

Chapter-9

Formation of Mahila Nyaya Samiti

Many NGOs and Nayaya Samities are working for the upliftment of women. SWATI (Society for women's Action and Training Initiative) has been working for the social and economic empowerment of women in Surendra Nagar District of Gujarat State. Swati works in four blocks through black level women's collectives called the Mahila Vikas Sangh (MVS). every six thousand women in three blocks are members of the MVS. SWATI has taken up the issue of violence against women and systematically built up a facilitative environment of awareness and support at the village level and professional as well as institutional support mechanism at organizational level.

Typically, SWATI's initial work on violence involved working with the formal system for addressing cases of violence. This it did through establishing legal aid and counseling support service for women facing violence and discrimination, creating legal rights awareness and mobilizing community support at the village through various forums, including formation of vigilance committees. The Mahila Nyaya Samitis (Women Justice Committees), as these forums are called, are administered by women. Trained and equipped with a gender just approach.

The Nayaya Samiti have been activated over the last year through a process of training and actual handling of cases. The Samitis are today active in two blocks of Patdi and Dhrangadra in Surendra Nagar District. In order to equip and orient the Mahila Nayaya Samities, SWATI carried out intensive training of Sangha (Village Collective) level women leaders. Over 45 women in two blocks of Patdi and Dharangadra were trained. The training programme involved building a Feminist perspective on violence against women imparting knowledge of the laws for women, legal and extra legal mechanisms, counseling record keeping and arbitration skills. The Samitis are already functioning in Patdi and Dhrangodra block under the aegis of the Mahila Vikas

Sangh. The platform has given them a community based identity and a sanctity that spans across communities.

Utthan (Rising) like SWATI is organization works for the upliftment of women. Utthan realizes that politics of hatred and divisiveness is a major block to the process of empowerment, justice and progress of the vulnerable communities. Hence, any efforts to address these issues would require creating an enabling environment that would help access justice, peace and better quality of life. Utthan Samiti is doing work in Panchmahal and Dahod districts of Gujarat. The concept of an institutionalized set up like the Nyaya Samiti to deal with violence cases is slowly evolving here. Capacity building of leaders through paralegal training, Feminist perspective on gender and violence Against women. Strategies of working with men and youth, dealing with law giving structures like the police and courts, sharing workshops with other Nyaya Samitis to analyze interventions has been taken up.

When women bring their issues to Nyaya Samiti, they fill their registration for MS, collect required documents and maintain the case and counseling registers. They work with lawyers to bring required cases to the court. The Nyaya Samitis are also attempting to establish referral links for victims of violence who need support for short stays etc. Utthan Nyaya Samiti did following activities.

- 16 day campaign from 25 November 2004 to the 10 December 2004 (International day on violence against women to International Human Rights day).
- Sammelan on Human Rights day.
- Survey on Skewed Sex Ratio and Public Sammelan.
- Capacity Building with Youth.

Following are Utthan's interventions on this aspect-

- Initiating and promoting processes to built bridges between the communities in conflict, through various dialogues and processes, sharing grief and understanding that root causes of conflict.
- Engaging members from different communities around gender issues of livelihood security.
- Strengthening leadership, especially within Muslim women and youth, there by encouraging them to actively and participate in public domain.
- Building awareness amongst diverse communities about the vulnerabilities that could lead to division and conflict.
- Main streaming peace perspective in other programs and institutions in seemingly communally non conflict areas from the context of diversity, responsible citizenship interfaith dialogue as well as revisiting common inter cultural practices and sacred places of common faith.
- Campaigning and mobilizing against violence on women.

Formation of Women Nyaya Samiti (Welfare Society in Bijnor).

Bijnordistrict occupies the North-West corner of the Moradabad Division. Historically it was the part of Panchal in ancient times, Katehar in medieval time and after the downfall of great Mughals it become the part of Rohilkhand Division. According to 2011 data district has 3682910 population in which Female population is 1761583. Culturally Bijnor district may regarded advanced area. Many literary figure belong to this district. Last decade saw the tremendous growth of crimes. To check crime, administration alone can not check crime against women but NGOs and cultural group also participate in this programme Nayay Samitis should be constituted on four levels Viz district, Block, Urban areas & village.

District Women Naya Samiti

District women Nayay Samiti will be upper body to listen the problems of women. It will provide legal help to women victim of any type of violence.

This body possess fifty members in which fifty percent will be women from different parts of district. Eleven will be selected from eleven blocks, nineteen from urban centres and rest twenty will be selected from various Socio-Cultural groups including teachers, lawyers, engineers, doctors and other qualified persons from society. A weekly meeting will be held to discuss the problems of women. Samiti will collect reports from blocks and urban areas through the representatives.

Urban Women Nyaya Samiti

According to 2011 census more than twenty five percent population reside in 24 urban areas of district. But only nineteen urban areas have population more than ten thousand. Important towns are Nagina (95246), Bijnor (93297), Chandpur (83441), Najibabad (88535), Sherkot (62226), Dhampur (50997), Seohara (48557), Nehtaur (42834), Noorpur (38806), Afzalgarh (29101), Sahaspur (24463), Barhapur (23456), Sahanpur (21639), Mandawar (21078), Jhalu (20978), Jalalabad (20360), Haldaur (19567), Mukerpur Khema (14089), Kotwali (11221) and Kiratpur (61186). Four towns have population below 10000. Urban women Nyay Samiti will be constituted on the base of size ie no of wards in a city. One person will be selected from one ward. If a town has twenty ward, then Samiti will have twenty plus one member one member will be part of district Nayaya Samiti.

Block Nayaya Samiti

Third tier of Samiti will be block Naya Samiti Bijnor district has eleven block. According to 2011 census eleven block has 2186 habited villages. Kotwali has maximum number of villages ie 339. Every block will have 25 plus one members. one member will represent block in district women Nayaya Samiti Every members will be chosen from one village for one year through rotation system after one year new 20 member will be chosen from different villages. It will be a powerful Nayaya Samiti to listen and solve the problems

of women. Block will have a list of all villages and every village can contact this samiti for women problem.

Village Women Nayaya Samiti

Fourth and last type of this organization will be village women Nayaya Samiti. Our villages are small republic. In ancient time every village was self sufficient in connection of community goods. A part from salt every thing was produced and processed in village. Aryans gave Panch Parmeshwar (God live in selected Panch) concept. Every dispute was village solved in this Panchayat. Famous Hindi writer Munshi Premchand in his famous story 'Panch Parmeshwar' shows how panch functioning honestly, rationally and fastly. If we improve our Village Sabha or Gram Sabha, burdens of Indian Court will be minimized.

There for every village of Bijnor have powerful women Nayaya Samiti. For running these Nayaya Samitis, main problem will be finances. In 2014 annual budget UPA Government declare a 1000 crore budget as 'Nirbhaya Budget' every year. In this way every district will get 1.6 crore every year. This budget should be based in Samities Functioning.

Jati or Khap Panchayat as Arbitrators

Jati or Khap Panchayat is the union of a few villages, mainly in North India though it exists in similar forms in the rest of country. Lately they have emerged as Quasi-Judicial bodies that pronounce harsh punishments based on age old customs and traditions, often bordering on regressive measures to modern problems. Khap or Jati Samiti is a cluster of villages united by caste and geography. It is as old as 14th century started by rural castes to consolidate, their power and position. The main rule is that all boys and girls within a Khap are considered siblings.

Jati Panchayat governs the Jati formed by same gotra (clan) families from several neighbouring village khap panchayats are prevalent in Haryana,

Western Uttar Pradesh and Parts of Rajasthan. Love marriages are considered taboo in areas governed by Khap or Jati Panchayat. Those living in a Khap are not allowed to marry in the same gotra or even in any gotra from the same village. Many young couples have been killed in the past defying khap rules.

Jati Panchayat imposes its writ through social boycotts and fines and in most cases end up either killing or forcing the victims to commit suicide. All this is done in the name of brotherhood and its honour. It is due to the inherent weakness of democratically elected Panchayati Raj institutions. Jati Panchayats have been powerful. Even the government has not done much to control their power the persons who constitute a khap panchayat settle disputes and control the lives of young people. Many village people also defend these caste panchayats as they deliver the verdict in one sitting whereas court cases drag for years. According to them, in many cases innocent people get harassed in the court and by police. Here as everyone is known so they cross check every thing to ensure neutrality.

In some parts of Northern India, the young girls are routinely threatened, abused and killed all under khap verdicts. It is acceptable for the families to feed pesticide pills to the teenage girls and then dispose off their bodies by burning them without any police records. The entire ones of siblinghood rests on the girl. She is the keeper of village honour some times rules are bend for the boys but a girl is never allowed to bend the rules. If a couple run away then the families risk the boycott and hefty fines in lakhs of rupees. Even the other women of the house can suffer abuse.

In keeping with the khap rules, older villages try to keep the young people apart some schools are also forced to have separate timings for the boys and girls. Fearing their daughters would go astray, many parents marry them off at an early age. People have unquestionable faith in the justice of khap. The question of rights for women does not exist any in the territories ruled by khap panchayats.¹

Justice J.S. Verma committee findings criticized the working of Jati or Khap Panchayats. Justices J.S. Verma committee said means adopted by them have assumed unreasonable proportions and asked the government to ensure such bodies do not interfere with choices made by people regarding marriage. The committee said actions of khap panchayats are extremely irrelevant for its consideration in the context of crime against women, Since one of the most prevalent practices to enforce writ was honour killing.

The Panel which was set up to suggest measures to tackle crime against women, dealt the issue in a separate chapter and said the logic of maintaining caste order by khap panchayats “Severly Limits” the freedom of freely choose one’s partner. The member panel, which also has justice Liela Seth and former Attorney General Gopal Subramaniam as its members, said “Measures of Khap panchayat like disallowing intercaste marriage does not have legal sanction under Hindu Marriage Act. This further emphasizes, a women’s honour. Thereby encouraging not just control of sexuality but also her marital choice by stigmatizing inter-caste marriages. This has much wider social and economic repercussions and restraining women’s free mobility affecting her education/employment and fundamental right”.

“It was of the view that the means adopted by Khap Panchayat to secure compliance of members of their community with their notions of mortality and right conduct in the name of culture and tradition, has assumed unreasonable proportions”, we expect the state to ensure that these institutions will not interfere with choice made by men and women in respect of marriage, it said. The panel noted that women have largely been targets of honour killing and it was extremely important for the committee to take note of this” social menace”²

Honour killing is the worst type of crime done on the recommendations of Jati or Khap Panchayat. At national level one case of honour killing of Haryana in which first time judiciary take strong action against culprits. That

case known as Manoj Babli honour killing case. I am quoting this case here. Manoj and Babli belong to same Gotra and married in June 2007 and the successive court case which historically convicted defendants for an honour killing. The killing was ordered by a Khap Panchayat, a religious caste based council among Jats, in their Karona village in Kaithal district of Haryana.

The Khap passed a decree prohibiting marriage against social norms. Such caste-based council are common in the inner regions of several parts of Indian States, including Haryana, Punjab, Western U.P. and Rajasthan and have been operating with government approval for years.³ In any event, the state government expressed no concern about the ruling of the Khap Panchayat.⁴ The Khap Panchayat's ruling was based on the assumption that Manoj and Babli belonged to Banwala Gotra, a Jat community, and were therefore considered to be siblings despite not being directly related and any Union between them would be invalid and incestuous. Nevertheless the couple went ahead with their marriage. Following which they were abducted and killed by Babli's relatives.⁵

In March 2010, a Karnal district court sentenced the five perpetrators to be executed, the first time an Indian court had done so in an honour killing case. The Khap head who ordered but did not take part in killing received a life sentence, and the driver involved in the abduction a seven year prison term. According to Home Minister P. Chidambaram, the UPA led central government was to propose an amendment to the Indian penal code (IPC) in response to the deaths of Manoj and Babli, making honour killing a "Distinct Offence".^{6,7,8}

Judgement of the Jati/Khap Panchayat

It has been observed that Jati Panchayat is a major institution that sanctions and promote violence against women. Robert Hayden in his study of the Nandi Wala caste Panchayats observes. "Despite the fact that the caste Panchayats are admired for their non violent and self reliant conflict

management/resolution capabilities, there is no denying of the fact that this” Folk System has not been fair to dalit and other weaker sections of society.⁹

Traditionally no women anywhere, whoever, are part of the panch,. In most communities women, unless they are the accused or are the accuser can not even attend Jati Panch meetings. Not only does the system work against providing basic rights to women, it also condemns and alternative justice giving mechanisms. Among the several cases before Nayaya Samiti, the case of Harkhu Thakore (a Koli Patel woman) deserves to be explain here. Harkhu Ben of Dasada village was forced by her husband Ganesh Bhai and father in law to leave her marital home. Her husband alleged that their child was not his. Incidentlly, Harkhu’s father in law had also made the same allegation against her mother in law, his first wife, and forced her to leave the house. Her father in law called for a meeting of Jati Panch and sought a divorce for his son. The Panch Summoned Harkhu and her family and forcibly made Harkhu sign the divorce papers, and subsequently levied a fine of Rs. 15000 on her family for divorcing her husband. Technically they were correct. The law made by the Jati Panch said that if a women divorced her husband, she would have to pay a fine of Rs. 5000. In this case they also levied a charge of infidelity, raising the fine to Rs. 15000.

The patriarchal value system of Jati Panch has been documented else where too. In Nandiwala Gram Panchayat. If a Kallar man misbehaves with a woman (in local parlance termed madipitittu elluttal; pulling the saree). The village panchayat usually decrees that the sister of the offender be brought to the village square and her saree pulled by a male member of the affected women’s family. It has to be the offender’s sister and not his wife since she comes from another man’s family.¹⁰

In the Northern India, specially around Delhi in which Haryana, Western U.P. and parts of Rajasthan have Jati Panchayat and they played vital role in the life of women. These Jati Panchayats are known as Khap here. Their

laws are draconian and anti women. Some examples can be quoted here in brief.

- Gujjar Jati Panchayat banned wearing of Jeans and keeping mobile because wearing Jeans attract people for molestation and rape (Muzaffar Nagar 10 August 2014).
- A Khap Panchayat of Hissar in Haryana has reported by forced a couple to living as siblings. The couple has been married for over a year. Their families alleged harassment and extortion by the village head. The families claimed that the police did not register their complaints despite several visits to the police station (13 February 2013).
- Notorious by pronouncing bizarre verdicts on social issues. Haryana community council or Khap asked the Arya Samaj not to solemnised at its temple weddings between couple from same gotra (lineage) & village.
- A Khap head Jitender Chattaar asked the men no to eat chowmein because men experience hormonal imbalance when they eat chowmein, commit rape with women.
- Sonipat-Haryana's Sarva Khap of Jat Suggested that the marriage age (18 years) of girls lowered to curb rising incidents of rape in the state.

Above judgment shows that Jati Panchayats/Khap Panchayats are doing criminal acts on the name of honour killing or false reputation Supreme Court in historical judgement declared all panchayats of khap illegal. "We have in recent years heard of khap panchayats (Known as Katta Panchayat in Tamilnadu) which often decore or encourage honour killings or other atrocities in an institutionalized way on boys and girls of different castes and religion, who wish to get married or have been married, or interfere with the lives of people. We are of the opinion that is wholly illegal and has to be truthlessly stamped out. As already stated in Lal Singh's case (Subra) there is nothing

honourable in honour killing or other atrocities and infact, it is nothing but barbaric and Shamful murder. Other atrocities in respect of personal lives of people committed by brutal, feudal minded persons deserve harsh punishment. Only in this way can we stamp out such acts of barbarism and feudal mentality. Moreover these acts take the law into their own hands, and amount to Kangaroo courts, which are wholly illegal.

Hence we direct administrative and police officials to take strong measures to prevent atrocious acts. If any such incidents happen, apart from instituting criminal proceedings against those responsible for such atrocities, the state government is directed to immediately suspend the District Magistrate/Collector and SSP/SPs of the district as well as other officials concerned and charge-sheet them and proceed against them departmentally if they do not (A) prevent the incident if it has not already occurred but they have knowledge of it in advance or (B) if it has occurred, they do not promptly apprehend the culprits and others involved and institute criminal proceedings against them as in our opinion they will be deemed to be directly or indirectly accountable in this connection¹¹ Casteism is one the main causes holding up country's progress.

Despite many such experiences questioning the integrity of the Jati Panch. Why do people still approach them? One obvious reason is the expensive, long and tiring procedures marking the Indian Judicial system. The Jati Panch at least achieves a quick disposal of the case. It does not matter if in the process justice itself is disposed off. The other reason is the alienation of the legal system from cultural and community norms and social practices. This is invoked by communities to prevent women from approaching the court since taking recourse to law is seen as an external intervention in what is believed to be personal and private to a family or in a wider sense, to the caste/community.

Functions of Mahila Nayaya Samiti

The Samitie Functions as a formal system on an informal platform. The women have undergone intensive legal training in a gender just from work. They meet on fixed days in the offices of Mahila Vikas Sangh and people with complaints come to get their cases heard.

The Nayaya Samiti follows certain procedures that are quasi legal and similar to existing legal aid support and social security forums. The Mahila Nayaya Samiti, for instance, minutes all its discussions and the decisions are written up as formal documents signed by both parties and witness. A central feature of the methodology involves converting the private complaint of a woman into a public debate. The Mandal women/leaders, the working committee of the MVS (Mahila Vikas Santh). Constitute a strong presence at the arbitration forum. This plays a crucial role in converting family dynamics into topics for democratic discussion on what is right and wrong. The case of Jamuna a koli patel woman is illustrative.

Jamuna of Naradi is a member of the Sanshthan. Mother of five she and her husband work as casual labourers. Her husband drank heavily and often beat her up on several occasions she left home for her parent's place but was forced to return because of the children matters really got out of hand when her husband mutilated Jamuna's hand. The village Sangha Women were incensed, insisting that this was not to be tolerated and that Jamuna should complain to the police. The Mahila Vikas Sangha helped her file a police complaint against her husband. The police was requested by the women to give Jamuna's husband a thorough beating and keep him for a while in lock up. He was arrested on her complaint and the police did exactly what the women had requested. Jamuna's husband since returned, now drinks less and has not dared to beat her again.

The case illustrates an important feature of the process and approach. It brings into public debate what was hitherto private, pushing the community in

to thinking above what is just and unjust and helping take progressive decisions that could win acceptance and consent of the community. Otherwise, it would be difficult, if not impossible, to imagine a situation where a man who is arrested and beaten up at his wife's instance, not only accepts her but is also apologetic about his behaviour. More important, the community too accepts this.

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

The Samiti work on changing the community's understanding of what is acceptable and what is not in the process they have reshaped community norms, for instance, expanded the definition of maintenance to include the time the woman spends away from the matrimonial family without formal divorce. How this happens is exemplified in the case of Nagiben.

Nagi Ben of village Dasada in Patdi block had shifted to her natal home due to dissatisfaction with the arrangements at her marital home. She approached the Nayaya Samiti for help. Her husband and his family agreed and it was decided that Nagiben would join him only after matters had improved for which he requested a time period of three months. In the interim, he agreed to pay a maintenance of Rs. 1000 a month. This is symbolic of true attitudinal change and his implications for setting up new community norms. What distinguishes the Nayaya Samiti Methods of addressing violence are the perspectives that inform them and the process they follow. Take the case of Harku, illustrated earlier. How could any proof have resolved the problem when its roots lay in the attitudes and perspectives around relationships?

The Nyaya Samiti is an inexpensive and accessible forum what adds to its acceptability is that the decision making involve giving time to craft workable solutions rather than focus on absolute positions of right and wrong. Further, it admits to the possibility of renegotiation if the proposed solution does not work. The women who arbitrate at the forum are from the local socio cultural milieu. Along with sensitivity to women's issues and an understanding of violence, they also draw upon an inflective cultural sense of the beliefs, values and normative codes of the area. This contributes to the effectiveness of their judgment which is based on information gathered from the immediate community about the family and its situation. All this goes into the process of negotiation. In sum the biggest strength of these women is a sense of right, gender and an understanding of legal system. The use of local cultural idiom and mores has further enhanced the acceptance of these forum.¹²

It would be difficult to visualize such a forum without a strong basis in a movement for mass awareness and support. The samiti draws its power and legitimacy from its rooting in a larger collective or platform that supports and promotes process. That it has the possibility of going beyond is unquestionable. For it represents the effort to reinvent the local conflict management/resolution heritage without perpetuating the exclusion of women, dalits, minorities and other weaker sections of the society and the domination and exploitation of landlords¹³.

Nevertheless, the Nyaya Samiti have significant limitations. For instance, high stake cases such as property disputes are not brought to them. The forums are being reduced to mediating on women's issues and not functioning as community arbitration forum, thereby limiting their influence. There is need to broad base them to include other issues of discrimination and exploitation. They must move beyond matrimonial relationships and norms and respond to other forums of gender based and caste violence.

The Nyaya Samitis in a sense work as a bi legal forum that can take resource to the formal legal system if its mediation and judgement is not adhered to. There is need for such initiatives to expend and gain wider legitimacy in the social as well as judicial domain. Such plural conflict management/resolution mechanisms and process can add to the country's socio-economic political health, vital in situations where justice is often delayed (and hence denied) by our slow, overburdened and increasingly expensive courts. In brief following functions may be for Nyaya Samit.

- Convert private debate into public debate.
- Police protection in some case specially in domestic violence.
- Changing community's understanding.
- In case of injury medical help for victim.
- If possible taken financial help.
- Help to improve educational standard of children & women.
- Help in prevention of gender biased sex selective elimination.
- Ensure survival and protection of the girl child.
- Help in improving the nutrition status of girl child.
- Promote a protective environment for girl child.

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