



Experiences of Dispute Resolution in Non-Court Forums: Justice Sans Rule Of Law?

Shruti Vidyasagar

Shruthi Naik

Follow this and additional works at: <https://repository.nls.ac.in/slr>

Custom Citation

Shruti Vidyasagar, Shruti Nayar, 'Experiences of Dispute Resolution in Non-Court Forums: Justice Sans Rule Of Law?' (2021) 17 (1) Socio-Legal Review 27

<https://doi.org/10.55496/ANJT9454>

This Article is brought to you for free and open access by the NLSIU Scholarship Repository. It has been accepted for inclusion in Socio-Legal Review by an authorized editor of Scholarship Repository.

EXPERIENCES OF DISPUTE RESOLUTION IN NON-COURT FORUMS: JUSTICE SANS RULE OF LAW?

—Shruti Vidyasagar* and Shruthi Naik**

Dispute resolution in India involves several actors and institutions – not only courts but also various other forums for alternative means of dispute resolution. While the judiciary is the sole authority responsible for redressing rights' violations, the problems plaguing the judicial system contribute significantly to parties opting to settle disputes out of court.

In this paper, we examine the functioning of some non-court forums, with a special focus on the question of women's rights, autonomy, and agency in dispute resolution processes. We ask whether the working of such non-court forums is in consonance with the values of the Indian Constitution, especially the rule of law. In the context of women's rights, we ask whether these forums take a legally neutral or gendered approach, and whether they speak they give primacy to rights or prioritise community and conciliation. To find answers, we analyse data from surveys and interviews undertaken by DAKSH to review the attitudes and approaches of such non-court forums.

We argue that valorising non-court forums as 'quick, flexible, and effective' while disregarding their subjectivity, arbitrariness, and lack of accountability – both to the individuals who approach them and to the society in which they function – amounts to a betrayal of constitutional values. We also

* Shruti Vidyasagar is a lawyer and editor. She has pursued a varied legal practice in Bangalore for several years. Shruti specialises in the law on workplace sexual harassment in India. She is also an Editorial Consultant at DAKSH. Shruti has an undergraduate law degree from Bangalore University and a master's degree in law (BCL) from the University of Oxford.

** Shruthi Naik is a lawyer and former Senior Research Fellow at DAKSH. She is a graduate of the National Law School of India University, Bangalore. Her areas of interest include access to justice and legal system reform.

argue that while all citizens, women included, must have the autonomy to choose any forum to resolve their disputes, that choice must not be governed by tradition, nor be influenced by lack of awareness of rights, or worse, failure of the state in ensuring speedy and effective dispute resolution.

Introduction	28	Failure of the State and the Judiciary	49
Dispute Resolution and Non-Court Forums	32	Concluding Remarks	50
Functioning of Non-court Forums	37	Limitations and future research	51
The Rule of Law Test	45		

“We don’t give judgments, we render justice.”

—Tasvir Singh Rathi, Pradhan of Rathi Nogama *Khap*,
Haryana

“Rule of law permeates the entire fabric of the Constitution....
Rule of law excludes arbitrariness; its postulate is ‘intelligence without passion’ and ‘reason freed from desire’.”

—Justice P.N. Bhagwati, *Bachan Singh v State of Punjab*

I. INTRODUCTION

India is composed of multi-ethnic societies, each with its own traditions, cultures, and beliefs, including for resolving disputes. Indian society looks not only to the courts to resolve disputes but has also historically,¹ and continually, developed alternative means of dispute resolution to suit local needs and changing circumstances.² Consequently, dispute resolution in India involves several and varied non-court and non-state actors. While it is incontrovertible that the judiciary is the sole authority with responsibility for redressing rights’ violations, the well-documented problems plaguing the judicial system contribute significantly to parties opting to resolve disputes – including violation of rights – out of court, using one or more non-court forums.³

¹ Priyankar Upadhyaya and Anjoo Sharan Upadhyaya, *Traditional Institutions of Dispute Resolution in India: Experiences from Khasi and Garo Hills in Meghalaya* (Berghof Foundation 2016) 6.

² Sylvia Vatuk, ‘The ‘Women’s Court’ in India: An Alternative Dispute Resolution Body for Women in Distress’ (2013) 45(1) *The Journal of Legal Pluralism and Unofficial Law* 76, 84.

³ In this paper, we use the phrase ‘non-court forums’ to refer to any individuals or bodies who involve themselves in dispute resolution when they have not been established or mandated by law for the purpose of dispute resolution or justice dispensation.

In this paper, we examine the functioning of some non-court forums – both individuals and institutions – through the prism of rule of law, with a special focus on the question of women’s rights, autonomy, and agency in dispute resolution processes. We raise a fundamental question: Is the working of such non-court forums in consonance with the values of the Indian Constitution, and specifically, with its most fundamental tenet, the rule of law? Our focus on the enforcement of women’s rights stems from the finding that less than 15% of litigants in India are women.⁴ This led us to ask where women go, if not to the courts, to find justice. And which led to more questions: What induces women to choose these non-court forum/s? Do these forums grant primacy to a woman’s autonomy by recognising her needs and entitlements? Do they take a legally neutral or gendered approach? Do they speak the language of rights or the idiom of community and conciliation?

A. Literature, Data and Methodology

Several works in existing academic literature on the subject have sought to answer these questions. Through in-depth case studies and ethnographies, they examine the work of non-court forums in dispute resolution, often focusing on forums involving women both as disputants and problem-solvers/decision-makers.⁵ They study specific forums, for example, the Shiv Sena, women’s courts (including *Nari Adalats*), or caste panchayats. Scholars have also reviewed the work of non-court forums in specific Indian territories, such as Tamil Nadu,⁶ Haryana,⁷ Kolkata,⁸ and Meghalaya.⁹

⁴ See Harish Narasappa, Kavya Murthy, Surya Prakash BS, and Yashas Gowda, ‘Access to Justice Survey: Introduction, Methodology, and Findings’ in Harish Narasappa and Shruti Vidyasagar (eds), *State of the Indian Judiciary: A Report by DAKSH* (DAKSH and EBC 2006). According to information on the National Judicial Data Grid, less than 10% of the cases filed in the subordinate courts are filed by women: see <http://njdg.ecourts.gov.in/njdg_public/main.php> accessed 16 October 2020.

⁵ See, for example: Nandita Bhatla and Anuradha Rajan, ‘Private Concerns in Public Discourse: Women-Initiated Community Responses to Domestic Violence’ (2003) 38(17) EPW 1658; Julia Eckert ‘Urban Governance and Emergent Forms of Legal Pluralism in Mumbai’ (2004) 50 Journal of Legal Pluralism 29; Srimati Basu, ‘Playing off Courts: The Negotiation of Divorce and Violence in Plural Legal Settings in Kolkata’ (2006) 38(52) Journal of Legal Pluralism 41; Vasudha Nagaraj, ‘Local and Customary Forums: Adapting and Innovating Rules of Formal Law’ (2010) 17(3) Indian Journal of Gender Studies 429; Sylvia Vatuk, ‘The “Women’s Court” in India: An Alternative Dispute Resolution Body for Women in Distress’ (2013) 45(1) Journal of Legal Pluralism and Unofficial Law 76; Bittoo Rani, ‘Sharia Courts as Informal Justice Institution in India’ (2014) 1(9) International Journal of Humanities Social Sciences and Education 129; Ritupriya Gurtoo, ‘Khap Panchayats in Relation to Women’s Human Rights: Indian Perspective’ (2016) 2(2) Journal of Legal Studies and Research 46.

⁶ Zoe E Headley, “‘The Devil’s Court!’ The Trial of ‘Katta Panchayat’ in Tamil Nadu’, in Daniela Berti and Devika Bordia (eds), *Regimes of Legality: Ethnography of Criminal Cases in South Asia* (OUP 2004) 227.

⁷ Prem Chowdhry, ‘Caste Panchayats and the Policing of Marriage in Haryana: Enforcing Kinship and Territorial Exogamy’ (2004) 38(1-2) Contributions to Indian Sociology 1.

⁸ Basu (n 5).

⁹ Upadhyaya and Upadhyaya (n 1).

However, until DAKSH Society¹⁰ embarked on its *Access to Justice* survey,¹¹ there was no widespread data gathering on the various pathways chosen by people across India for resolving disputes, nor any analysis of their reasons and experiences in such forums. In this path-breaking survey, conducted in 2017, DAKSH interviewed more than 45,000 respondents about the modes of dispute resolution they used (including courts) and their experiences. The survey was accompanied by a video documentation project, in which various individual and institutional forums involved in dispute resolution across India were interviewed. While the survey respondents were selected using a random-sampling approach, for the video interviews, representative and purposive samples were chosen from amongst various forums, including caste and village panchayats, religious authorities, police, and political organisations.¹² For a full list of interviewees, see the *Annexure* at the end of this paper.

The survey results and interviews provide insight into the considerations that determine people's choices of forums for dispute resolution. They also enable an understanding of the similarities and differences between how individuals and institutions – regardless of their identity, territory, and legitimacy – function, not only to resolve disputes but also, as some actors claim, 'to deliver justice'. They also allow us to examine and analyse the lawfulness of the methods used by some of these non-court forums.¹³

¹⁰ DAKSH is a Bengaluru-based civil society organisation working at the intersection of public policy, data science, and operations research, principally focused on solving the problem of delays and pendency in the Indian courts. DAKSH's work focuses on solving the problem of pendency of cases in the Indian legal system. It approaches court delays and case pendency from the perspectives of data efficiency, process, technology, and administration.

¹¹ Padmini Baruah, Shruthi Naik, Surya Prakash BS, and Kishore Mandyam, 'Paths to Justice: Surveying Judicial and Non-Judicial Dispute Resolution in India' in Harish Narasappa, Shruti Vidyasagar, and Ramya Sridhar Tirumalai (eds), *Approaches to Justice in India: A Report by DAKSH* (DAKSH and EBC 2017).

¹² DAKSH, 'JANA (Justice, Access, and the Nation's Approaches)' (*YouTube*, 26 August 2019) <https://www.youtube.com/playlist?list=PLPsk7i7tKdZlZ1jFMKh_7TEvJFnuTLZ7l> accessed 16 October 2020. Not all non-court forums working in India are represented in the documentary, owing to time and resource constraints. All views attributed to interviewees in this paper, including quotes, are from video interviews on record. DAKSH's interviewer informed interviewees that they were being recorded on film for a video documentary to be released in public and interviewees agreed to be filmed.

¹³ In several cases, the Supreme Court and High Courts have noted with disfavour the working of certain non-court forums and declared their actions illegal, citing lack of authority to adjudicate or punish crimes. For example, see: *Vishwa Lochan Madan v Union of India* (2014) 7 SCC: AIR 2014 SC 2957 (Supreme Court of India) [13]; *Shakti Vahini v Union of India* (2018) 7 SCC 192: (2018) 5 SCALE 51 (Supreme Court of India) [47]; *Rajendran v State* CrI OP No. 28886 of 2003 (High Court of Madras) [35–44]; and *K. Gopal v State of TN* 2005 SCC OnLine Mad 466: (2005) 3 Mad LJ 456 (High Court of Madras) [27], [29].

B. Aims of the Paper

The questions we raise in this paper foreground our analysis of the data from DAKSH's survey and interviews to review the attitudes and approaches of non-court forums towards rule of law and rights of women. We argue, based on our findings, that while all citizens, women included, must have the autonomy to choose any forum to resolve their disputes, their choice must not be influenced by tradition or social conditioning, or worse, a lack of awareness about their rights. We also argue that valorising non-court forums as 'quick, flexible, and effective' while disregarding their subjectivity, arbitrariness, and lack of accountability – to the individuals who approach them as well as the society in which they function – amounts to a betrayal of our constitutional values.

At this juncture, it is important to clarify that this paper is not a discussion on the merits (or otherwise) of legal pluralism,¹⁴ nor does it engage in a debate on whether courts are the only true and proper pathway to justice in a country like India.¹⁵ Our focus here is firmly on reviewing non-court forums' ideas of justice, principles of dispute resolution, understanding of law, attitude towards legal institutions (including courts), sanctions, and enforcement of decisions. Furthermore, in the context of women's rights and redressal of their violations, these parameters have greater resonance, since for women in India the path to justice is ridden with additional problems of access, from economic, sociocultural, and psychosocial factors.

C. Structure of the Paper

The rest of this paper is structured as follows. Section II summarises relevant findings on the respondents' choices and reasons from the *Access to Justice Survey, 2017* as well as reasons cited by functionaries of non-court forums, who were interviewed, on why people approach them instead of courts. Section III details the working of the chosen non-court forums, including their composition, ideas of justice, processes and procedures, sanctions, and enforcement. Section IV applies the test of rule of law to the working of these non-court forums. In Section V, we comment briefly on the failure of the state and the judiciary in providing a lawful, speedy, inexpensive, and effective mechanism for access to justice. In Section VI, we offer concluding remarks, briefly outlining what is necessary for justice, and its delivery, to become both

¹⁴ Legal pluralism seeks to understand the complex ways in which local practices and the formal law compete, co-exist, and incorporate each other in contemporary societies: see Nagaraj (n 5) 432.

¹⁵ In fact, we believe that although 'access to justice' is often used interchangeably with 'access to courts', by no means can the two be equated.

universal and effective. Section VII sets out the limitations of this paper and offers suggestions for future research.

II. DISPUTE RESOLUTION AND NON-COURT FORUMS

A. Justiciable Disputes and Means of Resolution

Before raising questions about the methods used by non-court forums, it is important to understand how many people approach such forums. Findings from DAKSH's survey¹⁶ showed that approximately 7% of the population faced a justiciable dispute,¹⁷ and 5.8% attempted to resolve their dispute. Of those who chose to resolve their disputes, 68% approached the judiciary and the remaining 32% approached non-court forums.¹⁸

In order to understand the responses along gender lines, we have disaggregated the data from DAKSH's *Access to Justice Survey, 2017* and compared the responses of male respondents to those of female respondents. Thus, for this paper, data collected from male and female respondents has been analysed separately. To clarify, the percentages for female respondents (whether in terms of their preferences or experiences, as cited in the figures below) have been calculated using the total number of female respondents as the base figure and similarly for male respondents.¹⁹

Figure 1 shows the types of non-court forums that male and female respondents approached to resolve their disputes, while *Figure 2* shows the kinds of forums that both male and female respondents said actually helped in the resolution of disputes.

¹⁶ DAKSH targeted collecting responses from 50,000 households across India, using a random-sampling approach based on India's population according to the 2011 census, with the aim of covering the jurisdiction of all High Courts. For more details, see Padmini Baruah, Shruthi Naik, Surya Prakash BS, and Kishore Mandayam, 'Paths to Justice: Surveying Judicial and Non-Judicial Dispute Resolution in India', in Harish Narasappa, Shruti Vidyasagar, and Ramya Sridhar Tirumalai (eds), *Approaches to Justice in India: A Report by DAKSH*, 9–38 (Lucknow: DAKSH and EBC 2017).

¹⁷ Any dispute in which a party claimed the violation of a legal right, and the surveyors explained this to the respondents. For more details, see Baruah et al, 10.

¹⁸ 'Non-court dispute resolution' covered any mode of dispute resolution other than courts, including directly negotiating with the opposite party, help from family or friends in mediating, and taking the help of village elders, religious authorities, or the police. For more details, see Baruah (n 11) 10.

¹⁹ For more information about data collected by DAKSH, findings, and analyses, see Baruah (n 11). For this paper, while we have drawn from those published findings, we have disaggregated some of the findings that we found relevant along gender lines. More details from DAKSH's survey are also available at the following interactive webpage, DAKSH, 'Access to Justice Survey 2017' <<https://www.dakshindia.org/access-to-justice-2017/index.html>> accessed 25 February 2021.

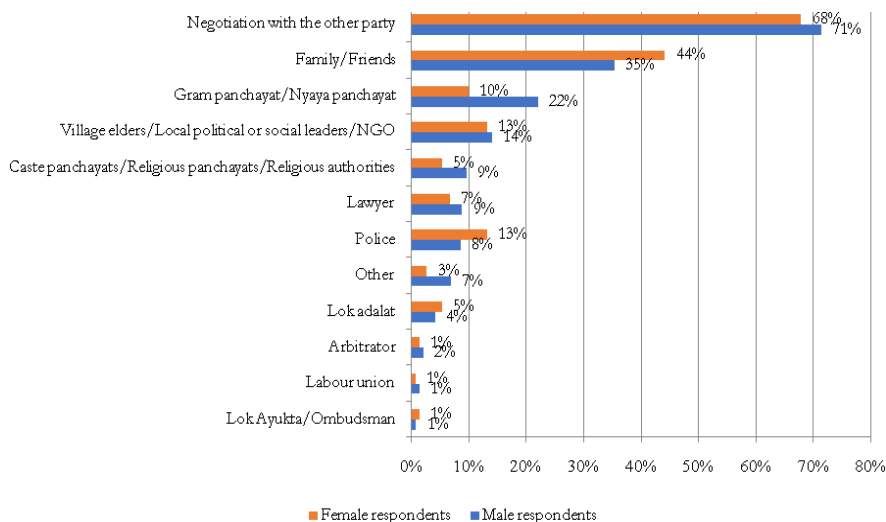


Figure 1. Non-court forums that people approached to resolve their disputes

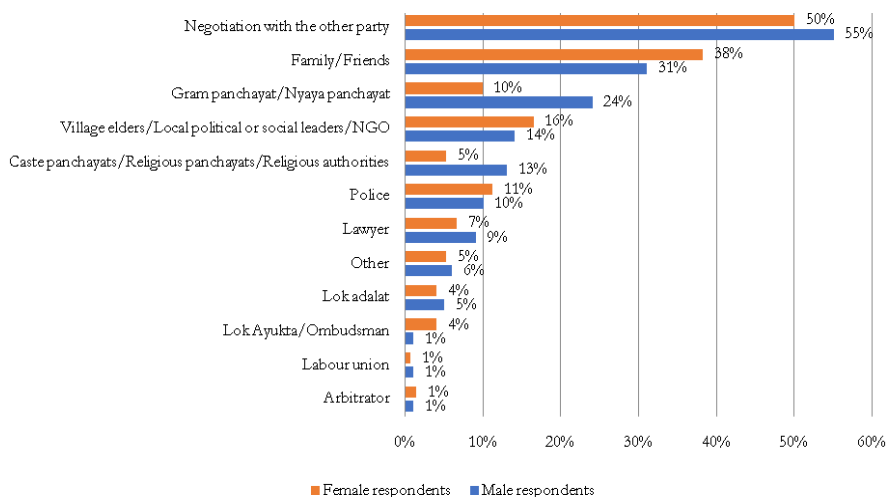


Figure 2. Non-court forums that helped in resolving disputes

Findings showed that most respondents preferred negotiating with the other party to the dispute or taking help from friends and family in resolving the dispute. While the responses are similar between men and women with respect to most non-court forums, *Figure 1* shows that the percentage of female respondents who said they approached the gram panchayat/nyaya panchayat

and caste panchayat/religious panchayat/religious authorities is considerably smaller than the percentage of male respondents who said the same.

B. Why not choose courts? What the survey respondents said

It is pertinent to ask why 32% of respondents who wished to resolve their disputes did not approach the courts. The answers, based on data from DAKSH’s survey, are set out in *Figure 3*.

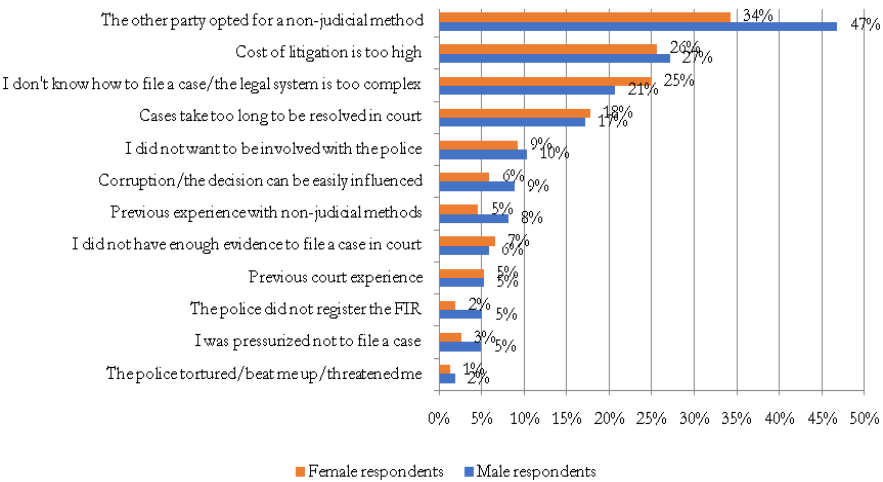
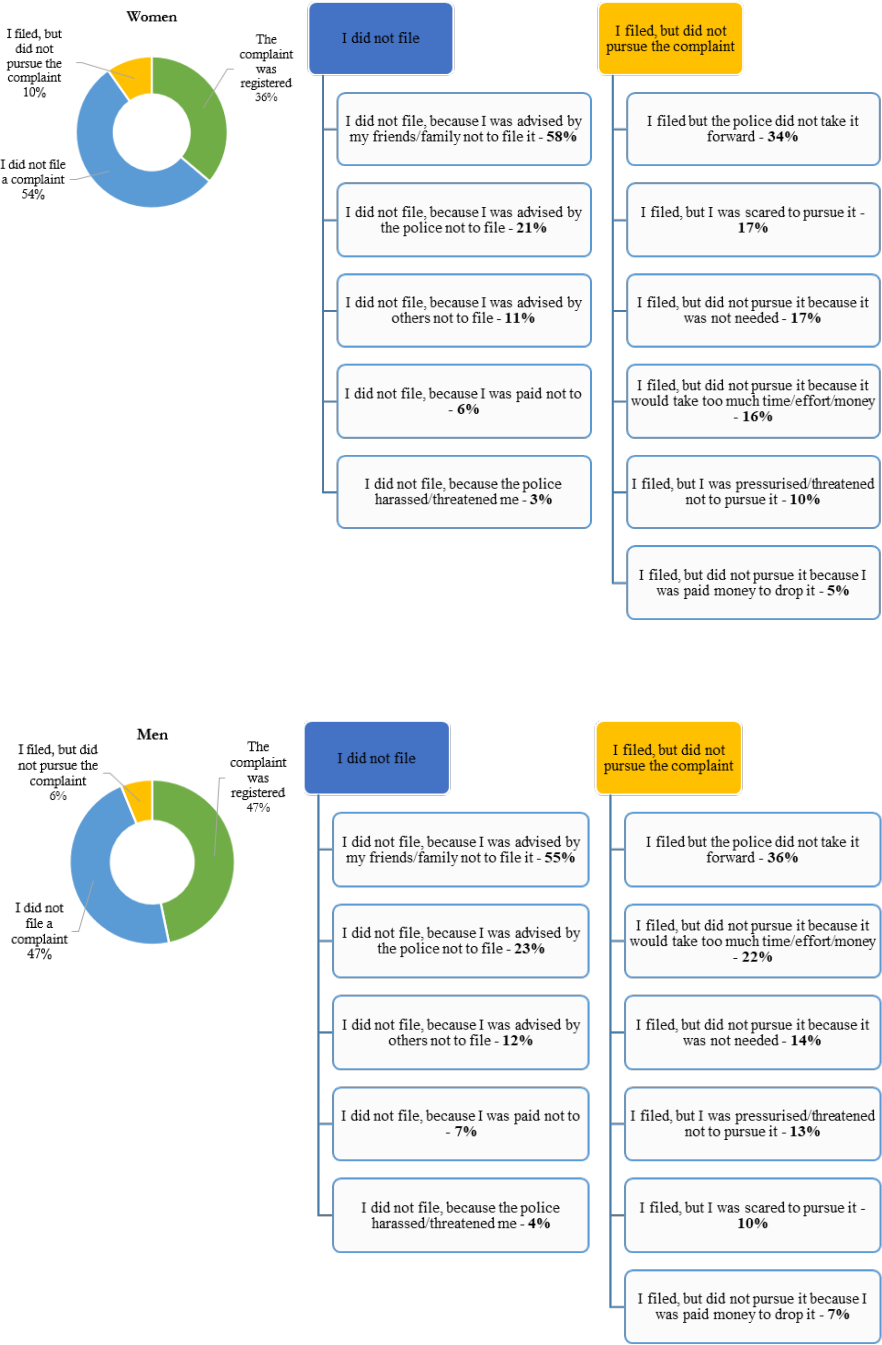


Figure 3. Reasons why people do not go to court

While high cost and lengthy duration of litigation are well-known reasons, two other factors highlighted in *Figure 3* are: (a) complexity of legal procedures; and (b) choices made by the opposite party in a dispute, which meant that people stayed away from courts. Respondents also attested to facing difficulties in approaching the police, who are vital to the criminal justice system, with 10% of male respondents and 7% of female respondents saying that they tried filing police complaints. Their experiences are explained in *Figure 4*.

Figure 4. Experiences with trying to file a police complaint



Amongst female respondents, it is seen that a higher percentage of them (compared to male respondents) felt fearful about pursuing a police complaint. This finding accentuates the police's lack of inclusiveness as an institution, and that it is much harder for women to approach the police, both of which are well documented in literature.²⁰ Further, for the female respondents, time/effort/money weighed significantly lower as constraints to access than for male respondents, signifying that systemic barriers constitute a greater deterrence to women than individual restrictions.

C. Factors influencing people's decision to not approach courts

For a perspective from the other side, we now consider what representatives of non-court forums enumerated as the main reasons why people seek them out to resolve a dispute. As mentioned earlier, the *Annexure* at the end of this paper contains the full list of interviewees in the JANA video documentation project.

Delay and pendency in the judicial system are often cited as primary reasons for choosing out-of-court settlements. When interviewees from non-court forums were asked about the time taken to resolve disputes, their responses varied. Some said that disputes were resolved on the same day while others said that it took three or four meetings. Further, most representatives of non-court forums who were interviewed also believed that the cost of litigation prevents people from approaching the judiciary. However, it is not true that all local/customary forums of dispute resolution provide services free of cost. In her article on local forums and women's self-help groups working in Addagutta basti in Secunderabad, Vasudha Nagaraj notes that the issue of earning incomes from organising *panchayatis* was frequently discussed; she was told that panchayats sought money from both parties and were uninspired to intervene unless cash was involved.²¹ Namita Raje also makes the point that Nari Adalats ensure speedy redressal of grievances for affordable fees, unlike the local-level panchayats, who charge a hefty amount.²²

²⁰ See, for example, Common Cause and CSDS, 'Status of Policing in India Report 2018: A Study of Performance and Perceptions' (*Common Cause & Lokniti* 2018) <<https://www.commoncause.in/pdf/SPIR2018.pdf>> accessed 19 November 2020; Armed Conflict Resolution and People's Rights Project, Center for Social Sector Leadership and International Human Rights Law Clinic, 'Access to Justice for Women: India's Response to Sexual Violence in Conflict and Social Upheaval' (*University of California, Berkeley and Haas School of Business* 2015) <<https://www.law.berkeley.edu/wp-content/uploads/2015/04/AccessToJustice.pdf>> accessed 20 November 2020.

²¹ Nagaraj (n 5)436.

²² Namita Raje, 'Nari Adalat: A Beacon for Women in Distress' (2017) 17(3) *NewsReach* 19, 25.

Faith, fear, and trust also play a role in determining whom people approach. Santosh Kharat²³ opined that people approached the *shakhas* because they trusted Balasaheb Thackeray, leader of the Shiv Sena. Vilas Saranganath Tupe²⁴ believes that people seek the police's help because they believe the other side is scared of the police. Shamlal Patel²⁵ said that an ordinary person cannot withstand the pressure of courts, where cases drag on, creating a bad atmosphere in the family and leading to gossip in society. Vijay Jagannath Bange²⁶ attributed people's closeness to *shakha* workers as their reason to seek out the Shiv Sena.

Speaking of the role of lawyers in courts, Tulsi Grewal²⁷ said that lawyers confuse clients after charging them hefty fees, while Shivamurthy Shivacharya Mahaswamiji²⁸ opined that people feel that the legal aid system does not give them the best lawyers. The Swamiji also revealed that parties approach him when they do not have the legal documents necessary to prove their case in court.

III. FUNCTIONING OF NON-COURT FORUMS

The perception of local and customary forums as providing quick, effective, and flexible means of dispute resolution is well-documented, and these traits are even considered desirable.²⁹ In this part of the paper, we will examine how non-court forums deal with disputes and resolve them. We compare the responses of interviewees to the accounts of researchers who have studied the working of specific forums for similarities and/or differences in parties' experiences of dispute resolution. In our analysis, we focus on adherence by these forums to a significant constitutional principle, the rule of law, as well as their attitudes towards women's rights.

A. Ideas of Justice

First, and most important, we consider what the idea of 'justice' is for the interviewees. According to Swamiji, "Justice means to remove the mental agony and torture caused to a person by another person; to protect a sufferer from the hands of an oppressor." Vijay Jagannath Bange said, "When both the parties are happy, that is what we consider justice. We keep this in mind when

²³ Interviewee. Refer to Annexure for details.

²⁴ Interviewee. Refer to Annexure for details.

²⁵ Interviewee. Refer to Annexure for details.

²⁶ Interviewee. Refer to Annexure for details.

²⁷ Interviewee. Refer to Annexure for details.

²⁸ Interviewee. Refer to Annexure for details.

²⁹ Nagaraj (n 5) 434.

we work. No party should leave unhappy.” Santosh Dahiya³⁰ stated, “When both parties arrive at a consensus, that is justice. A judgment is given on the basis of facts - [but] that is a decision, it is not justice. Justice is when both parties agree that something is correct.”

We find Mr. Bange and Dr. Dahiya’s conception of ‘justice’ problematic because they approach it in terms of (re)conciliation exclusively, without regard for the role played by power imbalances/inequality in arriving at a settlement, and thus, they do not consider the rights of parties at all. They also seem to disregard that the first step in any dispute is to ascertain the facts, then understand whether (and whose) rights are involved, whether they are violated, and by whom. Without considering any of this, dismissing decisions made by courts and legal institutions, on the basis of facts and proper procedure, as mere ‘judgments’ flies in the face of the very justice they espouse. Further, justice does not require a person to fore go their legal entitlement merely to appease another, who may be in the wrong, to settle a dispute.³¹

Several other troubling views on justice emerged from the interviews. Mahinder Singh Nandal’s³² conception of ‘justice’ is based on tradition; he believes that a decision taken in accordance with traditions that have been in place for over thousands of years constitutes justice. In his turn, Tasvir Singh Rathi³³ said, “Justice means making the absolutely right decision by filtering everything else....In 99 per cent of cases that come to the [*khap*] panchayats, the truth comes out. And it is based on these truths that we render justice. We don’t give judgments, we render justice.”

Almost no society in the twenty-first century functions the same way as it did in previous decades, which is why even statutes are modified over time to reflect societal changes. Thus, relying on traditions to determine the entitlements of a person is intensely problematic, and more so for women, as several traditions in India are gendered and have a patriarchal foundation. Further, the belief that the truth will ‘come out’ is not just problematic in the absence of an adversarial system (which the courts follow), but also because of the lack of due process (discussed in the paragraphs below), which is both an arbitrary and naïve approach to render justice.

³⁰ Interviewee. Refer to Annexure for details.

³¹ In *Alagu Pharmacy v N Magudeshwari* (2018) 8 SCC 311, the Supreme Court held that a tenant has a right not to be evicted unless the relevant statutory grounds for eviction are satisfied. This right will not be extinguished even if the tenant has entered into a compromise with the landlord.

³² Interviewee. Refer to Annexure for details.

³³ Interviewee. Refer to Annexure for details.

Contrast this to what Justice Raveendran,³⁴ retired judge of the Supreme Court of India, said in his interview: “For judges, justice means ... giving speedy justice, giving efficient justice, giving justice in a fair and impartial manner after hearing the party(ies) ... with equality, equity, compassion.”

B. Composition of Non-Court Forums

We consider next the gender composition of non-court forums and the need for gender representation, particularly when women are involved as disputants. Om Prakash Nandal³⁵ stated that *khap* panchayats do not have a woman *pradhan* (head), and men usually hold that position. Mahinder Singh Nandal clarified that women do participate now in *khap* panchayats, as opposed to earlier, but disclaimed the existence of ‘women’s disputes’ as such, saying that there are only issues that involve society, which includes both women and men. Santosh Dahiya, claiming to be the first woman member of a *khap* panchayat, appointed in 2010, said that a women’s wing is essential, because discussing or solving women’s problems without them would be unfair.

It is not our argument here that only women can understand or support a woman’s case. However, where women’s rights are concerned, a woman-centred approach, which places women’s interests as a starting point, is essential. Women arbitrating publicly supports such an approach, and is fundamental to reshaping norms about women’s public roles.³⁶ Gender neutrality also means that rules must be applied uniformly, regardless of gender. Santosh Kharat mentioned that women play an active role in the *shakhas*, with a majority of workers being women, and that every *shakha* has a woman leader.³⁷ However, in her exposition of Shiv Sena as an emergent constituent of legal pluralism in Mumbai, Julia Eckert notes that in daily practice, issues of women’s rights, particularly in family matters, are dealt within contradictory ways, differing from one *shakha* to another and depending on specific local conditions.³⁸ Therein lies the problem of disregarding the rule of law in dispute resolution – the lack of uniformity in the application of established principles paves the way for arbitrariness and the manner of resolution is rendered completely dependent on the person hearing the dispute, rather than on the legal rights and entitlements of disputants.

³⁴ Interviewee. Refer to Annexure for details.

³⁵ Interviewee. Refer to Annexure for details.

³⁶ Bhatla and Rajan (n 5) 1660–63.

³⁷ DAKSH’s interviewer noted that a fair number of women approached the Shiv Sena for assistance.

³⁸ Eckert (n 5) 45.

C. Processes and Procedures

We now consider the processes followed by the non-court forums. Broadly, they adopt two methods in the resolution of disputes: (a) mediating a settlement between the parties; and (b) hearing the parties and giving a decision. Swamiji follows the former process in the Saddharma Nyaya Peetha (he is called a mediator), while the *khap* panchayat, gram panchayat in Haraj Khedi, and panchayat in Singariyawan follow the latter.

When a disputant approaches Swamiji with a petition, he notifies the opposite party to appear. He hears the claims of both parties, questions them, and brings about a settlement between them, the terms of which are reduced to writing and signed by the parties. By his own admission, Swamiji uses his moral authority to ‘pressurise’ people into appearing before him and settling their dispute. He also mentions that he does not pass a unilateral judgment. Instead, he facilitates a consensus or amicable understanding amongst the parties, so that neither is unhappy or finds the need to approach the courts.

At the panchayat in Singariyawan, once a dispute is brought to the *sar-panch*, a notice is issued to the parties and other panchayat members to appear. Five panchayat members are then assigned to each side. These five members hear the parties, then meet the other panchayat members and give their decision. The panchayat members themselves generally discuss and resolve the dispute; however, in some cases, the matter is placed before village residents, elders, and distinguished persons for resolution.

According to Tasvir Singh Rathi, a committee of four, eight, or nine villages is usually constituted to decide disputes in the *khap*. The committee members sit in a closed room, listen to the parties, discuss the matter, and decide who is right and wrong. Their decision is read out by the *pradhan*. If one of the parties apologises, they request the other party to accept their apology. However, if the other party does not accept the apology, he is told to “go to court and waste [his] money”.³⁹

1. *Framing of Issues*

A significant aspect of the resolution of disputes by non-court forums is how they identify and frame the issues that constitute the crux of a dispute. Where an alleged violation of rights forms the core of the dispute, the first step would be to acknowledge that a right, constitutional or statutory, exists.

³⁹ This disapproval, near contempt, towards courts, lawyers, and legal procedures was implicit in several interviews with *khap* panchayat members.

However, what is often seen is a solution-oriented, conciliatory approach, which does not always aid in their cognition of rights, let alone redressal.

There are several examples of this latter approach in existing academic literature. Eckert describes the case of a woman whose husband was granted a 'customary divorce' by a Shiv Sena *shakha pramukh* and allowed to retain the dowry, since the woman had not worked hard enough in the marital home. Although the woman's family first accepted the 'verdict', they sought an NGO's help to prove that the husband had had an affair. The *shakha pramukh* then reversed his decision.⁴⁰ Nagaraj notes the use of 'bond-paper' agreements drafted by local forums to secure a compromise, particularly in cases of violence against women in families, where seeking written assurance of a husband's good behaviour becomes a strategy to maintain peace in the family.⁴¹

Even the 'all-women courts' (including Nari Adalats) are not immune to this, and considerable concern has been expressed by feminist scholars that such 'courts' cannot escape being influenced by patriarchal Indian cultural assumptions about appropriate feminine behaviour and women's roles and responsibilities within marriage and society.⁴² Thus, a woman petitioner is persuaded by a panel of mediators who share a common set of cultural assumptions and beliefs with her to enter into a compromise settlement that entails her agreeing to constraints on her freedom of movement, association, ability to dispose of her own earnings, and so on.⁴³

It is not only the patriarchal framework, but also the paternalistic approach that often drives decision-making in dispute resolution in non-court forums, which is problematic. In a country, where even High Courts are occasionally unable to eschew their paternalistic tendencies when dealing with matters relating to women's autonomy, agency, and choices,⁴⁴ such gendered paternalism is exacerbated in non-court forums, owing to their lack of accountability. Om Prakash Nandal said that even in disputes involving women, women are not usually allowed in the *khap* proceedings. If the *khap* members feel it is necessary to hear the women, they do so, but then ask women to wait outside during discussions and deliberations.

⁴⁰ Eckert (n 5) 46.

⁴¹ Nagaraj (n 5) 441.

⁴² Vatuk (n 2) 77.

⁴³ *ibid.*

⁴⁴ The Kerala High Court judgment in the Hadiya case *Asokan KM v Supt of Police* 2017 SCC OnLine Ker 5085 is a prime example (Kerala High Court). Eventually, it was overturned by the Supreme Court in *Shafin Jahan v Asokan KM*, (2018) 16 SCC 368 (Supreme Court of India).

This was demonstrated starkly during DAKSH's interaction with the *khap* panchayat in Rohtak, Haryana.⁴⁵ The question before the *khap* panchayat then was whether a widow should have custody of her children or her deceased husband's brother should be granted custody since he had the financial means to look after them. It was perplexing that during the hearing, the widow was nowhere in sight – her male relatives spoke on her behalf. Keeping aside for a moment the obvious legal issues, let us consider whether it is even fair that a woman, whose children's custody is being determined, is not given an opportunity to be heard in person. It is quite possible that the woman had agreed to be represented by her male relatives, but this lack of autonomy and agency itself is rooted in deep socio-cultural norms, the same norms that make it convenient for decision-makers to refuse to recognise a woman's autonomy or basic legal entitlements in the twenty-first century.⁴⁶

2. *Evidence and Records*

The attitude of non-court forums towards evidence and records is astounding. Santosh Dahiya's account of how even a murderer may be punished by the *khap* panchayat was:

Imagine a murder occurs in front of you. If you don't have evidence, then the murderer will not be punished, since courts' decisions are based on evidence. However ...we don't need evidence, we only need the two people involved, the one who has suffered and the one has caused it. In court, you can bribe witnesses to give evidence, but here, you can't do anything like that, because both the parties are present in front of you.

This statement, although absurd and outrageous, is difficult to dismiss as an 'outlier'. For one, it was made in earnest response to a question of how disputes (even crimes) are (re)solved by the *khap*. For another, it is reflective of the approach of other non-court forums that we examine here. Further, other authors have also indicated such an approach. For instance, describing the work of sharia courts, Bittoo Rani says, "Avoiding legal maxims, the verdict of the *qazi* as judge is based more on common sense knowledge and actual social reality than on abstract legal principles."⁴⁷ Disregarding the basic principles of natural justice and fundamental principles of evidence and standard of proof is contrary to the values enshrined in our Constitution, particularly the dearly

⁴⁵ The interviewer is the source of this information – it is not recorded on video.

⁴⁶ When questioned about this by the interviewer, Mahinder Singh Nandal explained that although the woman was not present, her relatives presented her perspective. Women have never been proscribed from *khap* panchayat proceedings, he said, but stay away out of respect.

⁴⁷ Rani (n 5) 131.

held and highly regarded Article 21, which assures an individual that her life or personal liberty will not be deprived except according to procedure established by law. Swamiji also admitted that while dealing with disputes, he does not look at law books, but considers ‘human suffering’.

Record-keeping is also alien to several non-court forums, as DAKSH’s interviewer discovered. Other than Swamiji, who said he maintains records of all settlements that he has mediated, none of the other representatives interviewed did. Indeed, in the *khap* panchayat, the interviewer witnessed the decision being written on a piece of paper, shown to the disputing parties, and then immediately destroyed. A Shiv Sena representative explained that they do not maintain detailed records (other than names of parties and their dispute), although they used to earlier.⁴⁸

D. Sanctions

While the notoriety of *khap* panchayats, owing to their dogmatic views and violent actions against people who marry in violation of caste rules can be said to be well-earned⁴⁹ perhaps not quite as exposed is the discrimination between men and women even when sanctions are imposed against them for the same alleged offence, although it must be said that the imposing of sanctions is itself illegal since the *khap* is not a court of (criminal) law. To illustrate – a couple who got married in an alleged violation of a prohibited relationship was expelled from the village for life. While the man’s family was to be expelled from the brotherhood and socially boycotted for two years, the woman’s family was excommunicated from their *gotra* and were socially boycotted for life.⁵⁰ Thus, a harsher punishment was prescribed against the woman’s family, making her (and them) bear the burden of preserving community honour.

1. Social Boycott

When questioned about the sanctions imposed on parties, the views of *khap* members were inconsistent. Mahavir Singh Nandal explained that if a boy and girl from their community get married in violation of tradition, they are told to leave the locality and live elsewhere. Om Prakash Nandal, Mahavir Singh Nandal, and Santosh Dahiya endorsed the social boycotting of wrongdoers by the *khap*. Dr. Dahiya stated that social boycotting was the only punishment; not financial sanctions or anything else. According to her, social boycotting means “nobody communicates with him [wrongdoer]; nobody will give or

⁴⁸ According to him, record keeping (including maintaining case papers) was discontinued owing to its difficulty. He also mentioned that some issues tended to become the subject-matter of police inquiry.

⁴⁹ See Chowdhry (n 7) and Gurtoo (n 5).

⁵⁰ Chowdhry (n 7) 12.

take anything from him...he will be isolated". However, according to Tasvir Singh Rathi, the wrongdoer is asked to apologise to the aggrieved party, failing which, parties are advised to approach legal authorities.

Swamiji admitted that although his predecessors used to prescribe social boycott as punishment, he does not impose it or any punishment; instead, he asks wrongdoers to pay compensation to the aggrieved.

2. *Coercion and Force*

Talking about how the Shiv Sena enforces its decisions, Vijay Jagannath Bange said that if a party does not agree to compromise, they use the 'Shiv Sena style' to convince them. Shiv Sena's infamy for using force and violence to express their political and social views is well documented.⁵¹ It is also well-documented that women in the *shakhas* also pride themselves on their power and influence, declaring, "When we ask a man to come it is an order"; "If they do not come, they will regret it"; and "They know we'll use violence".⁵²

Although Nagaraj concedes that the element of persuasion, undue force, and coercion cannot be ruled out as factors that produce a compromise settlement – the outcome of a quick and effective resolution – she argues that no reliable data exists either about compromise settlements arrived at in police stations, nor the extent to which women's interests are secured in the process,⁵³ thus making the point that even lawful authorities are not immune to making unlawful decisions.⁵⁴

However, this normalisation of coercion and violence in the 'settling' of disputes is hardly an effective or long-lasting resolution. On the contrary, it is likely to result in greater animosity and spur more disputes. Indeed, what is the value of a 'settlement' that emerges from implicit or explicit threat or coercion? To be constitutionally valid, any dispute resolution process must, at the very minimum, assure the absence of threat, coercion, and force.

In this context, *Figure 6* reveals an interesting finding from the survey. Responses about the problems people faced when they approached non-court forums show that female respondents reported higher levels of stress, threats, and pressure when compared to male respondents. This is most likely

⁵¹ Suhas Palshikar, 'Shiv Sena: A Tiger with Many Faces?' (2004) 39(14/15) EPW 1497, 1501.

⁵² Eckert (n 5)37.

⁵³ Nagaraj (n 5) 434, 446.

⁵⁴ That Lok Adalats too often badger (if not coerce) litigants into settling cases has been claimed.

attributable to the burden on women to keep family matters private, with any attempt to seek their entitlements being seen as sabotaging familial ties or bringing disgrace to the family.⁵⁵ Further, a higher percentage of male respondents than female respondents stated that they faced “no problems”.

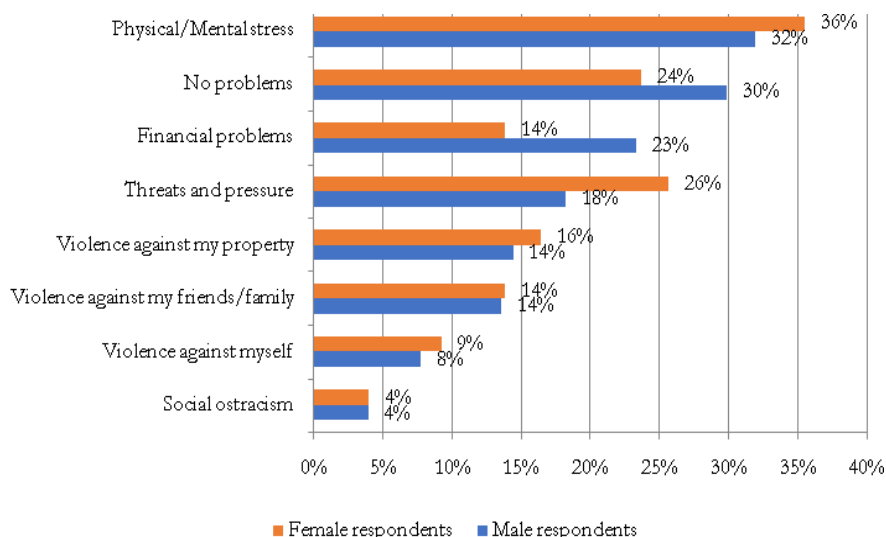


Figure 6. Problems faced in the resolution of disputes before non-court forums

IV. THE RULE OF LAW TEST

The simplest explanation of rule of law is that it is ‘not’ the rule of men. For our purposes, the rule of law formulation is dependent on the political objectives laid out in the Indian Constitution.⁵⁶ Our understanding of this formulation and its importance is based both on the text of the Constitution, including the Preamble, as well as various judicial interpretations of both.

A measurable, practical perspective of the rule of law is also of value to us, as that offered by the World Justice Project (‘WJP’), which identifies certain ‘universal’ factors as comprising the rule of law.⁵⁷ Factors considered by the WJP in preparing its ‘Rule of Law Index’ are the accessibility, impartiality, and efficiency of alternative dispute resolution systems (mediation and

⁵⁵ Men seem to face greater financial problems, indicating that they hold and manage the family’s earnings.

⁵⁶ Harish Narasappa, *Rule of Law in India: A Quest for Reason* (OUP 2018) xxix.

⁵⁷ See World Justice Project <<https://worldjusticeproject.org>> accessed 23 October 2020.

arbitration) in enabling parties to resolve civil disputes.⁵⁸ In criminal disputes, the WJP considers whether rights of both victims and accused are effectively protected.⁵⁹ On fundamental rights, the WJP measures, *inter alia*, whether a person's right to life and security, due process of law, and right to privacy are effectively guaranteed.⁶⁰ The WJP also examines 'informal justice' by traditional, tribal, and religious courts, and community-based systems and their role in resolving disputes. Further, the WJP assesses whether these dispute resolution systems are timely and effective, whether they are impartial and free of improper influence, and the extent to which these systems respect and protect fundamental rights.⁶¹

Applying these considerations, we note that the working of non-court forums, and their processes and procedures, are not in consonance with the principles of liberty, equality, and justice enshrined in the Preamble to the Constitution, the fundamental rights to equality and non-discrimination made explicit in Chapter III, or the recently recognised fundamental right to privacy.⁶² They also do not hold up against the WJP's measures of impartiality and freedom from improper influence of alternative dispute resolution/informal justice systems.

A. Justice or Preservation of Tradition?

To achieve 'effectiveness' in justice delivery, non-court forums reiterate and rely on traditions and existing societal structures, including caste, patriarchy, and paternalism. These structures are also the source of their authority to decide disputes, continued by history and convention, rather than law or legal process. In most cases, even this authority is bestowed on them *de facto*, by

⁵⁸ See World Justice Project, 'WJP Rule of Law Index Factors: Civil Justice' <<https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/factors-rule-law/civil-justice-factor-7>> accessed 20 November 2020.

⁵⁹ See World Justice Project, 'WJP Rule of Law Index Factors: Criminal Justice' <<https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/factors-rule-law/criminal-justice-factor-8>> accessed 20 November 2020.

⁶⁰ See World Justice Project, 'WJP Rule of Law Index Factors: Fundamental Rights' <<https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/factors-rule-law/fundamental-rights-factor>> accessed 20 November 2020.

⁶¹ Owing to complexities and difficulties of measuring the fairness and effectiveness of informal justice mechanisms systematically and comparatively across countries, 'informal justice' is not included in the WJP's 'Rule of Law Index'. See World Justice Project, 'WJP Rule of Law Index Factors: Informal Justice' <<https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/factors-rule-law/informal-justice-factor-9>> accessed 20 November 2020.

⁶² *KS Puttaswamy v Union of India* (2017) 10 SCC 1 (Supreme Court of India); the Supreme Court recognised the primacy of the individual, particularly as the beneficiary of fundamental rights.

virtue of their lineage, gender, caste, or age, rather than their ability to mediate, be unbiased, or empathise.

Proponents of legal pluralism would argue that history is replete with instances of laws having developed from social customs and societal practices in the absence of any form of government, and would contend that culture as an element of justice has been ignored by the state.⁶³ However, what this argument fails to recognise is that non-court forums' reliance on culture as an element of justice contravenes constitutional principles. Notions of fairness, dharma, and *bhaichaara*⁶⁴ are, on their own, over broad, vague, and arbitrary. These notions should not be applied in adjudicating matters involving the violation of rights. Swamiji looks at human suffering rather than law books to decide cases. Although this seems like an approach rooted in fairness, one may ask, is putting a person's hardships on a higher footing than another's legal entitlements 'fair'? Even courts are urged to consider equity before passing judgments, but not by overlooking law.

More dangerously, for women disputants, these determinative principles are not only stifling, but are violations of rights in themselves. For example, kinship pressures are applied to keep violent marriages intact, so as to preserve family and uphold honour. The individual and her rights are therefore ignored. Indira Jaising mounted a challenge to legislation on women's rights when she asked:⁶⁵

...have we succeeded in radically reshaping rights by looking at women as autonomous individuals, rather than as appendages to a family, husband or father; do our laws support and encourage individuation and autonomy of women or ... are women who talk of "autonomy" considered "aggressive" and hence deviant from the norm of the good woman?

Her question seems just as relevant to justice delivery. And the answer, lamentably, is no.

B. Subjectivity and Uncertainty

Justice delivery by individuals who are neither trained nor encouraged to keep aside personal beliefs and prejudices produces subjectivity. Impartiality is

⁶³ Rani (n 5) 130.

⁶⁴ 'Brotherhood', espoused by the *khap*, and mentioned by 'every' member of the *khap* interviewed by DAKSH.

⁶⁵ Indira Jaising, 'Evolution of Women's Legal Entitlements' in Devaki Jain and CP Sujaya (eds), *Indian Women: Contemporary Essays* (Publications Division, Ministry of Information and Broadcasting 2015) 20.

forfeited in the pursuit of varying approaches to justice and dispute resolution. From subjectivity and lack of neutrality arises uncertainty – the very antithesis of rule of law and justice. Refusal to maintain records and precedents, and failure to provide reasoned orders, further encourages subjectivity and accentuates uncertainty.

Swamiji's practice of maintaining detailed records is laudable, but he began this practice and there is no guarantee that his successor will follow it. Neither is it assured that Swamiji's successor will apply principles of adherence to dharma, fairness, and reducing suffering to resolve disputes, nor that they will eschew unlawful punish mentor refuse to decide criminal cases, as he does, since these are not institutional practices.

C. Settlements as Outcomes

While non-court forums may provide quick justice delivery, to achieve this, they sacrifice even basic principles of natural justice that should inhere any dispute resolution process. These forums ignore facts, eschew procedure, and dismiss evidence. Non-court forums thus seem to employ a backward approach to justice – tailoring the process to suit the desired result, rather than allowing the process to enable the outcome. Since decisions in local forums are not limited to ascertaining right and wrong, there is a demand to appease both parties.⁶⁶ Given this, settlements must be achieved at any cost, even if coercion, threat, or outright force is used in the process. Tragically, this renders the process itself unlawful.

D. Accountability

It may be argued that on several occasions, the decisions rendered by courts also fail to escape the pitfalls outlined above. However, every rule and decision of a court must satisfy the absence of bias, arbitrariness, coercion, non-application of mind, non-adherence to established procedure – amongst other tests – and higher courts often overturn those decisions that fail even one of them.⁶⁷ A crucial difference is that courts' judgments can be, and are, appealed (or at least, reviewed). The right to file a plea against an arbitrary law or action that

⁶⁶ Nagaraj (n 5) 442.

⁶⁷ In *Bachan Singh v State of Punjab* (1980) 2 SCC 684 : 1982 Indlaw SC 195 (Supreme Court of India), [196–7], Bhagwati, J has observed that the rule of law requires absence of arbitrariness, unreasonableness, and irrationality, that it requires the test of reason to be satisfied, and that Articles 14, 19, and 21 of the Indian Constitution 'breathe vitality' in the concept of rule of law. For more rulings, as well as for a detailed discussion on the judicial interpretation of rule of law and what it means in practice, see Narasappa (n 56), ch 3. Narasappa examines and analyses the judiciary's various views, calling them 'crucial' for infusing practical meaning and strength into the rule of law principle.

violates a person's fundamental right is itself a fundamental right under the Indian Constitution (Article 32).

Accountability is grievously lacking in the work of non-court forums. Citing reasons such as trust, faith, and fear, and drawing authority from their status as community elders, religious heads, and caste leaders, they often disrespect the rule of law, demonstrate impatience, disapproval, and disdain for the both the law and court processes, but are not answerable (nor made to be) for their decisions.

V. FAILURE OF THE STATE AND THE JUDICIARY

Our consternation stems from a key finding from DAKSH's survey, that a mere 32% of people who have disputes approach non-court forums for resolution, and intensifies because both the state and the judiciary have failed in their constitutional obligations to provide citizens access to justice that is lawful, speedy, inexpensive, and effective.⁶⁸ This means that the remaining 68%, who 'have' reposed faith in the judiciary and lawful means, are in for a long and expensive wait. Consider this – the average pendency of cases is three years in the High Courts and six years in the subordinate courts,⁶⁹ and it is estimated that litigants spend approximately ₹50,000 crores per annum (0.5% of India's annual GDP in 2016) just to attend hearings.⁷⁰

It was to ensure access to justice at the grassroots level that Gram Nyayalayas were established under the Gram Nyayalayas Act, 2008. Presided by *Nyayadhisikaris*, who are persons eligible to be appointed as First-Class Judicial Magistrates, Gram Nyayalayas were to be set up to provide convenience and access to justice, while ensuring adherence to the rule of law. However, their functioning leaves much to be desired. While 2,500 Gram Nyayalayas were to be set up in accordance with the 12th Five Year Plan, a mere 159 Gram Nyayalayas are said to be functional.⁷¹ With District and

⁶⁸ Nagaraj (n 5) 432. She notes the argument of some scholars that a resurgence and reconfiguration of local and customary practices occurs where the formal legal system is itself going through a crisis, affecting the very definition of rules and legality.

⁶⁹ See Arunav Kaul, Ahmed Pathan, and Harish Narasappa, 'Deconstructing Delay: Analyses of Data from High Courts and Subordinate Courts' in Harish Narasappa, Shruti Vidyasagar, and Ramya Sridhar Tirumalai (eds), *Approaches to Justice in India: A Report by DAKSH* (DAKSH and EBC Lucknow 2017) 92. However, DAKSH's work has shown how even small procedural changes can have a large impact on reducing backlog in the courts.

⁷⁰ See Narasappa (n 4) 153.

⁷¹ See Ashwini Obulesh, 'Institutionalising Justice: Gram Nyayalayas and Consumer Courts', in Harish Narasappa and Shruti Vidyasagar (eds), *State of the Indian Judiciary: A Report by DAKSH* (DAKSH and EBC Bengaluru 2016) 202. Some news reports of an ongoing PIL in the Supreme Court indicate that 208 Gram Nyayalayas are currently functional: Press Trust of India, 'SC Directs States to Issue Notification for Establishing "Gram Nyayalayas"'

Sessions Courts being empowered to transfer cases to Gram Nyayalayas for their speedy disposal, the lack of functional Gram Nyayalayas demonstrates failure on the part of the Indian state and judiciary in taking adequate steps to ensure access to justice for its citizens.

In the context of women seeking redressal for acts of violence, even the establishment of Nari Adalats (as a local dispute resolution body to handle matters of violence against women), though laudable, seems to highlight the lack of inclusivity and accessibility for women in formal justice delivery mechanisms.

VI. CONCLUDING REMARKS

The adjudication of disputes by non-court forums, although informal in nature and (often) legally non-binding, can have a lasting impact on the legal rights and entitlements of individuals, given the social structures and frameworks within which they operate. Non-court forums should not be any less accountable than other legally established ones for not only the decisions they render, but also the manner in which they reach their decisions, the reasoning underlying those decisions, and the means of their enforcement. The failure of the state in ensuring speedy and effective means of dispute resolution, coupled with citizens' lack of legal awareness, has enabled the decisions of such non-court forums to gain legitimacy in the eyes of citizens, thereby eroding the rule of law.

Given that justice, and how it is delivered, are both central to dispute resolution, and particularly to the issue of redressal of rights' violations, there is a need to provide effective means of accessing justice in order to uphold the values enshrined in the Constitution. As lawyers and citizens, we cannot countenance any derailment in the quest for justice, especially in today's circumstances, when competing interests must be balanced not only between individuals, but also amongst individuals vis-à-vis the society and community. Both justice, whose underpinnings are equity, fairness, morality, and virtue, but ultimately (and most significantly for us as Indians) the Constitution itself, and access to justice must be driven by means and methods that embody empathy, certainty, transparency, and accountability. This can only be done by building institutions that offer everyone agency, autonomy, and dignity as individuals, while also empowering the society as a whole.

(*Financial Express*, 3 February 2020) <<https://www.financialexpress.com/india-news/sc-directs-states-to-issue-notification-for-establishing-gram-nyayalayas/1854657/>> accessed 25 February 2021; *National Federation of Societies for Fast Justice v Union of India* WP(C) No. 001067 of 2019 (Supreme Court of India).

VII. LIMITATIONS AND FUTURE RESEARCH

Since not all non-court forums working in India are represented in the documentary, future research could include examining the working of other non-court forums. Additionally, future research could focus on women disputants and the nature of disputes they face (not merely family issues) for a deeper understanding of women's experiences in such forums.

Annexure. Persons interviewed for the JANA video documentation project

No.	Particulars	Interview date
1.	Mahinder Singh Nandal, Former Pradhan, Nandal <i>Khap</i> , Haryana	24 March 2017
2.	Tasvir Singh Rathi, Pradhan, Rathi Nogama <i>Khap</i> (Nine Villages), Haryana	24 March 2017
3.	Om Prakash Nandal, Pradhan, Nandal <i>Khap</i> , Haryana	24 March 2017
4.	Tulsi Grewal, Pradhan, Meham <i>Khap</i> , Haryana	24 March 2017
5.	Santosh Dahiya, President, Sarav <i>Khap</i> Sarav Jaat Mahapanchayat's Women Wing, Haryana	25 March 2017
6.	Ananti Devi, Sarpanch, Singariyawan Panchayat, Bihar	26 March 2017
7.	Vilas Saranganath Tupe, Retired Assistant Commissioner, Mumbai Police Department, Maharashtra	4 May 2017
8.	Vijay Jagannath Bange, Shiv Sena Shakha Pramukh, Worli BDD Chawl, Mumbai, Maharashtra	5 May 2017
9.	Santosh Kharat, Advocate, Corporator in Brihanmumbai Municipal Corporation (Shiv Sena Party), Nagar Sevak, Worli BDD Chawl, Mumbai, Maharashtra	5 May 2017
10.	Thakur Prasad Varma, Former Sarpanch, Haraj Khedi, Madhya Pradesh	7 May 2017
11.	Kiran Varma, Sarpanch, Haraj Khedi, Madhya Pradesh	7 May 2017
12.	Shamlal Patel, Vasuli Patel, Haraj Khedi, Madhya Pradesh	7 May 2017
13.	Shivamurthy Shivacharya Mahaswamiji, Jagadguru of Sri Taralabalu Jagadguru Brihanmath, Karnataka	12 September 2017
14.	R.V. Raveendran, Retired Justice, Supreme Court of India	18 February 2018