argument saying that a multi-pronged approach is required yet this might be a 'longer route' in addressing the challenges in realising justice.

In the first part of the study I shall present an assessment of the literature on the development of gender justice, its various notions and elements, and strategies for change. The second part will illustrate the status of tribal women and discuss how it impacts their access to justice. The next section will examine the formal and informal avenues of gender justice that are available and accessed by tribal women. Subsequently, I shall discuss the on-going possibilities and their potentials, limitations and recommendations. The conclusion will discuss the significance of strengthening women led innovative avenues of justice. It will also establish the criticality of investing in empowerment of women and transformation of men and the community.

Methodology

This dissertation is a case study of tribal women of Udaipur district located in southern part of Rajasthan, India. It is grounded on the review and analysis of the qualitative information available from different secondary sources. These sources include literature on gender justice, policy documents and various project and research reports of academicians and NGOs on various models of dispensing informal justice.

The study also draws from my intensive work experience of the past two decades with the tribal and non-tribal communities of the area, gained through my association with SM an NGO based in Udaipur, Rajasthan, India. Initially, in SM I worked as an in charge of gender issues in one sub-district and later as head of the gender program. SM was established about forty years ago. Presently, it reaches out to approximately 634 villages and urban settlements. 68 per cent of the population in its work area belongs to the tribal communities. The core effort of the NGO is on strengthening village institutions and thus deepening democracy through interventions on strengthening livelihoods, education, health and gender. SM has a vibrant gender program. (Seventh Comprehensive Plan, 2011, p.5-6, 40-45).

SM under this program supports 480 women's groups, 29 *Panchayat* level associations (PLAs) and facilitates nine Women Resource Centres (WRCs) run by the women's groups. These centres deal with social matters like violence, desertion etc. and assist women in their villages to attain gender justice. While working with the women's group SM has invested in sensitizing the male members of these communities especially the tribal *panchayat* leaders (*ibid*).

The dissertation also relies on an external evaluation of SM, which was conducted by a team comprising of the Magsaysay award winner Deep Joshi as the team leader, Sunil Ray Professor at Institute of Development Studies, Jaipur and Madhulika Banerjee a Reader in Political Science at Delhi University as team members.

The reliance on data available from secondary sources is a limitation of the study. However, multiple sources have been accessed to facilitate triangulation.

Gender Justice an Appraisal of Literature

This section begins with a theoretical contextualisation of the emergence of the term and the agenda of gender justice and then goes on to discuss the different conceptions of gender justice. It goes on to argue that tribal women of Udaipur face many inequalities in their private and public life and in search of justice approach formal legal systems and the informal village councils or tribal *panchayats*. Both of these forums are patriarchal and discriminatory in practice and lacking in capacities individually tribal women are unable to challenge these oppressive institutions. However, the study argues that legal reforms brought by states or international agencies alone cannot realise gender justice. It affirms that broader gender issues pertaining to tribal women can be addressed only by building capacities and collectives of women and systematically changing mind-sets of both women and men.

Emergence

The period after the first World Conference on Woman held in 1975 witnessed major changes in the socio-economic status of women. There was 'greater sex equality' in terms of education, health and increased participation in paid work. Moreover, as a result of quotas the 'presence of women' increased in the formal political sphere. However, the situation varied across countries and within nations and regions. For example, China and India demonstrated significant economic growth but also registered low sex ratios (Molyneux and Razavi, 2005, p.986-990). This implies that despite significant economic development underlying gender inequalities continued to exist.

The United Nations conferences held in the nineties on 'environment, human rights, population and women' provided the space to discuss the issues of oppressive power relations responsible for the persistence of these inequalities. The deliberations in these spaces highlighted the failure of the technical mainstreaming approach to gender equality and raised issues of 'rights and justice'. This created a demand for a transformative strategy and thus fuelled the 'movement of gender justice' which eventually transformed into the revival of the semantics of 'justice, rights and citizenship' (Mukhopadhyay, 2007, 1-3).

Following the emergence of gender justice in the international policy and development arena various movements came up with their own agendas. The 'women human rights movements' encompassed numerous issues to their list of gender justice. Their agenda included issues of women's reproductive and sexual health, violence, and legal rights and the traditional customs and norms that negatively impact women. Others focused on economic justice, harmony, safety etc. The International Conference on Population and Development held at Cairo and the Fourth World Conference on Women at Beijing made substantial efforts towards connecting the diverse agendas of gender justice but they continued to remain separate (Barton, 2005, p.75-76). However, while analysing tribal women's experiences of gender justice attempts will be made to view them in an integrated manner.

Concept and Elements

The notion of gender justice has multiple interpretations and has been perceived differently in different parts of the globe. Nonetheless, an attempt is being made to briefly summarise some of these concepts and approaches as relevant in the Indian, especially context of tribal women.

To begin with, Charrad (2007, p.287) in reference to the kin-based communities of the Middle East and North Africa has proposed the following idea of gender justice. This notion aims at equal relationship between women and men with women as equal citizens gaining 'equal autonomy and rights'. A comparable notion is presented by Molyneux (2007, p. 60) in the context of Latin America. Here again, gender justice is perceived as 'social and juridical relations that prevail between the sexes'.

Furthermore, the concept acknowledges equality being the 'fundamental principle of justice', both 'simple equality' and 'differentiated equality'. Simple or formal equality means that men and women are treated as same that is women pursue or are accorded the status that of men. Whereas, 'differentiated equality' recognises the variances between men and women and among women (Hart and Irving, 2005, p.19). However, in practice the differences in the situation of men and women are

not taken into account and women are treated with an inherent patriarchal bias. Correspondingly, the Indian constitution is also contradictory in its formulation and practice. Article 14 of the Indian Constitution proclaims “equality before the law” and “equal protection of the laws” to all its citizens, implying that no discrimination be made on any grounds. In addition, Article 16 prevents discrimination ‘in matters of employment or office on basis of religion, race, caste, sex and place of birth’(Jaisingh, 2005, p.2-4, 20).

On the other hand, as explained by MacKinnon (2005, p.267) Article 15 precisely indicates ‘a substantive recognition of women’s unequal social status’ and makes provisions to ‘rectify this inequality’. Contrary to this commitment of equal treatment and affirmative action, under the pretence of ‘non-interference’ with the right to practice one’s own religion, culture and related practices the State sanctions the personal laws. These ‘personal laws’ cover matters such as marriage, divorce, maintenance and inheritance of property and are applicable as per the religion one follows (Parashar, 2005, p. 287). As rightly pointed out by Nigam (2005, p.3) it can be said that on one hand the Constitution guarantees women the right to equality and justice, on the other by approving the personal laws the state tends to ‘institutionalize and reinforce patriarchal norms and values’.

In the context of tribal women the dilemma is the Directive Principles of State Policy contained within the Constitution of India. This provides ‘communities of indigenous peoples (so-called "Scheduled Tribes") to be governed by their own set of customary family laws in state courts as well as their own autonomous fora’ (Randeria, 2002, p.22). As explained later in the following section the tribal customary laws and their practices are discriminatory. Hence, tribal women in their quest for gender justice are not left with much option.

In order to examine these aspects of formal and informal laws Kapur (2007, p.120-121, 127) offers three different standpoints. First is the ‘protectionist framework’ that views women as weak subjects who need laws for their ‘protection’. The second perspective highlights law as the key to addressing injustice and restoring ‘women’s equality’ and ignores the ‘role of law in transcending oppression’. The third perceives ‘law as an instrument of patriarchal oppression’. These diverse

viewpoints echo the arguments of the study that legal and informal avenues of gender justice consider women as part of a culture and not as individuals and that these they are patriarchal and oppressive in nature. This framework is used in this study to analyse tribal women's access to the legal and informal avenues of gender justice.

Keeping in view the problems with the notion of gender justice as formal and substantive equality, it is crucial to explore other concepts. Therefore, the idea conceived by Goetz (2007, p.18, 20, 29, 30-31) seems more comprehensive, as it acknowledges the three major elements of gender justice. First, that there are 'differences of interests and conceptions of justice – between women', and second that the gender relations in the household are power relations. Third, most importantly it realises that the 'patriarchal mind-sets' pervade the societal structures.

Furthermore, Goetz promotes a definition based on the rights based approach. It perceives gender justice as 'ending of – and if necessary the provision of redress – for inequalities between women and men that results in women's subordination to men'. Moreover this approach demands that the state creates a gender sensitive form of public accountability. Although Merry (2006, p.103) argues that this rights based notion undermines the agency of the disadvantaged to conceive, devise, and regulate their own pathways to achieve gender equality.

Nonetheless, this conception seems relevant for the study as it recognises the oppressive gender relations and societal hegemony, which is the reality of tribal women of Udaipur. Furthermore, it gives hope that the patriarchal and discriminatory legal and informal systems can be changed. The study, however, disagrees with the proposition of bringing about legal reforms through political action of people and the reasons for the same are discussed below.

As aptly pointed out by Gonsalves (1993, p. 108 cited in Kapur, 2007, p.127) the Dowry Prohibition Act of India has not accomplished much in "transforming the social order and uprooting dowry as a social evil". Despite of the law the practice of

dowry continues to exist in its most gruesome form. However, the purpose here is not to deny the importance of legal reforms or national reforms and international treaties such as the United Nations Convention on the Elimination of all forms Discrimination against Women (CEDAW). The aim is to assert that the conceptions of gender justice by Goetz can be adopted with a focus on transformation of inter-personal relations between the genders and within the community.

This finds resonance in Philips (2002, p.130) statement that 'principles of justice are skewed by conditions of their formulation'; however, drawing from new scholarships and capabilities 'social practices' can be reinterpreted. This revision should be done in consultation not only with the 'global citizens' or the 'relevant groups' but also with the 'hidden constituencies' who may have different viewpoints and apprehensions. This proposition finds support in Young's analysis discussed below.

As asserted by Young (1993, p.142-143) involvement of both women and men in the complex process of analysis is crucial. This is because women may be conscious of their subjugation but due to their socialisation may accept it as their destiny. Similarly, men may be cognisant of their power over women, but they 'themselves personally may feel powerless or oppressed'. This has been observed in the case of tribal women who accept violence as the right of the man and in some instances it is seen that poor men do feel helpless in front of the societal hegemony.

Hence, as said by Young, facilitating opportunities for 'discussion, experimentation, feedback and comparison' for women and alternate masculinities can lay the foundation for transformation. Yet, it is crucial to register that transformation is a slow and tiring process and demands resources. Another contention with this elaboration is that the difference in the starting point of men and women has not been acknowledged by Young.

For instance, as discussed in the following section, tribal women as compared to their male partners fare poorly on many indicators, such as literacy, health, economic resources and political participation. Owing to their lack of socio-economic capabilities they are unable to raise their voice and access gender

justice. It is therefore important that their capacities are enhanced. This issue is also reflected in the approach of gender justice as 'entitlements and choices' as summarised by Goetz (2007, p.19). Along with basic capabilities such as health, it emphasises on ensuring human dignity and developing the ability to actively participate in a community. Experience shows that strengthening of tribal women's basic capabilities play a significant role in their empowerment and their negotiations within households and in public domain.

Investments in developing capabilities as explained by Rowland (1997, p.111, 115,119) leads to empowerment in 'personal, collective and close relationships.' Here, the personal refers to the 'development of self-confidence, self-esteem and a sense of agency' and 'dignity' in women. These enhancements of the individual leads to collective empowerment wherein empowered individuals together challenge their situation and further reinforce their personal strength. Moreover, empowered women are able to 'negotiate, communicate, and defend' for their rights' in 'close relationships'. There are examples across the globe that demonstrates that empowering women can result in realising the aim of gender justice.

Strategies for Change

NGOs, respective governments, and international agencies have made efforts at improving the human capabilities of women and men and that of the traditional village councils. This has resulted in establishment of alternate channels of justice run by women themselves and also in addressing the patriarchal systems.

For instance, the intervention by the South Africa Law Commission was able to introduce the Recognition of Customary Marriage Act that recognised 'women's economic independence' in marriage as central to their equality. The approval and success of this reform is attributed to the consultative process that involved the experts, feminists and chiefs adopted (Coomaraswamy, 2005, p.44-45). The contention here is that the common people and their concerns were not included in the review exercise. Hence, the examples from India and Bangladesh seem more relevant for this study as they aim at empowering women and men to bring about a social change. In the following sections of the study draw comparison and lessons

from these two interventions.

The *Nari Adalats* (Women's Courts) were developed as an answer to gender-based violence by women's groups and their movement in rural Gujarat. These were started in the nineties and were supported by the government of India under its Education for Women's Equality Program. The women leaders of *Nari Adalats* help poor women in cases of gender violence and give priority to approaches that are practical and gender sensitive. *Nari Adalats* by functioning as 'informal, conciliatory, non-adversarial 'courts' with complete lay participation have initiated a new regime of justice for women' (Iyengar, 2007, 9, 11-12, 15).

Another relevant illustration is that of reformed *shalish* is an informal conventional justice dispensing mechanism in Bangladesh. This mechanism deals with 'violence against women (whether within or outside marriage), inheritance, dowry, polygamy, divorce' and other matters (Golub, 2003, p.4). Several NGOs have aimed at revolutionising the existing patriarchal and discriminatory *shalish* as a 'more equitable' option for the women and poor (Bordia Das and Maru, 2003, p.12).

The most significant feature of the NGO promoted *shalish's* is that they have women trained on legal issues as *shalishkars* (members) on the board. These organisations promote an amenable process of mediation and also provide legal assistance (Golub, 2003, p.10). It has been observed that the poor depend more on the NGO reformed *shalish* as they are unbiased, although, in some instances they have failed to stand by the poor (World Bank-BRAC Ongoing Research, 2006, cited in Jahan, 2012, p.13-14).

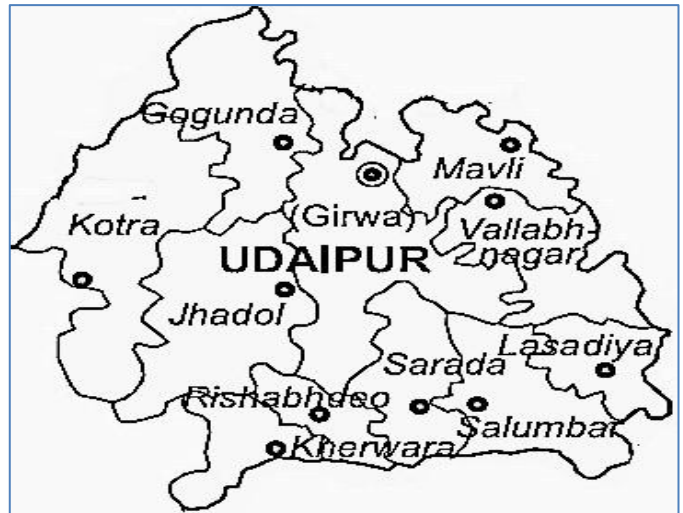
In this backdrop, the study now moves ahead to discuss the status of tribal women, the various features of the gender justice mechanism and emerging possibilities.

Status of Tribal Women in Udaipur region of southern Rajasthan

Context

Udaipur is located in the southern part of Rajasthan, which with a large territory is the biggest state of India. 80.15 per cent of the populace that lives in the rural areas of Udaipur consist of mainly schedule tribes (47.86 per cent) that are inclusive of Bhil, Meenas and Garsaias. It also comprises of the upper caste and other marginalised people (Census of India, 2011).

The district is marked by the hilly terrain, deforestation, a semi-arid climate, poor soil cover, and small land holdings (Joshi et al., 2009, p. 2, 7). The average per capita expenditure in the region is ₹ 8 and about 40 per cent of the people in Udaipur live below the certified poverty line (Banerjee, Deaton and Duflo, 2004, p.326-327). The harsh geographical conditions make survival a difficult proposition for the tribal communities.



Map 1: Map of Udaipur district showing blocks (sub-districts)

Conversely, as stated by Joshi et al. (2009, p.8) the historical 'feudal traditions' of the non-tribal communities have influenced the 'status of women' of the Bhil tribe of Udaipur. There seems to be 'more pronounced discrimination against women' among Bhil's than the other tribes of the eastern part of the country. The analysis of the human development indices such as sex ratio, education, health and political participation also demonstrate the low performance of tribal women. The State Policy for Women of Government of Rajasthan (1996) also recognises that due to the historical subjugation women are unable to realise their 'constitutional rights'.

Therefore, the following pages will shed light on some of the crucial human capabilities that influence gender roles within the tribal societal frameworks and the impact upon the dynamics of gender justice within these parameters.

Human Capabilities

Sex Ratio: According to the recent Census report of 2011, the adult sex ratio of Udaipur which was at 972 in 2001 has further declined to 958 in 2011. Furthermore, worrisome is the deterioration in the child sex ratio (number of female children per 1000 male children in the age group of 0-6 years) which has dropped to 920 (overall) and 927 (rural) in 2011 to being 944 in 2001 (Census of India, 2011). This decline breaks the myth that gender relations in these societies are equal.

As explained by Sen (2000, p.105-106) the main factors responsible for “missing” adult Indian women are the lack of nutrition, health care and high maternal mortality. However, violence against women is another factor that also needs to be taken into consideration. Whereas, in reference to the decline in child sex ratio of Udaipur Khetan and Mehta (2009, p.433) have rightly pointed out that being lower in the power structure, women are forced to ‘accommodate to the oppressive relations’ and thus themselves are undergoing sex determination, sex-selective abortions.

Literacy: In 2001, as compared to Bhil men (35.2 per cent) the literacy rates for Bhil women was abysmally low at 19.1 per cent (Census of India 2001, p.2). Besides the official figures, as mentioned by Banerjee et al. (2004, p. 327) the self-reported literacy in females above the age of 14 years in the area was only 11 per cent. According to a study conducted by Kerketta and Sharma (2006, p.80), owing to the burden of domestic and field work and marriage, much less is invested in the development of a tribal female child. This in later life majorly inhibits their mobility, economic independence, participation in the household and public matters, making them dependent on their male family members.

Health: A study carried out by Banerjee et al. (2004, p. 327) in Udaipur region showed 56 per cent of women to be anaemic and having low Body Mass Index. Anaemia and low body weight coupled with other social factors such as early marriage, teenage pregnancies, lack of health and nutritional care, lack of or poor access to institutional deliveries leads to major health problem and even high maternal mortality (Seventh Comprehensive Plan, 2011, p. 39, 72). It is also observed that due to various cultural-social stigmas, women do not seek treatment

for reproductive tract infections or sexually transmitted diseases.

Socio-Cultural Aspects: In the social sphere many traditional customs such as bride price locally known as *Dapa*, polygamy, and *Nata* (a kind of arrangement to live with another man) are practised among the tribal (Mathur, 2004, 164-165). The bride price that is the amount and goods to be paid by the groom's family to that of the girl's, are decided by the male members of both the households and that of the community. The practice of bride price is viewed by several tribal women as unfair as it accords more power to men (*ibid*). In case of divorce and remarriage, the customary norms sanction equal freedom to tribal men and women. However, polygamy is solely a man's prerogative.

Violence against Women: Tribal women are subjected to similar forms of violence such as witch accusation, sexual harassment etc. Besides this, the findings of a survey of about 300 women and 100 men in rural areas (Thornhill, 2004, p. 11, 13) revealed that 61.3 per cent of women are subjected to various forms of physical and mental violence mostly by their intimate partners and family members. The violence that they encounter further lowers their status in the domestic and public spheres.

Economic Status: Despite women sharing major responsibility of agriculture, animals and contributing to the economy of the household their role in decision making especially in terms of fertility, divorce and public issues is still very limited. Moreover, women cannot inherit family land, or any other property (Kerketta et al., 2006, p. 82, 91). This indicates that economic contribution does not necessarily enhance women's agency or change their position in the household or in the society.

Political Participation: Traditionally non-tribal and tribal women have been excluded from partaking in the formal and informal political spheres. The age old informal village councils known as *jati panchayats* (caste councils) or tribal *panchayats* are active in the region. These male dominated caste councils decide and implement the customary laws related to marriage, bride price, divorce, maintenance, violence against women property etc. These panchayats are known

to be unfair, gender-biased and corrupt. (Seventh Comprehensive Plan, 2011, p.39, 88). Nonetheless, in distress tribal women turn towards these local bodies for justice.

In the formal political arena, through the 73rd and 74th Constitutional Amendment (1993) one-third of the seats were reserved for women. This affirmative action ensured tribal women's entry into the formal local self-government. However, the reality is that women's contribution in these forums is at the superficial level and women 'continue to be figureheads, with the actual politics being done by the male members of their family' (Seventh Comprehensive Plan, 2011, p.40). This low participation of women can be ascribed to the restrictions imposed by the societal hegemony on women's participation in political forums. This also indicates that positive discrimination or quotas alone cannot 'improve broad-based women's inclusion' (Khetan et al., 2009, p.432).

This milieu provides a foundation to understand the factors that inhibit tribal women's possibilities for gender justice in the formal system and informal tribal *panchayats*.

Tribal Women's Access to Formal and Informal Systems of Gender Justice

Tribal women of southern Rajasthan in their quest for gender justice either approach the local tribal *panchayat*, or the state-led formal legal institutions. These dispute-processing forums have their own ideologies of justice, procedures and norms/laws (Moore, 1993, p. 523). The tribal *panchayats* through their customary laws settle matters related to marriage, desertion, separation, divorce, maintenance, inheritance etc. Similarly, the formal legal system considering them as private matters deals with them under the personal laws (Jaisingh, 2005, p.2).

Agnes (2011, p. xxx) argues that both formal and customary laws have inherent patriarchal bias towards women, yet the customary laws though being 'fluid and ridden with internal contradiction' are accessible than the distant formal legal forums. Moreover, as pointed by Goetz (2007, p.19) factors like lack of education, economic freedom along with the 'familial and social conventions' incapacitate women to 'reason and act independently, and undermine their agency. This is very relevant in the context of poor tribal women of Udaipur.

This section of the study argues that the inequalities embedded in the tribal *panchayats* and the formal legal systems are the major impediments in tribal women's access to gender justice. Furthermore, it is argued that as the tribal *panchayats* are most accessed by tribal women, investments in transforming them are imperative. For now, this part of the study analyses the two avenues and the various factors that facilitate and inhibit tribal women's access to gender justice in these legal and informal spaces.

The Formal System of Gender Justice - the Possibilities and the Impediments

In the Indian context the laws related to marriage, divorce, maintenance, inheritance are assumed to be part of the private sphere and are termed as 'personal laws'. These personal laws are based on the religious and customary practices that are patriarchal and discriminatory in their formulation as well as application (Jaisingh, 2005, p 4-6). Besides these personal laws, cases of violence against women for e.g. dowry harassment, sexual abuse and domestic violence fall

under the criminal laws (Nigam, 2005, p. 2). The Indian Constitution that ensures formal and substantive equality, by confirming the personal laws treats women as part of culture or family and not as individuals. Thus they acquire a secondary status.

In reference to tribal women as stated in the literature review the customary laws hold utmost relevance. Therefore, when tribal women approach the formal system they are arbitrated on basis of their customary laws. This has been observed by Moore (1991, cited in Moore, 1996, p.531-532) in position to the north east part of Rajasthan. The male dominated judiciary caught under political pressures and contradictory constitutional provisions often favours the cultural norms. Many a times they also appeal to the village council leaders to 'settle the matters amongst themselves in the panchayat'. This reinforcement of the discriminatory and unjust customary norms in the state- led institutions disillusion women and forces them to lose faith in formal law.

Legal Reforms for Improving Access to Gender Justice

The positive side of the formal legal system is that over the years many personal and criminal laws have been reviewed and reformed and many enforcement mechanisms have also been initiated. In reference to tribal women, changes in the criminal law are most relevant for the analysis and thus are discussed in the following paragraphs.

As an outcome of the women's movement noteworthy changes have made in the laws related to dowry, rape and domestic violence (Nigam, 2005, p. 2). The anti-rape campaign was triggered by the rape of Mathura, a young tribal woman while in police protection, who was denied justice on the grounds of inadequate substantiation of resistance (Kapur, 2007, p.148). Similarly, laws regarding sex determination and sex-selective abortion the Pre-Conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 was put in place. Furthermore, the assertive women's movement resulted in the Protection of Women from Domestic Violence Act 2005. However, as observed in the field these Acts have not prevented domestic violence or sex-selective abortions. This is evident in the declining sex ratio of Udaipur region. This implies that legal reforms

do not necessarily transform societal attitudes and behaviours that subjugate women.

Menon (1998, p. PE3) draws attention to another critical fact that these legislations on dowry and domestic violence brought in by the state were outside the purview of the personal laws. Furthermore, the state does not intervene in any personal or secular laws as it prefers to avoid 'direct confrontation with communities and with communal politics'. This means in order to appease the political, religious or traditional leaders the State will not challenge patriarchal discriminatory practices that deny justice to women. Thus the need is to first change the patriarchal attitude which is the biggest barrier and this transformation has to come from the society.

However, besides these legal reforms, the state has taken up certain enforcement measures to address the impediments faced by women in accessing justice. These forums exist in Udaipur and are available to tribal women.

Rajasthan State Initiatives towards Restoration of Gender Justice

According to Mathur (2004, p. 116) on behest of the women's campaign a number of institutions owned by the state such as the Family Courts (FCs), *Mahila Thanas* (Women's Police Stations), Legal Aid Cells and *Lok Adalats* (Peoples Court- LK) were set up in Rajasthan. An interesting feature is that the Government of Rajasthan collaborated with the NGOs in setting up of these initiatives.

Almost all of these options are available to tribal women living in and around Udaipur district. As experienced, the most accessed are the FCs and the *Mahila Salah Evam Suraksha Kendra* (Women's Counselling and Protection Centre - WCPC). The LKs are rarely organised and the *Mahila Thanas* owing to their location and the stigma attached to a police station are not frequented by women. Similarly, the state sponsored Rajasthan State Women's Commission set up in 1999 has limited itself to referring cases to police or judiciary, also 'follow up of cases is weak'. Thus it is perceived as ineffective in providing justice to women (Mathur, 2004, p. 125). Hence, only two options that of FCs and WCPC are discussed here.

Family Courts: were established under the 1984 Act, with aim to reduce delay deliver speedy justice in matters of marital disputes and related issues (Nigam, 2005, p.3). Another major change from the regular courts is that the FCs deals with both cases of family matters and that of violence against women. Instead of lawyers, NGOs counsellors are appointed. Though as stated by Mathur (2004, p.118) women do approach lawyers for assistance and end up paying the fees as well as other costs for document preparations. The free legal aid service providers are not sought for as they lack seriousness and quality. As outlined in the Act, the personnel of FCs are expected to be dedicated to the 'need to protect and preserve the institution of marriage and in a 'just manner' promote settlement of disputes by conciliation and counselling' (National Women's Commission, 2002, p.2-4).

Field observations demonstrate that FC's are approached by tribal women who have greater mobility or are supported by local NGO's. However, the report of the National Women's Commissions (2002, p.4-7) mentions that the counsellors with a commitment to preserve marriages work against the interests of the women. The judges with their own personal biases treat women badly and share a sense of brotherhood with men. In view of these problems it can thus be said that FC's do not seem to be effective in improving women's access to justice.

WCPC: In agreement with the police department of Rajasthan these centres are attached to the *Mahila Thanas*. The Centre is run by a NGO and is supported by the local women's groups. As mandated these centres have been able to provide a space for women survivors of various atrocities to come and share their problems (Annual Report, 2003, cited in Mathur, 2004, p.123). This was also observed in various cases of tribal women who had attended the counselling sessions at the centre functional in Udaipur. Their problems were discussed patiently and if required legal support was also arranged.

However, field experiences show that the time and cost involved in travelling from remote hamlets to these institutions is a practical barrier. Losing out on daily wages and borrowing money for the whole affair is another pertinent issue. Moreover, lack of understanding of the legal provisions, high fees of the lawyers, burdensome and difficult procedures, refrain them from approaching the formal system (Global

Rights, 2007, p.7, 27). This also means that they actually have no choice; the question of survival forces them to suffer the inequalities that they are subjected to by their families and the state.

Based on the above discussion it can be said that the reformed legal spaces with their deficiencies seem an inefficient instrument in delivering gender justice. Most problematic is that they are based on the traditional patriarchal protectionist approach that perceive women in their traditional roles of wives, mothers and considers them to be weak, lacking agency of their own (Kapur, 2007, p. 142). Instead of finding out what women want they are counselled and sent back to the abusive marital homes to face further humiliation and subordination. This shows that women are not considered as individuals but as subordinates and that there is no real concern for women.

Tribal *Panchayats* – Opportunities and Obstacles

The age old tribal *panchayats* are active in the southern part of Rajasthan including Udaipur and other tribal populated districts. These patriarchal tribal *panchayats* deal with social matters – ‘with interpretation and observance of rites, customs, rituals, social relations and the conflicts arising therefrom’ (Joshi et al., 2009, p.8-9). At the village level the tribal *panchayat* constitutes of a headman and five powerful male members called as *panchs*. As described by Mathur (2004, p.167) about five to twelve villages in a geographical area form a group of *panchayats* and then federate at various levels, these are called the *Chaukala* (cluster of tribal *panchayats*). They follow the norms set by their ancestors and apply them to settle matters related to various forms of disputes within households and among community members.

Opportunities

Some of the advantages of the customary system as summarised by Ubnik and Van Rooij (2011, p.8) are their approachability, familiarity of the context and that of the parties involved and usage of local dialect and processes that people are accustomed too. The other merits listed by the authors are the ‘limited costs, short duration and restorative nature of the processes’. Perceiving these benefits tribal women do approach the *panchayats*, however, as discussed in the following

paragraphs women face numerous obstacles in accessing justice from these informal village councils.

Obstacles in Accessing Gender Justice

Traditionally the tribal *panchayats* have refrained tribal women from participating in their functioning, even as witnesses or as complainants. They are not allowed to participate in the meetings called for settlement of dispute. Even their cases are presented either by their male family members or by the designated male *kotwal* (messenger) of the *panchayat*. Observations from the field suggest that owing to the culture of silence tribal women hesitate in sharing their problems at length with the male messenger. Some are courageous enough do so, but many a times they are misrepresented in the council meeting.

This exclusion of tribal women from the public sphere illustrates that they are not considered worthy enough to participate in deliberations concerning their wellbeing. The power to decide and govern the lives of tribal women lies with the influential men of the *panchayats*. It seems the tribal *panchayats* follow the protectionist approach that believes that women are 'weak' and cannot 'decide or act for themselves', thus need male protection (Kapur, 2007, p.120). However, by doing so the male hegemony is essentially protecting their interests and not necessarily that of tribal women.

Another major issue is that the verdicts of these councils have a strong male-bias. They uphold the 'traditional values, customs, patriarchal norms and power structures' and thus obstruct women from fair trials and attaining justice (Haque et al., 2002, p.22, cited in Jahan, 2012, p.14). The following case of a tribal woman Meera, as was observed in the field, illustrates this point.

Justice was denied to Meera

In the year 2009, Meera along with her daughter was kicked out of her marital home. Her husband had brought in another woman. Kachru her father had made numerous appeals to the tribal *panchayat* to organise a meeting and resolve the matter. For a long time the *panchs* kept avoiding Kachru. After almost a year, a meeting was held which was soon adjourned. Few more months passed, another

meeting was held where the *panchs* asked Kachru to force Meera to accept the Nar Dawa (compensation upon divorce) a token amount of £1 and free her husband. Kachru refused and requested that a monthly allowance be fixed for the upbringing of his grand-daughter and Meera.

This was refused and Meera was accused of adultery. Meera and her father were disheartened. They realised that the *panchs* were compensated by her husband for this verdict. They refused to accept the decision, upon which Kachru was threatened of being socially isolated from the community. Meanwhile, Kachru got involved in a land dispute with his neighbour and the matter got further complicated and delayed.

This shows that the traditional tribal *panchayat* considers tribal women as a commodity, to be kept or disowned as per the wish of the male partner. Further, denial of compensation on false grounds of fidelity denotes the differential treatment of men and women and the male bias in the tribal community. The monetary manipulation exercised by husband also signifies his power to influence the powerful *panchayat* and their hegemony in marginalising women and men who are not influential and economically weak as Meera's father.

Conversely, as evident from the case study, corruption and unwanted delay are other procedural obstacles encountered in dealings with the customary system. Iyengar (2007, p.20) in context of Gujarat has also underlined the high 'transaction cost' and lack of interest or care' in finding solutions as impediments in attaining gender justice.

Moreover, as observed in cases of violence against tribal women, especially those of extra marital affairs or witch accusation, the judgements of the tribal *panchayats* are horrendous. As discussed (Ubink and Van Rooij, 2011, p.9) many a times the punishments such as 'physical violence, public humiliation, or institutionalized discrimination' rendered by the hegemonic councils violate human rights. The case illustrated underneath demonstrates the atrocities of the tribal *panchayat*, the spectatorship of the police and the profound impact of the humiliating punishments on women and also men.

A Case of Violation of Human Rights

A married tribal woman and her neighbour an unmarried tribal youth of Karkoli village of Udaipur district, were alleged of an illicit relationship. Both willing to stay together had run away from their village. The village *panchayat* and the woman's husband found them and brought them to the village. Where, as per the decision of the *panchayat* the couple was tied to a tree, their hair was cut, the woman was stripped half-naked and was badly beaten. On receiving information the police did reach the location but initially remained a spectator. The *panchayat* also warned them to stay away as this was in their jurisdiction. Later, the police tried to save the couple but was stoned by the *panchayat*. Finally, in police custody the couple was brought to the police station. Of course, thereafter it became a political issue and the matter is now being investigated by various agencies (Times News Network, 2012; Press Trust of India, 2012).

In this instance molestation, humiliation targeted at the woman was greater than that directed towards the man. This suggests that tribal women have a lower status and are treated as objects having no great value in the society. Another important issue to be noted in this case is the total negation of constitutional, legal and human rights by the tribal *panchayat*. This confirms that the international treaties such as the CEDAW or human right can compel governments to formulate or reform laws but cannot force people to abide to them. Further, it conveys that involvement of the society that of men and women is pertinent for transformation of the patriarchal societal inequalities that pose enormous obstacles in tribal women's search for justice.

In summary, it can be said that the tribal women of Udaipur have numerous legal options but they are distant and are ridden with multiple problems. Conversely, the tribal *panchayats*, that are accessible and familiar, are patriarchal and inequitable in their dealings and play a significant role and govern almost all aspects of women's existence. Therefore, as said in the beginning of the section, transformation of these tribal *panchayats* and creation of new spaces is crucial for realisation of gender justice for tribal women. The next section elaborates upon one such intervention the WRCs as an emerging avenue for gender justice in Udaipur region.

Emerging Possibilities in Improving Access to Gender Justice

This part of the study analyses the merits and demerits of the Mahila Sandarbh Kendras (Women Resource Centres – WRCs) facilitated by SM. This section presents WRCs as a positive alternative for tribal women to address issues affecting their lives.

These centres provide women with ‘counselling’ and ‘information about their rights’. Thus enable them to get justice in cases involving gender-based discrimination and violence (Joshi et al., 2009, p.25). The noteworthy features of the WRC are that they have established space for women to articulate their problems, are inexpensive and approachable. Moreover, they recognise the gender hierarchy between men and women, and the hegemony of the traditional organisations and are collectively negotiating and challenging these relations. They do have their limitations in terms of the number of women they are able to assist or that of surfacing of their personal biases.

This section asserts that building capabilities of tribal women has been instrumental in the emergence and growth of WRCs. Their participation in platforms such as the women’s groups, mixed gender village groups and in village development committees promoted by SM has helped them realise the key sites of oppression. Engagements in group activities have provided them a forum to practice the acquired skills. As described by Rowlands (1997, p.111, 115) the gains in the personal sphere has led to realisation of their collective agency.

A simultaneous effort made by SM at bringing men and women and the tribal *panchayat* leaders to jointly review their norms has created a supportive environment. The WRCs have affected women’s lives in significant ways by restoring their rights, and in a way are becoming an ‘alternative to the extant institutions meant to ensure justice’ (Joshi et al., 28). However, WRCs are a primary step towards restoring gender justice, transforming the tribal *panchayats* is just in the nascent stage and will require huge investments.

Women Resource Centres (WRCs)

Background

The roots of the WRCs can be traced deep down in the efforts initiated in 1982 at individual and collective empowerment of women. The journey had begun with mobilising women into groups at the hamlet level, village and the *panchayat* level. Capacity building and activities for savings and credit, income generation, participation in village forums were promoted. Most importantly, development of a cadre of grass root level workers within the women's group played a key role in sustaining these groups and their activities.

As stated by Joshi et al. (2009, p.17) these innovative spaces gave tribal women the opportunity to take decisions beginning with their savings to later understanding the societal hierarchies. Together they experienced support and warmth that was absent in their own household and societies. They thus individually started challenging the hegemony in the house for e.g. sending daughters to school, resisting domestic violence etc.

Moreover, collectively women raised many pertinent issues. For instance, they dealt with problems related to absenteeism and corruption among government functionaries, violence against women, etc. In short, as Kabeer (1994, p.239, 245-246, cited in Rowland, 1997, p.21-22) has asserted that building of the "power within", changed the feeling of "I cannot" to the collective self-confidence of "we can". Nevertheless, the point to be noted is that accomplishing this level of personal and collective empowerment appropriated more than two decades.

In view of the role and responsibility of delivering justice opportunities for enhancement were provided to the WRC and women's group leaders. Legal literacy trainings, interface with police and judiciary at various levels, exposure visits etc. were commissioned by SM at regular intervals. These forums challenged their acceptance of oppression as their destiny and as the right of their male partners and the societal leaders. This also facilitated practicing of values and skills of negotiation, assertion, mutual help, and the confidence to interact with various people. This strategy of SM draws parallel with the efforts made by various NGOs in Bangladesh to build the abilities of the *shalish* members and that of the

community on legal issues, the process of mediation and maintaining records (Golub, 2003, p. 9-10).

Accepting that discrimination against women can be changed only 'when many (if not all) agree and practice equality and inclusion' (Joshi et al., 2009, p.18). Thus, SM promoted gender sensitisation workshops and consultation meetings with the male tribal *panchayat* leaders, the youth and staff of the concerned area. This encouraged critical thinking, examination of the traditional norms and practices. This only goes to reinforce the importance of including men in the process of reflection and transformation of the oppressive customs and traditions that inhibit women's agency.

Functioning of the WRCs

Since their inception in 2002, the number of WRCs has increased from five to nine, located in different parts of Udaipur region, each annually assisting about 15-20 women. These WRCs deal with cases of domestic violence, sexual harassment, divorce, maintenance, property rights, witch accusation and many others (Seventh Comprehensive Plan, 2011, p.42).

Similar to the NGO improved *shalish* and *Nari Adalats*, WRCs are totally managed by three women leaders, each having a term of two years. The village women's group members through dialogue and discussion select these leaders, keeping in mind their potential to negotiate with the male members, their mobility and their previous experience as a group member.

Improved Access to Justice

Inclusion and Empowerment - Mostly women approaching the WRCs have suffered at the hands of their own people and many a time that of the tribal *panchayats*. Contrary to the tribal *panchayats* the resolution process adopted by the WRC is that of dialogue and discussion. After initial study of the issue at hand, the leaders invest in interaction and interface with the concerned persons. The attempt is made to resolve matters through providing alternatives, persuasion and nonviolent ways. This attitude encourages men to respond to the leaders. As

observed by Iyengar (2007, p.11) in case of the *Nari Adalats*, coming to these non-intimidating spaces the petitioner gets a feeling of being central and in control of the process and the situation. This is because women are treated as individuals and not as dependants or just a part of a family.

Another element that single's out the WRCs is their follow up mechanism. Wherein either the leaders or the respective women's group visit the women's household regularly, giving a sense of solidarity and support. It also builds capacities of other women in the group and puts some pressure on the perpetrator of injustice. As opposed to the formal or the tribal *panchayats*, this process of ensuring justice focuses on self- help, empowering women to negotiate in their close relationships and social relationships.

Furthermore, though not literate, WRCs leaders are well versed with the formal legal system and the traditional customs. They do not hesitate to consult the concerned women group members, leaders of other WRCs or the tribal panchayat. The case of Chokali Bai as seen in the field and described in the following paragraphs demonstrates that in order to deliver justice the WRC leaves no stone unturned. If required they even take help of the police and the concerned government officers

Chokali Bai's Access to Justice

Hamerlal was a peon in a government school far away from his home village. His wife Chokali and five children, who lived in their native place, were dependent on his salary and the produce of the land for subsistence. Over the years Hamerlal's visits to his family and financial support declined and gradually stopped. Chokali was alarmed by this and on investigation found that he had acquired another wife. On complain by Chokali, Hamerlal was reprimanded by school officials and was asked to pay her regularly. Initially he did so but later stopped and started abusing Chokali and the children.

Chokali approached the WRC leaders, demanding that either Hamerlal should leave the second wife or provide them with maintenance. On counselling Hamerlal refused to do either. The WRC leaders also felt that the woman had unknowingly

entered into a relationship and should not be punished for that. They thus counselled Chokali and along with her met the Block level officer. After much persuasion, officially they managed to get part of Hamerlal's monthly salary transferred to Chokali's bank account. They also approached the tribal *panchayat* leaders to ensure her access to her husband's land and to persuade him from being violent. The women leaders, the women's group members and some sensitive men from the tribal *panchayat* used their collective power to negotiate with both the officials and the tribal *panchayats* and in a way did what was right for Chokali and the other woman.

In the above narrated case the WRC leaders considered the situation and needs of both women, and wisely made use of legal and traditional norms. As appropriately observed in reference to the *Nari Adalats* by Iyengar (2007, p.14) the members adopted a 'humanitarian way of securing rights and ensuring compliance'. This means they are being 'just' by provisioning for compensation, protecting the rights of the women and ensuring 'violence - free life'.

Affordability - As compared to the other systems of justice that entail huge transaction costs the WRCs are an inexpensive affair. At present the costs of the members travel for investigation, and other purposes are met through the renewable grant of £ 120 provided by SM. Some WRCs charge both the parties a nominal fee of £1.5 thus reducing their dependence on SM or any other source. The money obtained is deposited in the bank account, a receipt is provided, and records are maintained and shared with group members. This transparency, accountability and fairness in the dealings of the WRC have provided respite to poor tribal women who owing to their low status, restricted mobility and economic dependency were forced to accept injustice.

Influencing the Tribal *Panchayat*

As seen in the above instances the biases of the WRC leaders sometimes do surface, however, they have been able to challenge the male-dominated, unfair and corrupt tribal *panchayats*. An external review of SM conducted by Joshi et al. (2009, p. 23, 27) in respect to the influence of the WRC has stated that 'the institution of *Jaati Panchayat*... is becoming more rational and democratic'.

For example, as observed in the case of Chaali village, the tribal *panchayat* has revised its norms related to bride price. Women are now permitted to sit in the dispute resolution meetings, signifying a change the attitude of the male members. The WRCs have been very strategic in their approach adopting a non-confrontational approach. However, whenever required they have challenged the decisions of the tribal *panchayat*. As in the case of desertion of a woman, the *panchayat* pressurized the concerned women to accept the nominal compensation and free the man. The WRC leaders opposed this and ensured that substantive amount was paid and did not allow the *panchayat* members to spend on alcohol or take a share from the same. Instead, opened a bank account and deposited the money to be used by the woman.

These changes are encouraging, however, as pointed by Joshi et al. (2009, p.47) it is too early to predict whether the male leaders will go any further, as head of the same *panchayat* was silent on the proposition of electing women as *panch's*. As pointed out by Rowland (1997, p.11, 13) it reflects the anxiety of the men of 'losing control' over women and the society. It also indicates that more efforts will be required to change their perceptions that the intention is to create, sustain new possibilities and not to dominate or discriminate the other.

Key Challenges

In some instances the stand and decisions of the WRC leaders seem to reflect their personal prejudices and the patriarchal biases. For instance, in a recent episode, the WRC supported the tribal *panchayat's* decision to separate a young couple that had eloped and returned to the live in the village after getting married as it was against the societal norm. Joshi et al. (2009, p.42) has mentioned that the WRC leaders 'display high level of confidence and are widely regarded'. This identity and recognition in the community is valued by the leaders and thus even on completion of their term of office they are reluctant to leave their positions and let new leaders come in. Remaining democratic, constantly questioning and examining their personal and societal values and not manifesting patriarchal norms in future is a major challenge for these WRCs.

Similarly, sometimes their procedures or verdicts such as public shaming resemble that of the tribal *panchayat*. For instance, as narrated by Joshi et al. (2009, p. 47) in a case of wife beating, when the man did not pay heed to the WRC summons, the whole group sat in his courtyard. Threatened him of judicial action and forced him to sign an agreement stating that he shall change his behaviour. This aggression has sometimes faced resistance from the male leaders and the community. This internal resistance signifies that the growing productive power of women is not appreciated by some men and this may create hurdles in sustaining the position of WRC's.

On the personal front their constant travel, engagement with the social cause on the grounds of ignoring domestic chores has been objected to. Though there are examples wherein the WRC leaders have been helped by their husbands in their work and even have accompanied them to government offices (Joshi et al., 2009, p.42). This shows that going through the process of personal and collective empowerment, some women leaders have been able to negotiate in their close relationships. Nevertheless, Joshi et al. (2009, p.19, 25) reminds that the time required for internalisation of new values and their transformation into a norm cannot be predicted. It takes 'persistent efforts to foster such changes in attitudes, beliefs and behaviour'.

Recommendations

Over the years as the WRCs are gaining wider social recognition the challenges that they face are also mounting. Therefore, further investments will be crucial for strengthening their existence and spread of gender justice. For instance, their practical skills of negotiating and strategizing actions and that of interpreting legal documents etc. need to be strengthened through sustained capacity building. Widening their social networks with other such initiatives in the country should be promoted as this will help them develop alternate perspectives.

In order to mainstream the concept of gender justice it is recommended that the entry of WRC leaders in the formal political arena should be facilitated. This will also create space at the WRC level for more tribal women to realise their potential. However, in the backdrop of the resistance of the male leaders within their

constituencies has to be tackled. This can be accomplished by mobilising more women at the hamlet and village level, and building their personal and collective capacities to negotiate and challenge the male domination in private and public sphere. It is important that such interventions are recognised and supported by the state, NGOs, international agencies and the wider community.

Conclusion

In view of the above analysis, it can be said the status of tribal women is low due to the discriminatory gender relations and hegemony of the male dominated tribal *panchayats*. This inhibits their access gender justice in the formal and informal arenas. Moreover, the duality of the constitutional provisions that sanctions patriarchal structures of the state and that of the customary laws and their governing bodies is problematic. The tribal *panchayats* though closer and familiar perpetuate inequalities. Besides, there are practical obstacles such as high cost, distance, and ignorance of formal laws etc. that prevent tribal women from attaining gender justice.

In this context, WRCs provide women an organised, independent space to articulate and address matters concerning their lives. Despite the resistance they face at the household and community level they continue to practice their agency to overcome oppressive relationships. In the process they have contributed in creating a social base where men and women can enjoy just relations. As stated by Joshi et al. (2009, p.27) the WRCs and the work with the tribal *panchayats* at least in the context of Udaipur region are a 'path breaking' venture.

Therefore, on one hand the WRCs need to be strengthened and spread to other locations. On the other hand it is crucial that regular opportunities for 'self-reflection and self-evaluation' are created (Rowland, 1997, p.136). However, as articulated by Joshi et al. (2009, p. 42), the ideal state would be that women in the hamlets are empowered to confront the 'hegemony and fight atrocities and injustice' where they occur. The WRC can then assist the hamlet level group and cases that cannot be resolved by them could then come to the WRC. It is in this scenario that women will realize equal citizenship.

Simultaneously, a movement needs to be built which will ensure representation and participation of women in decision making processes of the tribal panchayat. Thus in the long term these capable women and men leaders can influence and transform the existing patriarchal tribal *panchayats* into gender just institutions. Consequently, tribal men and women together can strive for reform in the formal

system and demand for realisation of their rights.

However, as mentioned by Joshi et al. (2009, p. 18) constructing real forums need stimulating among societies, experiences of justice, fairness, cohesion, empathy, forbearance, faith and trustworthiness. This demands investment in terms of resources and time. This is agreement to the proposal made by Roy, Hossain and Guhathakurta (2007, p.33) in case of the tribal communities of Bangladesh. It emphasized that the organisations of tribal communities should be supported so that they can participate in the process of transformation and their access to justice can also be improved. Hence, empowerment of the tribal women and men and their communities should receive the commitment of both the state and non-state actors.

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