

PLURAL IDEAS OF JUSTICE: STORIES, NARRATIVES AND EXPERIENCES FROM INDIA

Dates : 23rd and 24th April 2021 | Venue : Online

Legal Pluralism

Forum shopping

State & Non-State

Legal Peace

Codification

Justice Adda and Konrad-Adenauer-Stiftung's Online Workshop on
Plural Ideas of Justice: Stories, Narratives, and Experiences from India

April 23 & 24, 2021

Project Leads and Organisers

Dr. Kalindi Kokal and Dr. Siddharth Peter de Souza

Justice Adda team

Coordinators: Siddhi Gupta, Aparna Mehrotra

Research assistants: Devika Radha, Srishti John and Rachit Sharma

Copy Editor: Naomi Jose

Konrad-Adenauer-Stiftung (KAS) team

Pankaj Madan, Simran Dhingra and Ashish Gupta

Opening Session and Welcome

The conference was a joint initiative between Justice Adda and the India Office of the Konrad-Adenauer-Stiftung (KAS), bringing together scholars from different disciplines to discuss legal pluralism as seen in different parts of India and the ideas of justice that can be derived therein. Since the research on this topic has been scattered throughout different time periods as well as various disciplines, this conference aimed to bridge the gap between real-world discourses in legal pluralism and the existing literature.

The conference included five panels of paper presentations, and the launch of Justice Adda's "Map-a-Forum". All panels except Panel 4 followed a format where a short overview was presented by the author, and then a discussion initiated by a discussant, followed by questions from the audience and other authors. The fourth panel on the second day was a plenary panel that followed the traditional paper presentation format.

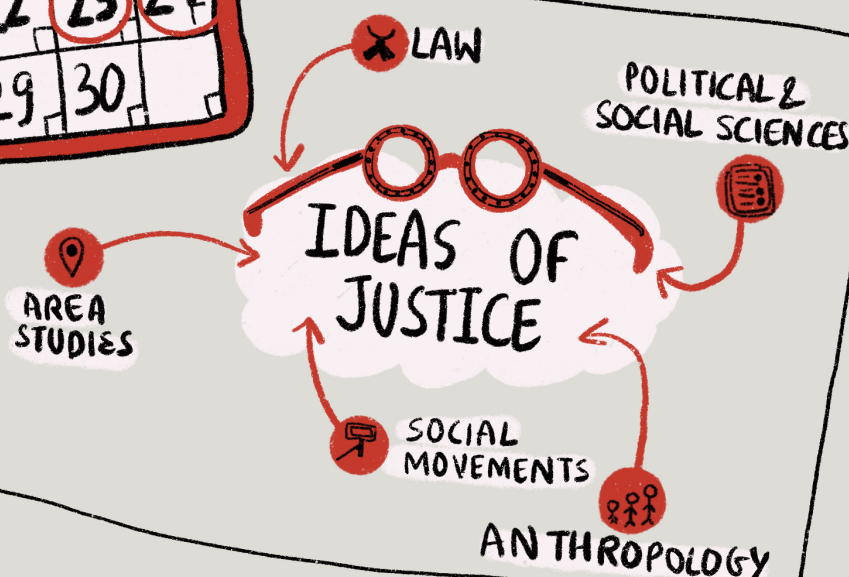
The conference began with remarks from Dr. Kalindi Kokal who welcomed the attendees and presenters to the conference and elaborated on how law, politics and anthropology influence the ideas of justice that emanate from various means of conflict resolution. Thus, any study of legal pluralism and ideas of justice in India, would inevitably include factors that relate to the caste, class and gender of the persons or community involved, as these factors influence the power dynamics within the justice system.

Mr. Peter Rimmele, the Resident Representative to India of KAS remarked that legal pluralism is often a forgotten and underestimated concept, and that rule of law should lie at the heart of any conversations in that sphere. Rule of law is a basic tenet of justice and can be seen to be the central theme of the KAS's Asia program. He argued that India, being the diverse country it is, provides a fertile ground for the expression of legal pluralism. However, discussions on legal pluralism are not prominent in the country. He recalled the specific examples of the Khasi tribe in Meghalaya, the Panchayat system, and even the practices in ancient India that proposed notions of Neeti and Nyaaya to derive justice. In this context, legal pluralism often represents various kinds of justice such as social justice, environmental justice, economic justice, etc. Rimmele advanced that as the vision and ideas of justice keep evolving with time, he wondered if it would be easier to understand the causes of injustice rather than engage in the pursuit of understanding justice.

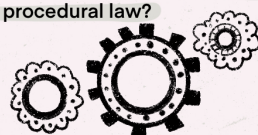
"All justice systems are means to an end, where the end represents peace in the society."



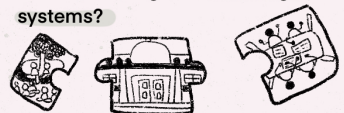
The two-day workshop held on 23rd and 24th of April 2021 sought to explore the ideas of justice that emerged from different and diverse mechanisms of conflict resolution. Researchers from the disciplines of law, political and social sciences, area studies, anthropology or related fields as well as activists who deal with issues related to legal pluralism in India were invited to submit papers on different themes relating to ideas of justice.



What do these concepts of justice tell us in terms of their approach to what we understand as substantive or procedural law?



What are the engagements of state and non-state actors whether in Constitutional architectures, policy reform, or imaginations of legal systems?



What are the various historical, political and sociological explanations for these varied ideas of justice?



While the quest to develop a concrete and definite form of justice will keep societies forever engaged, this workshop was a beginning in its attempt to bring together stories, narratives, oral histories and analysis that reveal people's experiences with an 'idea of justice'.

The two-day conference saw attendees and presenters from different disciplines that brought in varied perspectives, articulating different ideas of justice.

An ever-evolving idea of justice:

The initial context was set with speakers acknowledging that any study of legal pluralism and ideas of justice in India will necessarily include factors relating to caste, class and gender as factors that influence power dynamics within the justice system.

It was emphasised that rule of law, access to justice and plurality has to lie at the heart of any conversation on ideas of justice. Different ideas emanate from the understanding that justice is a moral concept conveying the general idea that people should get what is rightfully theirs. Claims of justice gain meaning in different forms in conjunction with different values and specific cultural contexts.

"All justice systems are a means to an end, where the end represents peace in the society"

Community-based idea of justice:

Speakers spoke of the relevance of religious and traditional forums for dispute resolution. With two examples of sharia courts in Kanpur and customary courts in Nagaland, this idea of justice, it was argued, straddled the line between tradition and modernity and the corresponding shift from informal to formal legal dispute resolution. It also presses on questions of who, in these setups, is the arbiter of what is custom and tradition and where does one place questions of women's rights and other constitutional guarantees in adjudication in these forums.

"Personal disputes are matters of law as much as of personal lives of persons in the Community."

Justice at the intersection of law and activism:

An important take-away from the conference was understanding the limits of formal legal interventions. Through the case study of conversion therapy in Kerala and the LGBTQ+ community's expectations from state intervention, it was argued that understanding the limits of the law opens up space for discourse as it is perceived by different communities.

"We are forced to become doctors and lawyers to fight for our rights."

Gender justice in a digital world:

Another idea of justice that was spoken of related to non-state actors in changing times and more specifically on digital platforms. Panelists engaged with what it meant to seek gender justice online and it was observed that approaching formal means to seek justice can be long winded and painful where hope seems dim. There is also a healthy skepticism of social media platforms as justice for many comes in the form of being seen and heard. Solidarity groups have been formed. In the context of movements such as the #MeToo campaign, it was discussed how ideas of justice in the online world may shift from accountability to acknowledgment and solidarity.

Justice as innovation in dispute resolution:

The conference welcomed papers that spoke to the role of alternate and online dispute resolution in furthering access to justice. Speakers discussed roles of both private players in enhancing these systems as well as the importance of institutional support to sustain them.

"The search for justice leads people to find an appropriate forum."

Justice as a collaborative exercise:

Speakers also addressed the undeniable interplay of state and non-state actors in a country like India. Through examples of Lok Adalats and Gram Nyayalayas, one line of discussion laid emphasis on the significance of traditional court systems that derive their authority from customary laws of the community. Another line of discussion with respect to a collaborative idea of justice was reimagining prison systems by including key stakeholders.

"To understand legal pluralism holistically, we need to push past the established binaries."

The conference spoke to several non-state dispute processing forums and mechanisms used in India. While some of these were hybrid in character, others operated wholly without any legal sanction and were instead supported by community and tradition. A third category of forums were those that existed in the “alternate world” such as that of online digital spaces and social media.

Darul Qazas

Sharia courts in Kanpur emerged as forums for the adjudication of Muslim personal law. Emphasis was laid on their operation as a mohalla panchayat where neighbours and surrounding people also became key players in the adjudication process as witnesses. Discussions urged an alternate understanding of secularity vis-a-vis multiple forums for dispute resolution.

Online Dispute Resolution

Another forum that emerged was that of online Lok Adalats and the discussion centered around the importance of the facilitation provided by private players by way of crucial technological support which further enabled access to justice.

Customary Courts in Nagaland

Customary courts were the preferred choice of forum for tribal communities in Nagaland to settle disputes pertaining to marriage, divorce etc. At the conference there was discussion on the increasing preference, especially among women, for formal adjudication. The shortcomings of this forum vis-a-vis other Constitutional guarantees of fundamental rights was also considered.

Forums for intergenerational disputes

The Maintenance and Welfare of Parents and Senior Citizens Act mandates the establishment of tribunals and the involvement of non-state actors such as NGOs to resolve disputes between old persons and their adult children.

Gram Nyayalayas

This traditional court system was discussed from the lens of the pandemic and the opportunities of prompt, inexpensive and virtual justice they could facilitate. Emphasis was laid on the role of the state facilitating and encouraging such forums.

Formal courts

Formal adjudication systems were explored and studied for their limitations when it comes to providing relief to marginalised communities. Discussed through the experience of filing a writ petition in the Kerala High Court seeking a ban on conversion therapy in the state of Kerala, it was discussed how interests of the LGBTQ+ community had to be served at the intersection of law and activism.

Social media and online spaces

An unlikely candidate for dispute resolution forums, digital spaces were explored as solidarity forums. With examples of the #MeToo movement and the Anti-CAA protests, these were studied as forums reshaping ideas of justice whilst throwing new challenges of privacy and state surveillance.

Panchayat among Bhils in Rajasthan

A step away from traditional dispute resolution, this forum shone light on how blood money payments made in connection with murders committed by Bhils in Rajasthan are mediated by panchayat leaders.

A Mini Lexicon of ideas, concepts and keywords emerging from the conference

Legal Pluralism

Legal pluralism encompasses various kinds of justice such as social justice, environmental justice, economic justice etc, the pursuit of which envisages coexistence of several different kinds of legal systems and destinations for dispute resolution. Sally Engle Merry describes it as a study of law as a cultural code for interpreting the world. This study of legal pluralism in a country like India, entails the inclusion of factors that relate to caste, class, gender of the persons or communities involved. The conference studied legal pluralism by looking, through an interdisciplinary lens, at aspirations of different communities through the formal and informal dispute resolution sites people engage with.

State and Non-State

In the context of plural ideas of justice, the state and non-state are studied through the interaction between the two, what separates them and where there is a flow of legal actors, affiliations and gatekeepers across formal and informal spheres. While the State occupies itself with policy-making and legislating, there is inevitable interaction with Non-State actors. A recognition of traditional and customary justice systems as well as newly emerging spaces such as social media that form part of the Non-State, is essential for State-led dispute resolution.

Forum shopping

Forum shopping typically refers to any stakeholder taking their dispute to forums where they expect favourable results. In the context of more traditional and customary sites of dispute resolution that operate with community sanction as opposed to formal legal sanction, these concerns often take on a socio-legal colour where societal concerns become factors in deciding forums. Through examples of sharia courts and the role of the community in adjudication and its related social implications, the conference highlighted the concerns of forum shopping.

Codification

The essence of legal pluralism lies in studying and representing informal and uncoded sites and methods of dispute resolution. Arising specifically in the context of personal laws, codification of what are often customary practices or even the implementation of a Uniform Civil Code that would standardise personal laws are to be studied from a socio-legal and anthropological lens while addressing concerns about majoritarianism. The conference raised questions of whether standarding personal laws could promote women's rights

Legal peace/legal concord

Legal peace was discussed as an end goal defined through the veracity of different forums of dispute resolutions. Different forums each come with their own strengths and weaknesses but will have to be tested against the end result which should be that of legal peace.

Performative aspects of the law

Performative aspects of law are invoked in disputes that are of a personal nature. The conference looked at the performative aspects of law in tribunals set up for conflict resolution between elderly people and their adult children. It focuses on the innovative strategies used by non-state organisations for conflict resolution and studies how these might play a more collaborative role in attaining justice than a formal adjudicatory system might.

PANEL 1: STATE: IDEAS, PERCEPTION AND RESPONSES



This panel examined papers analysing people's preferences and mechanisms in dispute processing. The idea was to arrive at a finding of what these preferences tell us about **society's perception of the state**.



Adjudication under Muslim personal law in India with a focus on the institution of Darul Qazas

How does personal law reconcile with the imperatives of a modern constitution?

"Personal disputes are not narrowly the legal matters amenable to resolution but are entrenched in the economics of kinship, social and customary practices"
– Dr. Suchandra Ghosh

This panel discussed three papers with case studies, each of which brought forth some compelling questions:



The dual justice system in Nagaland with a focus on customary courts

How are practices and norms of these customary courts reconciled with Part III of the Indian Constitution. How is this balanced against the protection given to customary Naga practices under Article 371A.



Legal remedies against the conversion therapy in Kerala with a focus on the experience of moving a writ petition in the Kerala High Court seeking a nationwide ban on conversion therapy alongside campaigning with State Mental Health authorities.

Can the limitations of formal legal interventions be addressed by practices at the intersection of law and advocacy?

KEY TAKEAWAYS

1 The papers reflected how different communities engage in conflict resolution practices in the shadow of state law and its regulatory systems.

2 We learnt that individuals bargain and mediate between various legal orders governing their disputes, thus causing different legal systems (community based and state-based) to work in "collocation", i.e. simultaneously with each other.

3 Engaging scholars from the discipline of law, human rights and sociology, panelists discussed how bringing in a multidisciplinary approach debunks what a purely doctrinal legal approach tends to study as binaries of customary and state law.

4 Questions such as "who gets to declare what is customary law?" focused on the issue of inclusiveness in the legislative process and participation from different communities that are directly impacted by these.

KEYWORDS

Islamic Law, Darul Qaza, forum shopping, women's rights, Uniform Civil Code (UCC), tradition, modernity

PANEL 1 State: Ideas, Perception and Responses

Chaired by *Dr. Katrin Seidel*, Panel 1 aimed to examine people's preferences and mechanisms in dispute resolution; whether they prefer forums that are generally identified as the state (courts) or the non-state (platforms not supported by the state).

Religion-based 'Personal' Law, Legal Pluralism and Secularity: A Field View of Adjudication under Muslim Personal Law in India

by *Dr Suchandra Ghosh*, Vidyasagar University Calcutta, & *Dr. Anindita Chakrabarti*, Indian Institutes of Technology, Kanpur

Keywords

personal law, ethnography of Darul-Qaza, functioning of mohalla's and formal courts, ideas of secularity, contextual secularism, Imams, Qazis

Overview

The paper focused on the adjudication of Muslim personal law through traditional and institutional aspects as viewed from a petitioner's perspective. It lays down the ethnography of the Darul-Qaza, which is the religious community forum for Muslims in India. While having no legal standing in law, it is preferred over the formal legal system for many matters. The paper expanded on the plural landscape of justice through the functioning of the Darul-Qaza; cases settled outside courts are brought here and it has an elaborate structure & scope for judicial review.

Discussion

While reflecting on some of the arguments in the paper, *Deblina Dey*, the discussant, stated that the relevance of such religious forums needed to be expounded on. While doing so, it is important to observe the ethnographic data from which narratives were gathered by the authors. Through this study of the Darul Qaza, the author examined it's functioning in a way that does not denigrate the Muslim personal law. *Dey* expanded on the idea of secularity in dispute resolution and how justice from formal courts was not necessary if the community did not think it was. The Darul Qaza, then, became an Alternative Dispute Redressal forum (ADR) and strengthened rather than weakened the secular fabric of society by the way it adjudicates.

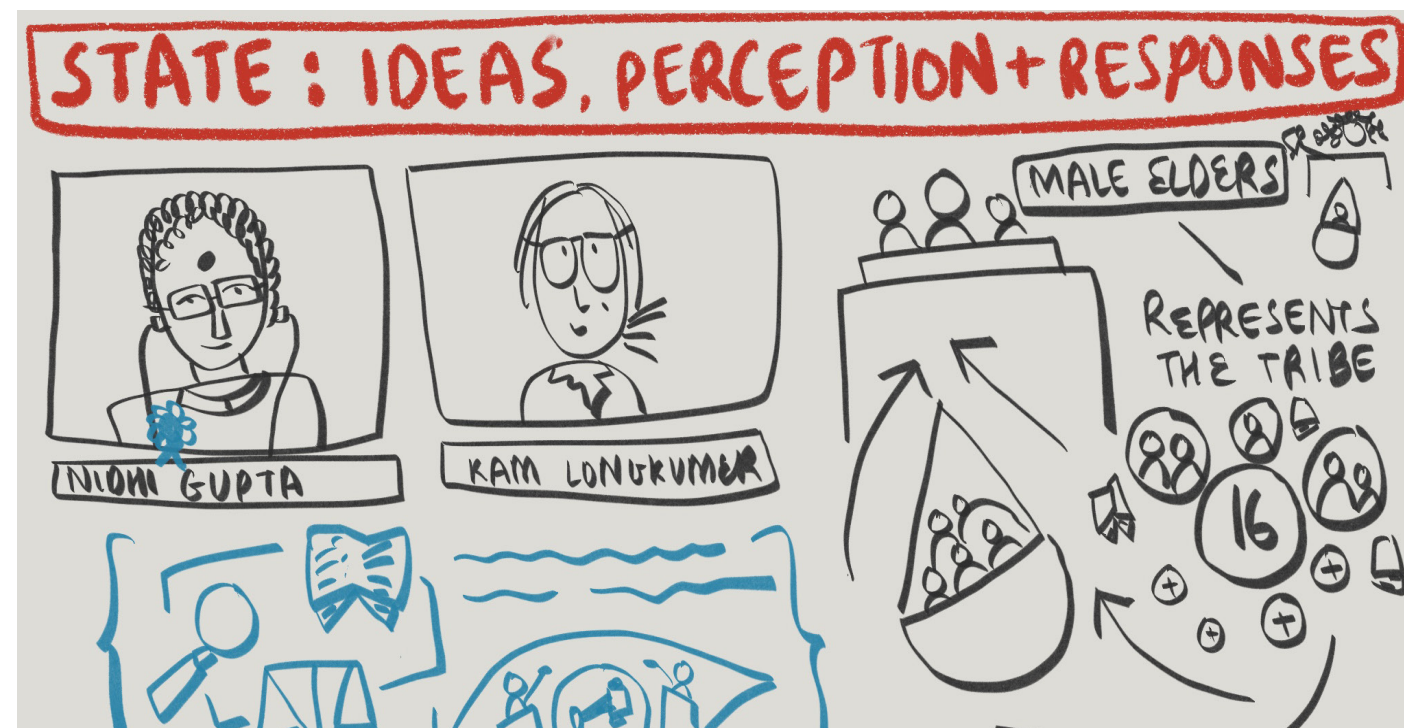
A few suggestions were made which included the need to look further into the inter-legal judicial landscape in family courts and the functioning of Imams or Qazis. It was also necessary to examine if there is any hierarchy that exists, to which the author responded by saying that although there was no strict bifurcation in their roles, there was neither any antagonism between the Imam, Mufti, and Qazi. Although the structure is not very rigid, they do not invade each other's space. A few questions from the audience broached the issues of forum shopping, discussion on codification and what impact the Uniform Civil Code would have on such a system.

Quotes

"Personal disputes are matters of law as much as of personal lives of persons in the community."

Customary Courts and The Law: A Socio-Legal Analysis of The Dual Justice System In The State Of Nagaland

by Kamongla Longkumer, National Law University and Judicial Academy Assam



Keywords

Naga elders, male-led society, women representation, gender equality, customary laws

Overview

The paper focused on the relevance of traditional institutions of dispute resolution and why customary courts are the first choice for certain traditional tribal communities in Nagaland. The author uses historical research to expand on the roles of customary courts in Nagaland. These customary laws used marriage, divorce, death, birth, etc. There are sixteen recognized tribes in Nagaland and elders are elected by the tribes to represent each tribe. This paper explored traditional institutions that remain relevant today, and observed a steady rise in the number of people who settle disputes in the formal mechanism, especially women. The author argues that instances of embracing modernity have been witnessed through attention to women's voices, but the fight for gender equality continues.

Discussion

The discussant *Nidhi Gupta* emphasized that they viewed the paper from the lens of law and anthropology rather than legal anthropology, aiming to establish a relationship between both. The paper brought out the real debate of legal pluralism while highlighting tradition and modernity. A recurring question through the paper was, how do we accommodate women's rights in such traditional structures? The discussant further reflected on the need for a Uniform Civil Code-which may prompt legal uniformity and encourage women's rights.

Additionally, *Nidhi* was of the view that the author should explore the question of who gets to declare what are customary practices and what is tradition. Colonial views of traditional interpretations that were acceptable in the Naga patriarchal system highlight the problem of plurality within these forums, and they are generally viewed as oppressive.

The author described the process of conducting this research as overwhelming as there was immense reluctance to divulge information to a woman. In the past, women authors from Nagaland who have written on gender inequality have had to face excommunication from their tribes.

Seeking Legal Justice Against Anti-LGBT+ Conversion Therapy in Kerala: Possibilities and Limitations

by Rajashree Raju, Queerala

Keywords

conversion therapy, LGTB+, legal challenge, limitations of law

Overview

The paper elaborates on the possibilities and limitations of state intervention as the author, goes through the process of filing a Writ Petition in the High Court of Kerala seeking a ban on conversion therapy. Conversion therapy is a dangerous practice that targets members of the LGBT+ community to "convert" or "influence" their sexual orientation or gender identity. The author emphasizes that the paper is not an academic intervention; rather the attempt is to identify limitations of the legal system when it comes to eradicating the problems faced by this community. The author argues that understanding such limitations opens up space for discourse on justice as perceived by the LGBT+ community.

Discussion

The intersection of law and activism was a unique feature of this paper. *Sagnik Dutta*, the discussant for this paper, appreciated how experiences of conversion therapy have been portrayed in the paper since it provides a glimpse of the activist's perspective in the matter. The discussant also emphasized the limits of legal intervention as highlighted in the paper and agreed that legal remedies can only go so far to protect marginalized communities. It was added that after reading the paper, one could only hope that a writ of Mandamus declaring the practice illegal would be granted by the court.

The questions in the session mainly concerned the perception of 'activism' and the expectation from state authorities as far as the LGBT+ community is concerned. The author highlighted how there are many limitations to state intervention for protection of marginalized communities. Nevertheless, state intervention was very much relevant as it could influence policies that affected the community as a whole. In this case however, the response received by the petitioners did not reflect even the minimum standards that state authorities should maintain. The petitioners, it was shared, had constantly been under pressure from the society and family members to withdraw the petition and received no positive response from the state.

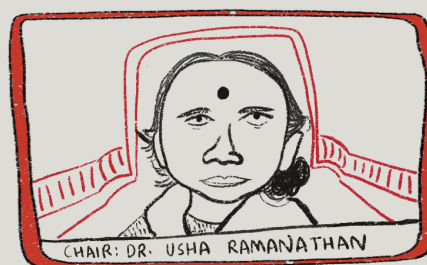
Queries were also raised with respect to demographics of persons affected by the practice of conversion therapy. The paper revealed that problems relating to conversion therapy have been faced by individuals across all spectrums of the society. However, one of the challenges to this legal battle is that only the survivors from privileged backgrounds can afford to testify in the courts against the practice.

As a concluding remark, the author noted that the inclusion of more LGBT+ members in the law making process was necessary for understanding and addressing the limitations of law in matters concerning the community.

Quotes

"We are forced to become doctors and lawyers to fight for our rights."

PANEL 2: NON-STATE ACTORS IN CHANGING TIMES



This panel observed with changing contexts - including the most recent one of COVID-19 - protagonists that have used different modes and platforms for processing their disputes. With a focus on digital platforms, the panel explored the life of grievance redressal in these alternate worlds.

The panel discussed two papers looking at how social media and the internet shape justice seeking. More specifically, they analysed the use of digital platforms as forums offering gender justice for sexual crimes in South Asia.

The discussions were enlivened with illustrations of recent examples of the #MeToo protest about sexual harassment of women, the online presence of the farmer's protest and the Anti-CAA protests, the voicing of "calls for justice" on Facebook and Instagram in light of women related crimes such as Nirbhaya and the Hyderabad rape incident.

"Digital spaces are mirrors of physical spaces replete with its flaws and fissures including patriarchy. But they do offer new sites of resistance and this offers opportunity to supplement offline action towards seeking justice for women"
- Dinushika Dissanayake

KEY TAKEAWAYS

1 We learnt that no clear and unambiguous gender justice can exist in the online world as is indeed the case in the offline world. However, online spaces become destinations to seek justice when formal justice fails users. The end result is that the idea of justice shifts from being about accountability and penalty to acknowledgement, solidarity, being seen and heard.

KEYWORDS

digital, privacy, protest

This panel sparked some important points for debate:



1 The extent to which technology could be trusted and the type of "safety net" that anonymity in the virtual world offers protestors and survivors alike.



2 The degree and worth of the risk involved in submitting to the powers of tech giants in pursuit of certain forms of justice



3 The political bias and lack of neutrality in platforms

PANEL 2 Non-state actors in changing times

Chaired by *Dr Usha Ramanathan*, this panel responded to non-state actors in changing times while expanding on the different modes and platforms for processing disputes, specifically the increasing usage of social media as a platform for 'naming and shaming'. The chair was delighted by the way the papers were presented and interpreted by the younger generation.

[Writing Wrongs- An Analysis of The Use of Digital Platforms as Forums Offering Gender Justice for Sexual Crimes In South Asia](#)

By *Dinushika Dissanayake*, Legal Practitioner

Keywords

digital platforms, women, solidarity forums, Hathras, rape culture

Overview

The paper dealt with the intersectionality for identity of women and how they portrayed it on digital platforms across Asia. It studied sixteen cases and thirteen feminist activists to comprehend how justice is placed in the digital space. The paper observed what public calls via social media are like for justice sought by women, how they identify with various terminologies and how women are seeking to raise solidarity, challenging rape culture and social crimes. There are more and more women using online platforms and yet facing patriarchy in digital spaces. It was observed that digital spaces mirror physical spaces such as patriarchy in court.

Discussion

The discussant, *Dr Vidya Subramanian*, began by considering what it meant to seek gender justice online and the lack of clarity therein. Offline justice-seeking is often not used by women and has proven to add to trauma. Online solidarities have become easier to forge as offline protests are not possible at the moment. Online activists often seek brutal punishments and trolling for crimes against women. The paper went into depth on what it means to be a human and a woman in today's world by providing a comprehensive view of South Asia using reports of activists. It was observed that approaching formal means to seek justice is more painful and hope seems dim. There was also hesitation of social media platforms as justice for many comes in the form of being seen and heard. Voices are now allowed to become present and solidarity groups have been formed.

Dr Ramanathan's remarked how, firstly, when one went through a series of experiences it was important to find 'ways' of thinking about them and not just thinking about them. Secondly, with respect to the idea of amplification using technology, it was important to realise that this was not going to create a new society but rather just amplify what already exists. Thirdly, in the idea of iconization, many cases become iconic, and this could be understood through two cases, the Mathura case -where the victim shouldn't have been called by her name until she was willing - and in the Nirbhaya rape case, where the victim was erased from the crime and instead becomes a symbol.

In conclusion, the author responded with how there was an intrinsic issue with the way women are represented, the expectations attached to them and the type of justice sought on their behalf. These new solidarities and optics of resistance by women should be seen more positively.

NON STATE ACTORS IN CHANGING TIMES

Digital Activism

YOU HAVE TO BE UNDERSTOOD

Usha Ramanathan

Dinushika Dissanayake

VIDYA SUBR.

WHAT ARE THESE CALLS FOR JUSTICE

ONLINE ACKNOWLEDGEMENT

ONLINE SOLIDARITY

KEEP WOMEN SAFE

ME TOO!

INCESSANT TROLLING

SCRYING

#MISINFORMATION

IS THE IDEA OF JUSTICE CHANGING NOW

RIGHT TO PRIVACY

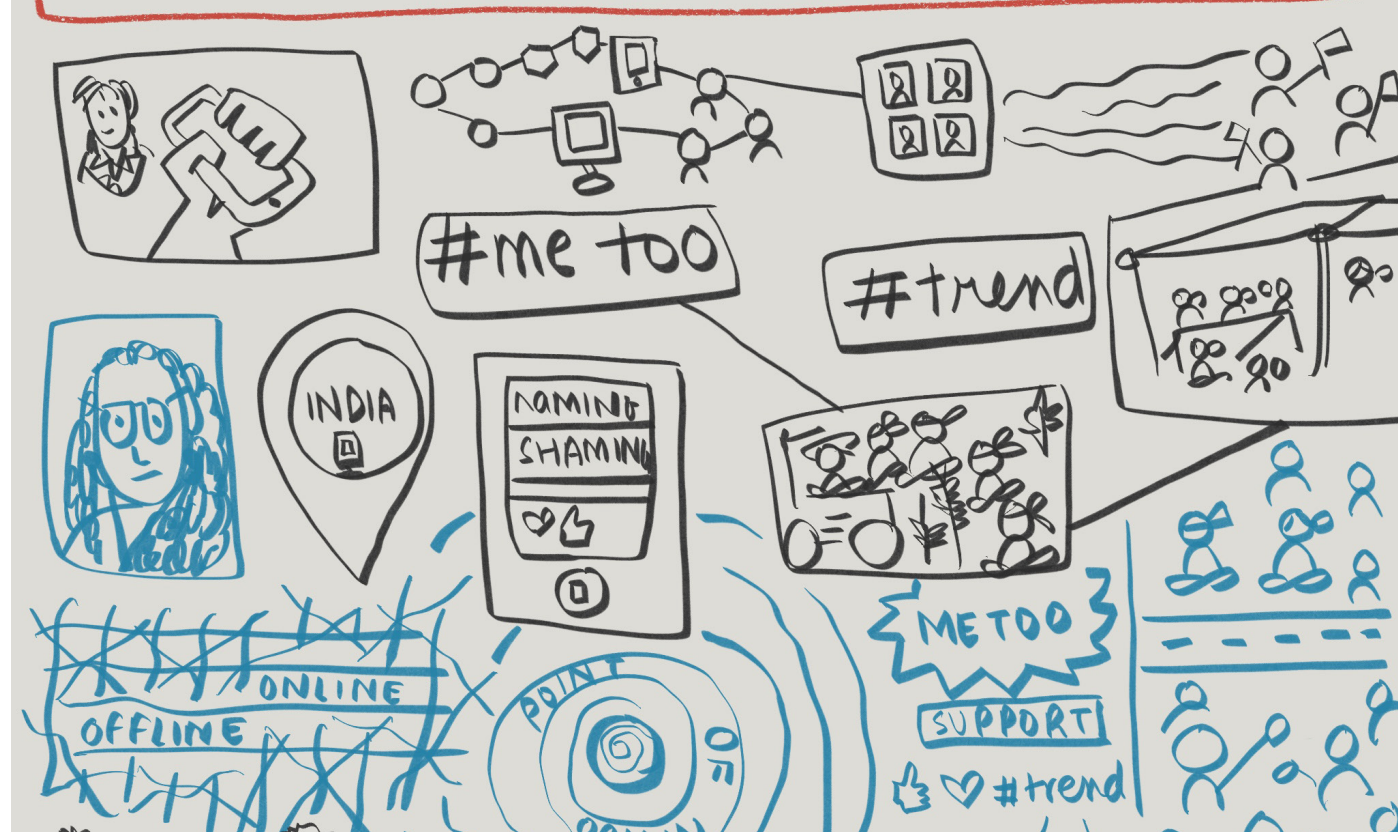
#NOTONLINE #AGENCY PROTAGONIST

SUCCESS

#metoo

ASK HER

NON STATE ACTORS IN CHANGING TIMES



#metoo, solidarity forums, shaheen bagh dadi, data privacy, naming and shaming

The paper was written from the lens of Science, Technology and Society (STS) and aimed to bring out how society and technology are interlinked. It analysed the working of technological systems and gives an analysis of the working of tech systems and online architecture for activism and justice systems. A special focus of the paper was on the #MeToo movement and other movements concerning due process systems and justice. Due to the #metoo movement, workplace harassment laws have been adopted and the role of social media had been significant in that regard. However, it has to be noted that there is a huge digital divide in the country where only 35% of internet penetration has taken place.

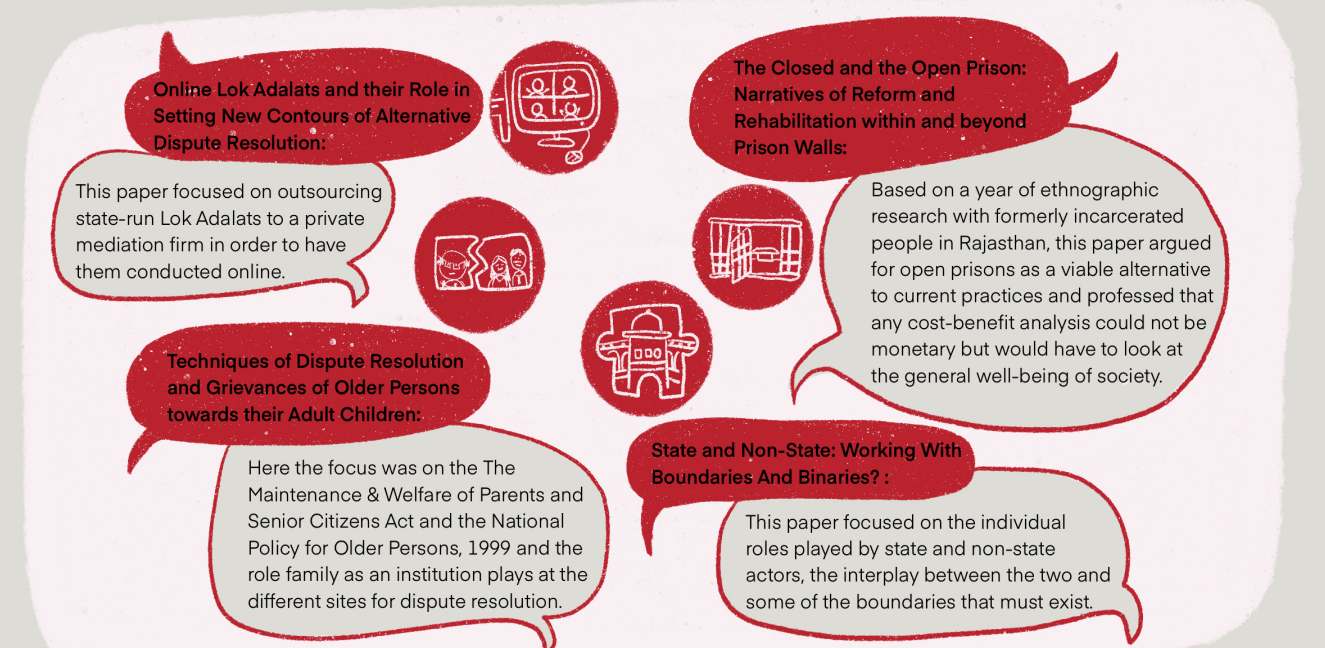
The paper was framed to make the reader think about the intermeshing of online and offline mediums. The author explained how the #metoo movement, while novel in the internet sphere, was not one of the first and could be traced back to whisper networks and writings in bathroom stalls.

The chair remarked that papers 1 & 2 made technology seem like a neutral sphere, and that there was a need to think more about the issues of privacy and data stealing. The author expanded on how the internet was not neutral and how it has become a space that propagates a "*with us or against us*" phenomenon with a deep lack of nuance. The author further expanded on how proper ideas of justice cannot be derived online; there is a need to mediate between technological and political aspects. The chair concluded by pointing the discussion at how technology gives so much for free but we need to examine what it is taking and at what cost. An old idea of non-cooperation needs to be considered by people today.

PANEL 3: THE ROLE OF NON-STATE ACTORS WITHIN THE STATE



This panel sought to examine what sort of role the state legitimises non-state actors to play. Four papers with very different case studies contributed to the single theme of what happens when conflict resolution mechanisms particular to non-state actors get encapsulated within the state's dictionary of dispute settlement. The different areas of focus in this discussion were:



KEY TAKEAWAYS

1 The discussion framed questions on whether informalising methods of conflict resolution, in forums such as tribunals for the elderly or Lok Adalats, was an intentional effort of the state.

2 Another question that sought attention was about how equipped the state is to deal with the diverse range of people (LGBTQ+, religious minorities, etc.) who approach it and whether the inclusion of informal approaches was a result of trying to accommodate these communities.

3 Drawing from all four examples, it was discussed that a clear distinction between state and non-state actors would presuppose a formal legal structure. The basis for legal pluralism is that state law is not the only type of law. There are many examples of overlaps between state and non-state actors.

KEYWORDS

COVID 19, state judiciary, access to justice, boundaries, collaborative, misgendering

PANEL 3 The Role Of The Non-State Within The State

Chaired by *Siddharth Peter de Souza*, Panel 3 of the conference aimed to explore the role played by the state in legitimizing the conflict resolution forums, often categorized as non-state actors.

Online Lok Adalat- New Contours of Alternative Dispute Resolution

by *Prakhar Dixit & Pranjal Sinha*, Legal Practitioners and Members of Sama

Keywords

online dispute resolution, access to justice, ODR, Lok Adalat

Overview

The paper focused on the emergence of online Lok Adalats as an Online Dispute Resolution (ODR) system in India during the pandemic. The Lok Adalat, an alternative dispute resolution forum unique to the states of India, shifted online on an experimental basis with the National Legal Services Authority's (NALSA) initiative. The practice that started in Delhi quickly spread to Rajasthan, Gujarat, Bihar, Kerala, and so on.

Discussion

As co-author of the paper, *Prakhar Dixit* elaborated on the role played by the organization Sama in facilitating the functioning of online Lok Adalats. He also observed that in the online setting, Lok Adalat was extremely useful in resolving civil and compoundable criminal cases. Since the Lok Adalats are not strictly bound by civil procedure and evidence laws, there was swift dispute resolution in these online structures. The online Lok Adalat was thought to be particularly useful in present times, given that the pandemic has seriously affected citizens' economic capacity to approach courts for dispute resolution. Regarding the performance of online platforms in rural areas, the author stated that online Lok Adalats functioned well even in such settings as the people were surprisingly accommodative of the technology. Seeing its utility, it could be said that the use of online platforms is the biggest leap for access to justice in years.

Addressing concerns regarding the role of a private organization like Sama in the process, the author clarified that Sama's role was limited to providing technical support to the system by assisting in sending notices, providing a user-friendly interface for video sessions, etc. Another question raised was with respect to the perception and role of technology in ODR platforms, as a response to which the author elaborated on how technology plays the role of an enabler in the whole process. The author suggested a good way to contextualize technology here would be to consider it as a second neutral party in addition to the Lok Adalat Chair.

Adding to the discussion was an attendee from the organization Sama, who remarked that technology cannot be perceived to be disruptive as far as dispute resolution is concerned. While the number of settlements reached indicated the success of the platform, there is a need for innovation in the technology used in the sector for it to match the speed at which other services are delivered today.

Quotes

"No access to justice can never be better than little access to justice."

"Use of online platforms is the biggest leap for access to justice in years, especially in India where providing justice to an incredibly diverse population has always been a challenge."

"Technological interference is the key to long-term solutions for facilitating access to justice."

Techniques of Dispute Resolution and Grievances of Older Persons towards their Adult Children
by *Dr. Deblina Dey*, Jindal Global Law School

Keywords

elders, emotional rights, formal and informal dispute resolution, informalization

Overview

The objective of this paper was to explore the performative aspects of law that govern relationships between senior citizens and their adult children in India. This was done by studying three different kinds of conflict resolution methods in the subject area-a tribunal, a mediation center, and an NGO.

Discussion

Dinushika, the discussant, observed that the study reflected on the innovative strategies used by non-state organizations for conflict resolution and observed that such platforms played a more collaborative role in obtaining justice for the elders than the tribunal. The study made it clear that lacunae in law are often mirrored in the inefficacy of ‘justice’ that can be attained on a formal platform. For instance, the law here only recognizes the economic rights of the elders whereas in reality, many of the issues faced by them are about their emotional needs. This makes conflict resolution by a Tribunal extremely formal and limited to cases that involve inheritance and maintenance disputes, whereas the informal nature and flexibility of the non-state forums makes it an ideal platform for conflict resolution.

Questions in the session arose as to the idea of justice that emanates from different platforms and the author noted that in the tribunal setting, the idea of justice is very law-based and controlled by limitations of the law in place. Before the non-state actors however, justice was more equity and circumstance based. The ensuing discussion also brought out some demographic, socio-economic and cultural characteristics of the population that approached these various kinds of forums. It could also be seen that the beneficial informalization of non-state actors was not a consciously planned-out decision by the state but rather a result of their inadequacy in providing a better legal framework, indicating the limited influence of the state on the role played by non-state actors.

The Closed and the Open Prison: Narratives of Reform and Rehabilitation within and beyond Prison Walls
by *Trishna Senapaty*, Cornell University

Keywords

incarceration, ethnographic narratives, rehabilitation, women prisoners, prison authorities, open prisons

Overview

This paper sought to bring out narratives of rehabilitation from different contexts so as to understand the concept as perceived by some key stakeholders- prisoners, prison authorities, social workers and more. The central aim of the paper was to have a comprehensive understanding of rehabilitative care so as to imagine a world without prisons.

Discussion

The discussant of the paper appreciated the rich narratives explored in the paper, especially the ones from women and queer prisoners. The paper argued that the institutional boundaries of rehabilitation are presently heavily influenced by prison authorities, and this needs to be reconsidered in a manner that rehabilitation helps prisoners re-imagine their lives after incarceration. The author further emphasized on a need-based rather than right-based approach to prisoners’ rights. The most significant feature of the paper was that it questioned the idea of prison as a closed institution, taking inspiration from an open prison in the state of Rajasthan.

Questions in the session led to arguments on the propriety of a cost-benefit analysis approach towards prison reforms. While the paper painted open prisons in a positive light, the author said that they did not argue for abolition of closed prisons. Instead, it was argued that the framework be re-imagined based on the prisoner’s experiences rather than the prison authorities’.

State and Non-State: Working With Boundaries And Binaries?

by Sejal Makkad, Amity University Chhattisgarh & Nikhal Parakh, Legal Practitioner

Keywords

state, non-state actors, powers, duties, barrier, interference

Overview

In a framework that provides for specific roles for the state and non-state actors, boundaries are necessary to prevent interference. The paper explored the concept of a barrier in this context.

Discussion

As described by Kamongla Longkumer, the discussant, the paper explored the possible points of interaction and conflict between policy decisions and legislative framework where state and non-state actors work closely, and the need for barriers to prevent conflicts between the actors themselves in such situations. As the state involves itself in policy making and law making, it comes in contact with non-state actors. The non-state actor, however, is also bound by the laws made by the state. The non-state actors thus have to follow the laws in a manner that no interference is made in the functioning of the state. Further, non-state actors also help the state implement its laws and decisions. These interactions between state and non-state can provide grounds for conflicts, which is not ideal since the two should complement each other for justice sake. Thus, the rights and duties of non-state actors and powers of the state actors have to be laid down clearly.

Questions in the session attempted to define and understand the concept of a barrier. The panel came to an observation that the idea of barrier had to be succinctly laid down and defined.



PANEL 4: STATE AND NON-STATE



This was a plenary panel enquiring into the theoretical context of this workshop raising questions about the use of concepts such as 'state' and 'non-state' especially to understand ideas of justice, the pursuit of which is always entangled in a mesh of activities that, as the previous panels showed us, were simultaneously state and non-state.



The Pandemic and Fault Lines in Access to Justice:

The discussion in this presentation centred on hybrid systems of justice such as Lok Adalats, Gram Nyayalayas and different tribal courts. State sponsorship, it was argued, was crucial for these grassroot justice systems to function.

"It is the search for justice that leads people to different forums"
- Justice (Retd.) Madan Lokur

The presentations in this panel revealed further how the non-state can be identified even within what is normally recognised as the 'state legal system'. The themes covered were:



Governing Hindu Marriage: Policy Contradictions, Religion-Making and State-Society Relations in the Adjudication of Inter-religious Marriage in India:

Through two case studies of inter religious marriages, this paper explored the gaps in the governance of the Hindu Marriage Act, 1955. It was argued that while religious identity becomes a legal category, it remains replete with socio-legal ironies of religious and community belonging.



Is Legal Pluralism Bad for Women?:

This paper argued that pluralistic ideas in respect to different informal forums that emerge, continue to dominate women in the name of religion, culture and customs leaving no place for individual autonomy.

KEY TAKEAWAYS

1. The multiplicity of forums for dispute settlement poses challenges but at the same time is empowering as in that, people have a choice of forums. As Lokur articulated: "It is the search for justice that leads people to different forums", and a logical corollary would therefore be that to take away this choice of forums. This would in turn lead to injustice of some kind, i.e. a reduced agency of the individual to seek justice.

2. The concept of legal pluralism moves beyond the state and non-state dichotomy to include and embrace the interconnectedness between man and nature and the laws that this relationship manifests and is governed by.

KEYWORDS

pandemic, pendency, state – non-state, documentation, secularism, boundaries, codification

PANEL 4 State and Non-state

(Paper presentation format)

The Pandemic and Fault Lines in Access to Justice

By Justice Madan Lokur, former Supreme Court Judge

Keywords

state actors, non-state actors, conventional courts, gram nyayalayas, lok adalat, dispute resolution

Overview

In a country like India, where there is an interplay of state and non-state actors, the speaker attempted to discuss the ideas and roles of these state and non-state actors, as well as the impact of the pandemic on the justice delivery system. The oration focused on the current challenges confronting our justice delivery system and the critical need to address them because they ultimately affect public trust in the system, which is critical for the success of any institution working towards ensuring that people receive justice.

Discussing the current state of our judicial systems and various court systems, the speaker emphasised the critical role of alternate justice delivery systems such as Lok Adalat, which are essentially a mix of state and non-state actors. The speaker also discussed the role of Gram Nyayalayas and the significance of traditional court systems that derive their authority from customary laws of the community. His discussion focused on how these non-state actors serve as an informal platform for prompt, inexpensive, and virtual justice with fewer steps involved, while also highlighting the existing challenges related to their proliferation and limited access. The speaker then discussed the role of the pandemic in affecting these justice delivery systems, which effectively upset these non-state actors. He observed that while the conventional courts employed technology, these non-state actors faced a lot of issues and suffered either due to limited access or inadequate planning. With this, he notes that immediate steps have to be taken by non-state actors to deal with challenges posed by technology and the pandemic, so that justice delivery systems are not compromised.

Discussion

The subsequent discussion and questions from attendees focused on the reasons for the disproportionate spread of *Gram Nyayalayas* across the country, as well as the institutional support for these hybrid systems. The author cites a lack of enthusiasm from the state as a reason for the disproportionate spread of *Gram Nyayalayas*, emphasising how states play a critical role in encouraging these non-state actors and providing them with proper management, something they currently lack. The author also provided insight into the trend of tribunalization of justice.

Adding to the discussion, an attendee inquired about the factors affecting public trust and confidence in customs and institutions, as well as their relationship to the higher court and district courts. In terms of community customs and traditions, the author provided an example of a system of checks and balances that exists in North-Eastern tribal communities to ensure no wrong is committed by them, further instilling public trust and confidence in the mind of people towards these systems. The author believed that this entire discussion about state and non-state actors is critical in the context of dispute resolution, shedding light on the direction in which our justice system is headed and why.

Quotes

"Common people still look to the judiciary and judges as a last resort which is not out of desperation but faith in them."

"We believe in judges but not in a jury."

"The search for justice leads people to find an appropriate forum."

Governing Hindu Marriage? Policy Contradictions, Religion-Making and State-Society Relations in the Adjudication of Inter-religious Marriage in India
by Prof. Gopika Solanki, Carleton University

Keywords

personal laws, inter-religious marriages, boundaries, legal pluralism

Overview

This paper examines the role of personal law in shifting societal relations. Legal pluralism studies place emphasis on the everyday state, focusing on a narrow range of forums in personal laws and relying on the actors’ perceptions of the state to contextualise the state. This paper is a qualitative study of the state-society relationship in law with regard to inter-religious marriages, focusing on two marriages in which the parties belonged to different religions. The first case highlighted the distinction between the paper reality and real life of many litigants in India as far as marriage matters are concerned. Through the second case, the author outlined the taxonomy and boundaries associated with religious identities.

The author warned that a casual reading of these cases could lead one to believe that once the inter-religious nature of the case was understood, the family court made a two-pronged move. To begin, the court sought to transfer religious issues to a Special Cell, thereby erasing the irregularity. Second, the court sought to safeguard constitutional values, personal liberty, and the privatisation of religion. According to the author, this model generates a paradoxical dynamic of centralization and decentralization of law in state legal society and legal forums, as well as a flow of legal actors, affiliations, and gatekeepers across the formal and informal spheres. According to the author, her work was an introspection of the categorization of Hinduism through Hindu law, as well as a caution about tampering excessively with the analytical utility of religio-legal categories deformed by personal law in the Indian context.

Discussion

The author’s work investigated the issue of inter-religious marriage adjudication, locating policy contradictions in what the author referred to as religion making and the state-society relationship. The two cases captured in detail how the court uses the shared adjudication model, withdrawing and redrawing the boundary of state and society, which allows the case to be within and outside their jurisdiction, allowing both selective presence and absence.

Allowing religion to filter in and out of the legal process at the same time highlights the messy everyday reality and contradictions in the administration of the Hindu Marriage Act 1951. According to the author, the paper emphasised the importance of demonstrating the limits of personal law codification and contrasting conversations about personal law codification. An attendee, believing Indian legal systems to be accommodating in terms of overlap between law and culture, raised a question about the author’s perception of strong cultural intermingling in our country. Another attendee, complementing the author’s work and its contribution in disaggregating the state itself vis-a-vis legal pluralism in the paper, asked if there was any need to rethink the paradigm of state and non-state laws.

In terms of broader identities, the author stated that personal laws are one of the instruments that have shaped and streamlined religions in India, and the case studies presented could be regarded as excellent examples of creative governance.

Is Legal Pluralism Bad for Women?
by Dr. Nidhi Gupta, National Law University Jodhpur

Keywords

personal laws, hindu marriage law, women’s rights, pluralism and multiculturalism, judicial activism, binaries

Overview

As the existing literature suggests that legal pluralism negatively affects women’s rights, the author in this paper sought to understand whether a shared adjudication model is bad for women and if it should be done away with. The paper was based on extensive research on adjudication under personal laws, as it can be seen that many personal disputes such as inheritance, marriage and custody are dealt with by traditional forms of conflict resolution rather than courts of law. The author observed that the judicial system in India has always lived with the plurality that comes with the diversity and cultural differences integral to the country’s population, which often has worked in favour of women. The author concluded that legal pluralism as accepted and adopted by judges in India is indeed beneficial for women, and embodies a rather progressive way of dealing with women’s rights. The paper also pushed readers to move past the binaries of traditional values, modernity, family values, individual etc in order to have a holistic approach towards legal pluralism.

Discussion

The questions and the ensuing discussion brought out other areas of law where judges have played a significant role in taking progressive steps through their decisions- for instance, the approach adopted by Indian courts in the rulings related to ‘essential practise test’ for religious practices, where the courts have advanced progressive views at the cost of religious freedom. The Triple Talaq and Sabarimala judgements were cited as prime examples of judicial activism, which has sometimes resulted in unintended consequences such as the criminalization of Triple Talaq and violent protests in Kerala.

Speaking on legal uniformity as a concept opposed to legal pluralism, the author noted that the Law Commission’s 2018 Consultation Paper on Marriage Law rightly suggested aiming for uniformity within the various religious personal laws. This is as opposed to the adoption of a Uniform Civil Code, which will simply unify marriage laws for the wildly diverse Indian population. Amidst the discussion, the author remarked that every culture in India is fundamentally plural, and researchers in the field need to accept and understand that homogeneous categories inherited from colonial times have to be deconstructed in order to understand inherent pluralism in the country. The discussion further brought forth the issue of non-representation of minority religions in the judiciary.

Quotes

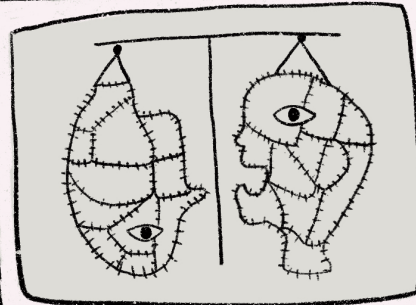
“Nowhere else in the world can you see courts balancing law and equity so skillfully.”

“To understand legal pluralism holistically, we need to push past the established binaries.”

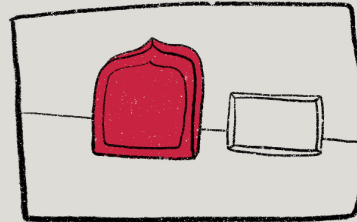
VIRTUAL EXHIBITION

As part of the conference, along with academic papers, we invited artist responses on the theme plural ideas of justice. This culminated in a virtual exhibition hosted on our website. Here we share snippets of some of the submissions:

The artwork depicted interpretations varying from personal experiences to justice as it is envisioned in the Indian Constitution to daily experiences that raise questions of justice.



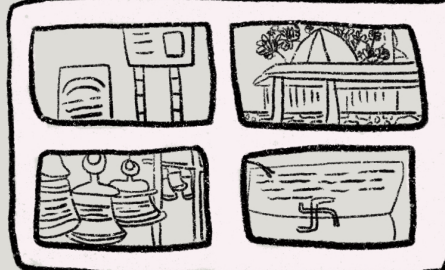
Artists Bhawna Parmar and Rubina Singh artwork *Healing in the Balance* explored personal experiences of gender-based violence. By interrogating the interconnected systems that enable such acts, the artwork questioned the singular "justice" seeking in calls for severe and corporal punishments for the perpetrators and how that narrative discounts all other systems that are at play.



Ankur Yadav



Prerona Mazumdar



Ravinder Singh



Shubhangi Shukla



Synshar Pde presented a deeply personal narrative of their experience with racism and the different forms it takes on, living in four different places through their artwork *To anyone who calls Shillong, 'Home.'*



Kruthika N.S. in *Loud* presented a comic with protagonists moving in and out of square panels and into unstructured worlds of solace, of solidarity. The artwork challenged the formal legal structures where conventionally justice is sought and explored alternative places where it can be found.



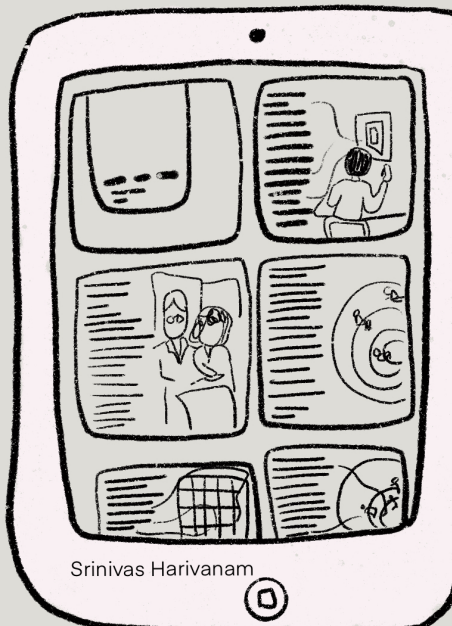
Aarul Mathew



Maulika Hegde



Lakshmi Ramesh through her artwork *That Committee is for You* depicted the collective effort required for an institution for justice and conflict resolution to function. The presentation engaged with the different essential elements that form part of any effective grievance redressal.



Srinivas Harivanam

ARTIST'S PANEL Virtual Exhibition

Zubaan Chalna

by Ankur Yadav

The artist engaged in this project after an incident near their hometown, where a girl committed suicide after burning her mother alive. The artwork was based on observations made when the artist endeavoured to collect evidence for the incident, noticing absence of the person's photo frame. The work was an attempt at completion of that missing photo frame which resonated with the artist in an art and architectural space. They considered India's judicial system to be Eurocentric, requiring logical and scientific evidence for everything. The work sought to question how this logical evidence could be provided to the community

Loud

by Kruthika N.S.

The work of the artist was based on the #MeToo movement, shaping the artwork from the perspective of a listener rather than the survivor. The artist pondered why would any individual leave institutionalised grievance redressal mechanisms for a fluid online space which are considerably more objective and volatile. Based on their personal experiences as a lawyer, they consider legal systems to be extremely rigid focusing on subjectivity. The artist believed that the discussions on the topics of sexual violence and harassment are processes of "making black and white of greys". The artwork was an attempt to encapsulate the trauma of the protagonist in a box using imagery to express the trauma and reality of the world believing that small nuances and representations through art impacted their understanding of the law. The boxes in the artwork represent the rigidity of time and limitation. This box is essentially what you are forced to grapple with to make a legal case in an institutional setting.

That Committee is for You

by Lakshmi Ramesh

Depicting personal experiences, the artist looked at the internal complaint committees for conflict resolution in higher educational institutions which eventually end up being something else altogether. The artist associated these committees with an enigma where people are unaware of their existence, working or procedures. The artist expressed that their artwork represents three aspects of these committees:

- Existence and ways to get to these committees to function as redressal systems.
- A public scrutiny and accountability of these committees.
- Support system of people aware of the functioning of the redressal systems for providing guidance.

The Power of the Loom in Times of Gloom and Doom

by Maulika Hegde

Reflecting on the Indian Government's scrapping of the All India Handloom Board in 2020, the artist addressed the lack of an informal platform for grievance redressal and dialogue. Despite the issues of decline in demand in handloom and overall reduction of income made worse by pandemic, the artist believed corporate benefactors have played a major role in establishing portals for dealing directly with the handloom weavers with fair prices removing the middlemen altogether, ultimately resulting in the increased scope for innovation and collaboration in the handloom industry.

VIRTUAL EXHIBITION

AN EXHIBITION ON PLURAL IDEAS OF JUSTICE



Roaring Silence
Aarul Mathew



Zubaan Chalna
Ankur Yadav



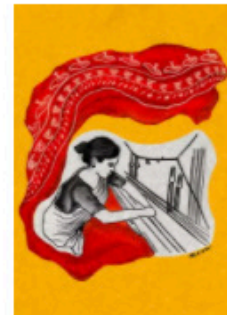
Healing in the Balance
Barabar (Bhawna Parmar and Rubina Singh)



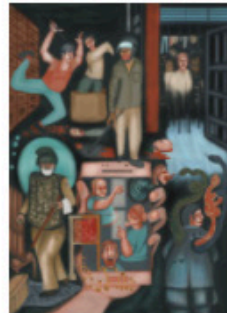
Loud
Kruthika N. S.



That Committee is for You
Lakshmi Ramesh



The Power of the Loom in Times of Gloom
Maulika Hegde



An Atmosphere of Turmoil
Prerona Mazumdar



Goludev
Ravinder Singh



What is 'Justice'?
Shubhangi Shukla



To Each Their Own
Siddhi Gupta



Before the law
Srinivas Harivanam



To anyone who calls Shillong 'Home'
Synshar Pde

ARTIST'S PANEL Virtual Exhibition

An Atmosphere of Turmoil by Prerona Mazumdar

The artist considered the artwork to be a literal interpretation of cynicism and turmoil of the current scenario, raising questions of taking justice into your own hands and pondering over our expectation towards non-state actors to act and working of state itself. The artwork perceives India as a chaotic village where to get to the centre you have to remove any impediments in your path, a representation of turmoil within the justice state systems.

To Each Their Own by Siddhi Gupta

The artist stated that the artwork represents what the organisers' aspiration to communicate a plural visual that exemplifies the title of the conference. The artist believed that representing ideas visually allows for plural interpretations to exist. This made the virtual exhibition representing diverse ideas of justice an important part of the conference.

Before the Law by Srinivas Harivanam

The artist stated that this artwork discusses the role of social media and modern technologies in perception of justice, highlighting the embedded structure in social ideas. Discussing the crucial role of social media and algorithms in such systems, the artist focused on the increasing polarization in the present times due to such algorithms. The artist, deriving from the works of Franz Kafka in "The Trial", perceived social media as a vortex structure, attempting to juxtapose the novel and social media algorithm and bring out the story in this modern time. The artwork was an attempt at understanding the human psyche and intangible spaces beyond reality. The artwork by the artist aimed at understanding the role of social media and questioning the changing ideas of justice.

To anyone who calls Shillong, 'Home.' by Synshar Pde

The artist stated that their work surrounds the quote "everyone everywhere is more like us than less like us". The artist, considering the diversity in India and increasing instance of racial discrimination towards people of North-East India, through their artwork attempted to introspect on her native place and prevalent tension between tribals and non-tribals. Highlighting the tumultuous history of Meghalaya, through their work the artist showcased not the tension that separates us but focused on the common things.

What is 'Justice'? by Shubhangi Shukla

The artist drew from the preamble to the Indian Constitution for inspiration. The artwork relates to questions of inequality that exists in the country and the importance of participatory decision making in governance frameworks.

PANEL 5: NON-STATE ACTORS : EXPERIENCES WITH DISPUTE PROCESSING



This panel included papers based on empirical research that explored the working of different non-state actors engaged in dispute processing, the forms these actors took and the processes they adopt. The papers provided an in-depth analysis of how these structures function, how they are used, the dynamics of gender within these forums and then what they mean in the broader context of understanding justice. While one paper discussed a religious tribunal in a metropolitan, the other paper discussed Panchayat practices in a rural setting.

The two specific case studies were:

Mediating Rage and Revenge: Mautana Custom and Panchayat Practices among Bhils in Rajasthan

Boundaries of the Law: Dispute Resolution in Women's Sharia Courts in Mumbai

KEY TAKEAWAYS

1. One learnt how a specific disciplinary lens can direct research in a specific direction leading the author to conclusions very different from a researcher of a different discipline.

2. The study of conflict resolution has been rooted in different disciplines from the very beginning and an interdisciplinary engagement – although existent on paper – is always missing, given that workshops and conferences tend to be discipline focused on most occasions. Therefore, such engagements on methods and the limits of our disciplinary perspectives was indeed much needed and much awaited.

KEYWORDS

subjectivities of law, state power, panchayat, kazi, triple talaq, panchayat

PANEL 5 Non-state actors: Experiences with dispute processing.

This panel was chaired by *Dr. Kalindi Kokal* and focused on non-state actors and their experiences with dispute processing. This panel included papers that were based on empirical research regarding the forms of non-state actors and the processes they adopt.

[Boundaries of the law: Dispute resolution in women's Sharia courts in Mumbai](#)

by *Dr. Sagnik Dutta*, Jindal Global Law School

Keywords

sharia adat, working-class muslim women, BMMA, triple talaq

Overview

The paper explored the minority identity of working-class Muslim women in Mumbai, who had been interviewed for micro-level engagements with the state and Sharia adalats. The emphasis here was not only on the outcomes of the cases, but also on the wide range of discussions surrounding the instances of women approaching these legal pluralist bodies as alternative dispute resolution mechanisms. It further identified ways in which people frame liberal legal categories and personal laws in relation to a larger framework of liberal rights. The questions of iterations of the state in Alternative Dispute Resolution (ADR) forums have been explained by understanding the identity of the non-state, its forms, and how to read its presence in everyday life. Historical research was used to depict everyday struggles with the state through the lens of plural ideas of justice.

Discussion

The discussant *Dr. Suchandra Ghosh* began by summarising the paper, by identifying how the paper sought to examine the role of state powers in ADR forums – such as the Sharia Adalat – through a feminist, geopolitical lens. Since the research interests of both the discussant and the author of this paper overlapped considerably, the discussion remained intense and engaging. According to the discussant, the Marxian nature of terminology lent a specific categorization to the concept of working class, which is the description the author used for the community of individuals approaching the Sharia Adalat. The paper focused on dispute processing in a specific Sharia Adalat which the discussant also felt was not adequately contextualised in terms of a description of its location (neighbourhood) and the dynamics that flow from there with respect to the working of the forum. From a theoretical perspective, the discussant felt that the paper did not engage sufficiently with literature examining the reciprocity of relationship between the Sharia Adalat and the police specifically and the corpus of literature on legal pluralism more generally.

In response, the author pointed out that the present paper did not seek to describe the work of the Bharatiya Muslim Mahila Andolan (hereinafter BMMA) or institutions run by them as exclusive. The paper in fact was meant to stress the need to appreciate the Sharia Court as a phenomenon, in the context of the larger comparative framework of ADR forums and activist groups formed after the 1990's riots, such as Mahila Mandal, women's rights network, Women's Research Action Group (WRAG), etc. Distinguishing the present study from the broader literature on dispute processing, the author stated that the paper aimed at understanding processes such as those occurring in the Sharia Adalat in terms of how, when and why people approach ADR forums and how people's lives are affected by them, rather than focusing on operation of the dispute resolution forums or what petitioners receive in settlements.

One of the attendees wondered if the women qazi addressed issues such as ethics, Muslim practise, and so on. The author responds by explaining that some of the interlocutors are situated in the Islamic feminist ethical framework, and that important resources such as Quranic commentaries were also used in the process. A panelist also inquired whether the author had observed any dialogues between the BMMA and the All India Muslim Personal Law Board, to which the author explained how many BMMA members had ties with the Jamaat-e-Islami, concerns about which had been brought up by such dispute processing forums as well.

Mediating Rage and Revenge: Mautana Custom and Panchayat Practices among Bhils in Rajasthan

By Dr. Devika Bordia, Shiv Nadar University

Keywords

blood money, panchayat leaders, bhils, mautana, communal animosity

Overview

The paper was based on research conducted on blood money payments made in connection with murders committed by *Bhils* in Rajasthan. It focused on how panchayat leaders mediate on the emotions of rage and revenge over time, and how they use this archive of cases to predict when and how victims' families will seek revenge, rather than attempting to contain these emotions and rage. The paper also examined historical patterns from the colonial era and demonstrated how blood money exchange and panchayat temporality work.

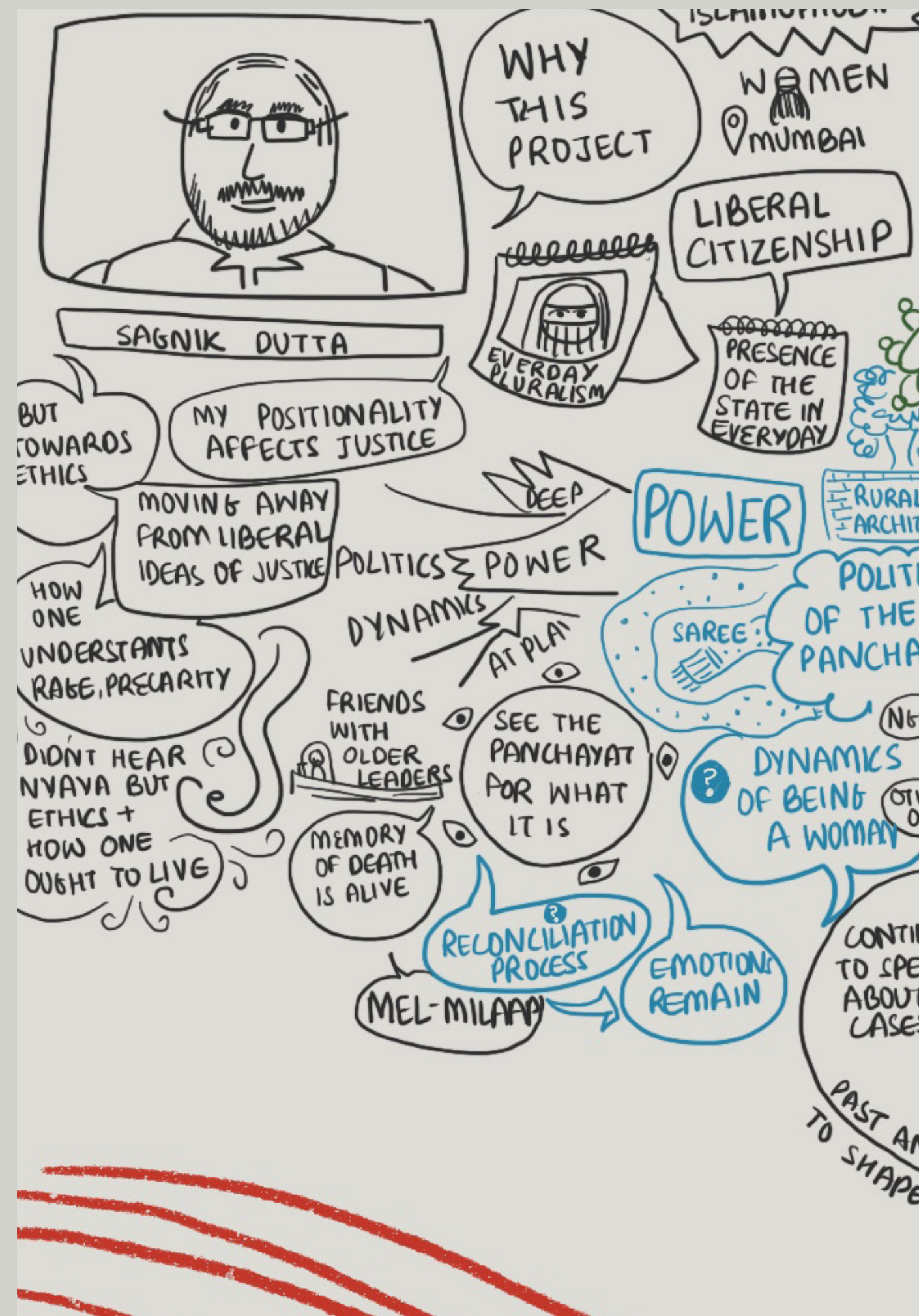
Discussion

The discussion began with the discussant expanding on how tribal life is perceived and how the *Bhils* approach this informal system of justice delivery. It is a socially sanctioned *Bhil* norm that in retaliation for murder, the victim's family can prevent the murderer's family from moving. Police stations in tribal areas do not register a case or file a complaint until the panchayat leaders exchange substantial amounts of blood money and a conciliation process is completed in which the animosity between the two families is resolved. This process is very different from what is seen in typical criminal trials, where a person is not only punished but also sentenced to jail or even death without any scope for conciliation.

In some instances, panchayat leaders are uninterested in the case but address it based on previous cases in which they have not held kin of the parties involved in the case accountable for their actions. From the perspective of a practising lawyer, the discussant compared it to legal precedents established by other panchayat leaders, thereby distributing responsibility for these emotions. They are not the final arbiter of the dispute, but they rather rely on previous precedents and a collection of cases.

The author went into greater detail about how *mautana* payments work between rich and poor families. In the event of a murder, the entire lineage comes together and contributes money for *mautana*, which takes a long time and constant negotiating and collecting from everyone in one's lineage as well as other lineages to which one is related.

The discussion also examined aspects of interest and competition between panchayats and police and the author elaborated on how, even after reconciliation, there is still hostility and resentment between the parties.





VOTE OF THANKS

The conference came to an end with Siddharth launching Justice Adda's "Map-a-Forum" platform. The organisation intends to continue mapping dispute resolution platforms in India through creating a digital encyclopedia. Mr. Ashish Gupta from KAS gave a vote of thanks on behalf of KAS, and spoke of their key takeaways from the conference including that legal pluralism is important from the perspective of thinking about rule of law in the Indian context.



DISCLAIMER

The opinions and arguments documented in the report are exclusively those of the speakers, moderators and artists and not of any other individual or institutions, including Justice Adda and KAS. This report has been prepared in good faith on the basis of information shared during the conference, and with the intention of it being made available to a wider audience.

