resolved. An attempt at resolution would require an exploration of the conditions necessary for the constitution, operation and varied interaction of different types of law. The discussion did not follow such a potentially divisive course. However, the issue of criteria for judging different legal orders in moral and political terms was raised. This was not pursued either. But this issue did provoke a brief exchange on the salience of modes of dispute settlement in effecting social change. On the one hand, it was felt that here dispute settlement was peripheral and that it made more strategic sense to concentrate on effecting change in such areas as production, housing, health and education. On the other hand, it was argued that for a group to take over a mode of dispute settlement had great symbolic value and served to inform and legitimate wider struggles for change, as Baxi’s paper insisted.

A more extensive, if fitful debate was also left inconclusive in the absence of agreed conditions for the constitution and operation of law. Many people asserted that state law had an autonomous and strong effectiveness in marking and maintaining the jurisdiction of courts and these assertions had strong links with the argument of von Benda-Beckmann’s paper. The contrary argument, which was illustrated in the use of fictions by judges, had it that such state law would be re-shaped or undermined in response to contrary social change.

Several people argued that it is not sufficient or correct to adopt an institutional perspective on dispute settlement; they advocated a “communitarian perspective”. It was said that this approach would reveal how people used and manipulated institutions of dispute settlement. The institutionalist response was to absorb this position by according it an exceptional validity in illustrating a dynamic of the institutional perspective. Griffith’s institutional “law of inside washing of dirty linen”, for example, was bolstered by the observation that “consumers”, in a strategic forcing of their claims within the group, would threaten to take disputes to an outside forum.

Popular justice, participatory development and power politics: The Lok Adalat in turmoil

Upendra Baxi

On July 5, 1978, a historic event occurred in Bhakha, near Naswadi in Baroda district of Gujarat. At a mass meeting thousands of adivasis (tribals) and villagers subscribed by acclamation to a resolution which, in part, read:

“...it is our democratic right to operate the Lok Adalat. All kinds of questions and problems concerning us arise. It is the foundation of people’s government for us to have the power to deal with them and solve them. We shall brook no interference in the matter. We do not interfere with the social organization or the ‘lifestyle’ of the ‘advanced’ classes. Similarly, they should not interfere with our social organization which has traditions going back to many centuries. We shall not tolerate any interference.”

Two days later, a much bigger mass meeting at Dhanpuri village also solemnly reiterated this right to self-determination.

The event is historic because it is for the first time in Independent India that a group of historically and contemporaneously disadvantaged and depressed people assembled together to assert their “democratic right” to preserve and protect their own system of adjudication and self-government. Significantly, they did this in the title of democracy in terms of “people’s government” whose prime function it is to preserve the autonomy of group life, its legal culture and traditions. The claim for self-determination was also supported by a plea for equality. They asserted that they did not presume to interfere in the manner in which the higher strata of Indian society dealt with its disputes and conflicts through a legal system of their making and choice. They demanded reciprocity: an equal respect for their autonomy to maintain a legal system of their own choice and making, without any interference. They went further to serve notice on the “other side”: the institutions of the formal policy, administration and adjudication. The message was clear and simple: “We shall not tolerate any interference with our social organization.”

What made this miracle possible? For, it is nothing short of a miracle for thousands of illiterate, poor, and depressed people to assert such a unique right. The answer generally lies in their commitment to the survival of the
institution known as *Lok Adalat* (People's Court) which has been functioning in and around Ranpur for well over the last quarter century under the leadership of a sidhaari Sarvodaya worker, Harivallabh Parekh (popularly known as Bhai) who is India's foremost practising Ghandian.

The *Lok Adalat* is primarily a community dispute institution, covering roughly about one thousand villages, which has settled a very large number of diverse disputes among people with their own participation. It is difficult to ascertain the exact number of disputes handled by the *Lok Adalat* owing to the lack of an adequate record; but the available record places them in the range of 20,000 to 25,000.

The *Lok Adalat* is only an aspect of a large-scale effort at the mobilization of rural poor for the task of socio-economic development of the region. The *Lok Adalat* is as much a forum for processing disputes and conflicts as it is for generating people's participation, and self-reliance, in non-governmental processes of social and economic development. This latter includes agrarian reforms through *Gramdan* and *Bhoodan*, the organization of credit cooperatives, minor irrigation work, adult literacy and formal education, farm mechanization, and animal husbandry programmes among others. The base of all activities is the *Asram* at Ranpur, the most notable of whose achievements is the elimination of exploitative patterns of revenue and forest administration inherited from the British, and a constant struggle, continuing even now, to protect the people against the unrestrained activities of the land enforcement officials and *sakhars*. Naturally, the *Asram* has become through this process a significant political force in the state of Gujarat; and many victories at the polls have depended on patronage and support by the *Asram* and its leadership. In many ways, the Ranpur *Asram* has become over time the centre of government of about 1000 villages in this area. This has happened over a period of a quarter century, under the indefatigable and charismatic leadership of Bhai, which has attracted the support of many voluntary, non-governmental agencies throughout the world. (See, for a detailed analysis of some of these aspects, Baxi 1976: 53; Avadh Prasad, 1977.)

No doubt in the course of its evolution the Ranpur *Asram* has confronted many clusters of dominant structures of power in the region and the state. But had it not faced so far a crisis of the magnitude which brought forth the anguished but resolute declaration of self-determination. Never before in its history had the leader of the *Asram* (who is regarded by many people as their saviour) been charged with a serious criminal offence. Never before had he been arrested by the police. Never before were any moves made to restrict his travel overseas by an attempt at impounding his passport on the ground that a criminal prosecution was pending against him. Never before in the history of the region had the state and law reacted so massively against this centre of parallel government. Thousands of people who pledged themselves to the

The declaration were struggling to keep alive an institution which had done so much for them against a state which had betrayed them for so long.

The cause of confrontation lay in the death of an eighteen-year-old girl named Gharki. Gharki was found dead in the fields of Vankai village on the morning of 13 April 1978. In her death lay the genesis of the crises which engulfed the people of the *Lok Adalat*. The crises continue. Let us follow a tale closely the tragic story of Gharki in her life and upon her death.

Gharki was married to Bijala Suria in the neighbouring village of Palahdi. But within 15 days of her marriage, she was turned out by her in-laws. On payment of compensation (in accordance with custom in matrimonial matters) Gharki was "divorced" from Bijala. Gharki developed intimacy with a young man, Mohansingh Pallia (hereafter called MP) who happened to be her close relative and neighbour. Their friendship was well known in the village and it was even suggested that she was 5 months pregnant at the time of her death. Gharki went out on the evening of 12 April 1978, ostensibly to attend a religious programme of devotional songs (*bhajan*). She went out at 8 p.m. with her father's consent; her father asked her on her return to pick *mahua* flowers from the tree in the field. That is where she was found dead the following morning. In consultation with relatives and elders in the village, Gharki was cremated according to customary rites the same day. The relevant village official (*talati*) was notified of Gharki's death which was entered in the register of deaths. The cause of her death was given as epilepsy (*jafr*), a disease from which she was said to have been suffering for a long time. The police made a routine investigation and apparently closed the matter around 4 May 1978 as a case of accidental death. There the matter should have ordinarily ended. But it does not, at any rate in India's villages. Gharki's father Sobhan was in trouble, both with the father of MP and the police. The boy's father, worried about allegations of MP's involvement with the girl and possible involvement in her death, insisted that Sobhan make some amends to him by cash compensation. He apparently needed some money to pay to the police who allegedly threatened him with a murder case against his son, despite the case having been already formally closed. The police, Sobhan was to allege, had already collected a sum of 300 rupees, presumably in return for not proceeding further in the matter.

The twinfold pressures on Sobhan seem to have continued; demands for more money made him desperate. Where was a father, just bereaved, to turn? About three weeks after Gharki's death, the harassed Sobhan decided to bring the matter to the *Lok Adalat*. On 4 June he complained to Bhat that he was harassed by the police *patel* (village police functionary) in his own

Declaration of compensation was made. In the same month a dispute was referred to the *Lok Adalat*. The problem of the compensation was settled. The police failed to produce any evidence against Sobhan. The matter was referred to the court. The court took the case and decided in his favour. The police continued to hound him and his friends. The *Lok Adalat* met Sobhan and was convinced that he was innocent.
village as well as by the fozdar (a police official) of Naswadi. The complaint
was processed in the usual manner and notices to all parties, including the
police, were sent. The matter was heard at the sitting of the Lok Adalat (with
about 200 people present and participating) on 10 June, 1978. A police patrol
from Wankala, present with his "village", said at the meeting that "Naswadi
fozdar recovered Rs. 3000/- from the father of the boy and Rs. 3000/- from the
father of the girl in lieu of suppressing the matter" by filing a report of death
due to accident. It was also mentioned in the proceedings that Sobhan and
some others were locked up and beaten soon after the complaint was filed
with the Lok Adalat. Sobhan was to elaborate this charge in newspaper
interviews. For example, he is reported to have said to Sandesh (6 July 1978)
that he was threatened with imprisonment; and that he was "picked up by the
police and kept in detention for 48 hours, given food only once and was
dropped back to his place by a milk van". He was also asked for an
additional sum of Rs. 300/- on pain of further detention.

Apparently, the corruption and torture aspects, so common to people's
life in the region, were left to be dealt with by Bhai by the people. They knew
that Bhai was fearless in his exposés. On 14 June, Bhai wrote to the Naswadi
fozdar asking him to see him at once; on the same day he also sent a message
to the Wankala patrol to come to Rangpur on 20 June and to help him
"together to find a path of peace." Should he not do so, Bhai warned, "it will
be clear that you are reversing a unanimous decision of panchas before the
presence of your village" which would bring him discredit. Bhai further stated,
quoting a Gujarati saying, that it would be unjust (if the charges of corruption
were true) to allow a state of affairs where "the thief punishes the
custodians of law and order" (Chor Kotwal ne dande). There was a charming
irony in the use of this phrase: for the reference here was to the thief (corrupt
officials) punishing people (custodians of the law).
The addressee of this communication had apparently sound second
thoughts; he did not respond. Bhai also wrote letters to the Deputy Superin-
tendent of Police but to no avail.

Instead, on 18 June 1978, about nine weeks after the event, the First
Information Report was filed stating that Gharki was in fact murdered by
her paramour; that her body bore marks of multiple wounds; and that
Sobhan and others were accessories after the fact. They were also charged
with destruction of evidence (the body and blood-stained clothes). Bhai was
also charged separately as accessory after the fact on the allegation that he
had concealed the information about murder of Gharki brought to him on the
Lok Adalat sitting on 10 June.

At that sitting, in addition to the corruption issue, the entire case of Gharki
appears to have been discussed. The boy MP made some statements concern-
ing his relationship with Gharki, his grief at her death and a possible
altercation with her on that fateful night. But he insisted that he had not
murdered her; nor did he intend to. He expressed his sorrow that all this
should ever have happened. Since it was felt by the people assembled at the
Court that some compensation was due to Gharki's father Sobhan for the
boy having maintained illicit relations with her, the panchas (selected adjudicators
from both sides) initially awarded a compensation of Rs. 10,000. The
assembly, the affected parties and Bhai all felt that the amount was excessive.
Interestingly, the panchas explained the high award by reference to the state
law; they said that when a girl in their village was run over by a speeding
truck, the compensation awarded by the state tribunal was in the range of
13,000/- rupees. They pointed out that the fatally injured girl was only 13
years and unmarried. Gharki was eighteen years when she died and was
pregnant. Even so they felt that, under the circumstances of the case, the
award they had proposed was appropriate and met the ends of justice. After
much discussion in which MP's father pointed out that he had already paid a
large sum to the police - Rs. 3000 - Bhai's suggestion that half the proposed
amount be accepted as compensation by the Lok Adalat as reasonable was
also found to be unacceptable. The question of compensation (valtar) was
then deferred; the more important point was that there be no vendetta
and peace must be restored in the affected communities. It was generally felt
that, if there was further strife on this issue in the village, the major beneficia-
ries would be the agents of the state legal system and not the people, who
might find themselves in an even worse situation. Two karar-khats (literally,
deeds embodying consensual agreement) were agreed upon. One karar-khat
was signed by MP beseeching forgiveness of the people for what had hap-
pened and accepting moral responsibility for the events. Another karar-khat
was signed by leaders of Vankala village, and others, assuring that no further
events disturbing peace of the village, centred on the present incident, would
take place. Contrary to the usual practice, the karar-khats were not signed at
the conclusion of the hearing since the Lok Adalat meeting continued till late
in the evening.

It was on this basis that Bhai's complicity in murder was alleged! Bhai was
requested to go to Kavant police station on 24 June, where he was placed
under arrest. He was asked to sign a personal bond which he refused to do
until late afternoon. The news of Bhai's arrest spread like wildfire and vast
crowds assembled outside the police station in peaceful protest. Special
contingents of reserved police were summoned to deal with any contingencies.
Parleys continued by phone with the police chief in Baroda and many
friends and advisors of Bhai, including political leaders of the Congress (I)
party. He was reluctant to sign a personal bond but was advised by the latter
to do so, on the ground that the government in daring to arrest him had
begun a war of attrition where his presence was needed outside the jail.
Reluctantly, he signed the bond.

There was incomprehension as well as anger among the followers and
people in the area. For many the very arrest of Bhai was an indication that the "oppressors" would stop short of nothing; to many others it was simply a sacrilege, and the cause for which he was arrested was equally outrageous for them. How could an orderly, expeditious, just and participative outcome in Lok Adalat proceedings ever be "illegal"? What was wrong, they asked, in what had been decided by collective wisdom? Above all, the most incomprehensible thing to them was the fact that, instead of the corrupt officials being brought to book, their own leader, who had helped them expose the injustice of the system, should have been arrested.

Something had to be done. The young adivasis, who had been born and brought up in the new consciousness of right and justice in the Ashram schools and workplaces, were restless; and they were beginning to question the peaceful direct action method of Bhai. Violence of any kind by his supporters was not what his opponents wanted. A true Gandhian, he decided to hold mass rallies of public protest. In the past such direct action tactics had paid dividends, even in matters involving corrupt and rapacious police and revenue officers. Two large mass rallies were planned for a week later; energies were diverted in spreading the information, from village to village, concerning the schedule and venue of the meetings: one was to be held in Naswadi, and the other in the district town of Chottaudepur.

The Government reacted promptly. A day before the first rally the carrying of arms or "lethal" weapons was prohibited by an order lasting for about a week. Prohibitory orders banning congregations of five or more people were issued, causing mass arrests for the organizers. The venues had to be shifted 12 to 16 miles from the originally announced venues in a great hurry; yet the turnout was massive. Equally massive was the turnout of the police. According to a press report, on 5 July 1978, the day of the first rally, there were 1000 special police, 1000 ordinary police, 45 sub-inspectors, 4 deputy superintendents, 2 superintendents and one inspector general of police retained for those two events (Jai Hindi: "Police Raj in Naswadi", 5 July 1978). In addition, civilian forces (gram rakshaks) were also deployed in large numbers. There were reports of summary arrests and indiscriminate diversions of people who had wanted to join the rallies.

The rallies took place with discipline and peace. The authorities had no cause for complaint, except for the fact that they were held at all and that they went off to peacefully! Alternatively, they could always take the credit for elaborate bhandobast (arrangements) which prevented the otherwise imminent violence. But the law was still to be used if possible against the movement.

And yet, on all accounts, the turnout was massive and even spectacular. It was in these circumstances that the declaration of democratic right to popular adjudication was resoundingly made. Gharki, through her death, had made history.

The death of Gharki, and the involvement of the Lok Adalat and its leader in criminal proceedings, provided ample scope for the political opponents of Bhai to denigrate and if possible destroy him and his work among the adivasis. The attack was led by local political leaders. It took three forms. First, there was an attack on the system of popular justice through the Lok Adalat itself. Secondly, there was criticism of the Khandpur Ashram as catering only to the interests of a few and not of the whole adivasi population. The third form of attack was on the direct involvement of the Congress (I) with the Ashram activities.

The first line of attack was made explicit in a statement by Manohar Acharaya, leader of Janata Party (Baroda, East) who asserted that the constitution of India and the law of the land were brought into ridicule and contempt by the Lok Adalat. The Lok Adalat eroded people's confidence in the national legal order. The "cruel denigration" of the legal system, he urged, must be stopped henceforth. He demanded a full-scale enquiry into the functioning of the Lok Adalat by the national Central Bureau of Investigation (Sandesh: 7 July 1978). This view was shared by many Janata Party people in Baroda district; indeed, according to my information, a delegation of Janata workers met the Gujarat Chief Minister to press for such an enquiry and ensure that criminal prosecutions would be launched expeditiously against Bhai. The statement of the Chief Minister was that "proper action will be taken against Bhai upon an enquiry" (Vadodara Samachar: 26 June 1978). One result of political pressures was the launching of an investigation on 18 June, nearly seven weeks after the death of Gharki; it is certain that the police at Baroda were constrained to lodge a prosecution despite highly improbable prospects of success. The arrest of Bhai too must have had the concurrence of the government at Gandhinagar (the capital of Gujarat). Nor would the elaborate security arrangements at the rallies have been possible without the very active support of the party headquarters and the government. If the rallies had not proved so overwhelmingly successful, an enquiry of some kind would most probably have been launched into the working of the Lok Adalat, as urged by Acharaya.

The second type of criticism, heard probably for the first time in the region, was that the Ashram's activities resulted in an exploitation of adivasis in the region. Gharki's death was somehow linked with the theme of organized exploitation of the people in the region. The Lok Adalat was itself identified as a means of exploitation. No further details were given in support of this fantastic charge; we call it "fantastic" because, whatever may be said about Lok Adalat's shortcomings (see Baxi 1976: 53) calling it a "means of exploitation" of adivasis flies in the face of known realities. Many opponents of the Lok Adalat attempted to demonstrate their thesis that only a few
advocates were beneficiaries of the Ashram activities, who in turn dominated and exploited the masses, by issuing a call to hold counter-rallies, and to boycott the rallies convened by the Ashram (see Lok Sabha, 21 June 1976). Their opposition was disproved by events. Their appeal for boycotting rallies by the “exploited” advocates failed spectacularly. Nor were they able to organize a rally opposed to the Ashram. Even the Chairman of the National unit of Janata Party, the very area in which the first rally was held, was unsuccessful in organizing a rival rally. Anti-Lok Adalat public opinion was hard to foster in the area, even in the wake of the tragic and dramatic turn of events surrounding and following the death of Gharki.

The third form of political attack was at the level of party politics. It was alleged that the Congress (I) was consolidating its position in the region by supporting the Ashram activities; and that this itself showed that something must be seriously wrong with all the activities, including Lok Adalat, of the Ashram. The first part of this allegation was most certainly true. Although Bhai himself scrupulously refrained from a call to support Congress (I) at the meeting, or any other political grouping, he shared platforms at both the rallies with the stalwarts of Congress (I) including Jindabhai and Sam Mehta. Many ex-ministers and ex-sarpanchas (heads of village panchayat) and important holders of positions in the party hierarchy, including the ex-Chief Minister Madhavasinh Solanki, were prominently associated with the rallies. These Congress (I) leaders who spoke at the rallies made sharp political attacks on the Janata Party at the Centre and in the State, laced with rhetoric concerning the upsurge of the downtrodden and exploited masses.

Bhai himself did not join these attacks. He only mentioned the fact that many legislative measures were “stayed” in their implementation in Gujarat. He made much of the non-implementation of the Gujarat Debt Relief Act, 1976. He quoted the views of the Janata Party president, Chandra Shekhar, that the legislation affecting the poor had been weakened in implementation. He exhorted people to understand the simple fact that “unless we generate and harness Lokshakti (People’s power)...there is no salvation for the poor and the exploited people”.

But Congress (I)’s presence and participation in the events following the death of Gharki were massively conspicuous. This more than anything confused genuine apprehension in the minds of the Janata Party people. The panchayati raj institutions elections were imminent in Gujarat; and the elections to the state legislative assembly were scheduled for early 1978. Experience indicated that they might be advanced to late 1979. This theme was explicit, for example, in the speech of Congress (I) leader Shri Sanjiv Mehta, an ex-minister in the government, when he said that if the party in power wanted, through political attacks against the Ashram, “to annihilate [the] existence, the poor people, we will defeat them by vote-bullets” in the forthcoming state elections (Sandesh, 7 July 1978).

The Lok Adalat

when events disproved it concretely in the future, one would not be surprised at all if some people in the party become critical of Bhai’s political role and actions, which are now being used by the people to whom they are currently opposed. The Congress (I) politicians are involved not so much because the Ashram needs them but rather because they need the Ashram’s support in regaining political power. Of course, there are people, in all political parties, committed to social changes on the lines advocated and championed by Bhai. But the bulk of the Ashram’s political supporters are not known or proven votes of racist or repressive change just as the bulk of Ashram’s detractors are not committed to it. In 1979, during the heyday of the Janata regime as many as 90% of returned candidates for local self-government from the Rangpur area (in Panchayati institutions) were Congress (I) candidates. This must indicate that support for the Ashram activities, and visible association within it, has considerable electoral payoffs.

Independent India has recurrently witnessed this kind of dramatic, and often destructive, tension between social entrepreneurs and professional politicians. Both these groups ultimately manage to retain some amount of power through conflict and accommodation, but the former wields it readily and visibly for the service of the people while the latter group increasingly appears to be involved in the power struggle for its own sake. Sometimes the consequences of protracted conflict between the two groups entail the collapse of a social movement led by the social entrepreneurs without any genuine substitution of worthwhile innovative activity by political parties and governments. The Rangpur Ashram is more than ever before caught in this vortex of conflict. The electoral fray is not in any event going to lessen the tensions; the war of attrition that began in 1977 reached its tempo point in the events attending the death of Gharki; the tensions have yet to reach their nadir. One hopes that the people of the area will not be the ultimate losers.

The trial of MP for the alleged murder of Gharki ended on 31 March, 1979 when the Additional Sessions Judge acquitted him and all his co-accused. The prosecution case was that the accused had murdered Gharki, “confessed” his crime, but the Lok Adalat of 10 June 1978, and agreed to abide by an alleged “decision” of the Lok Adalat to pay a “compensation of Rs. 5000/-” to Sobhan. The case was investigated by the police on the complaint of Sobhan on 18 June 1978 on the orders of the deputy superintendent of police (U. S. P.) Baroda. The investigation was completed on 19 August 1978, when the case was filed.

The fact that the orders for investigation emanated from a higher police official is significant as it indicates that the case had acquired a distinct
Interestingly, both the rallies were called under the auspices of the All India Akhil Bhartiya Mazdoor Kisan Parishad (i.e. All India Farm Labourers and Farmers' Conference - hereafter KMKP). This signified the determination to give in form a non-partisan character to the events following the death of Bhai. But in substance the preponderant support of the Congress (I) could not be avoided. This support was manifested not just in political speeches but through concrete action. A deputation of Congress (I) leaders waited on the deputy superintendent of police at Baroda in the wake of Bhai's arrest. They condemned in their statements Bhai's arrest as "political mischief" (vaikya kinnakkhor) and as "political tyranny" (Vadodara Samachar: 26 June 1978). Harubhai Mehta, a supporter of the Communist Party of India (CPI) and an active Congress (I) worker, himself a practising lawyer, announced in the wake of Bhai's arrest that 101 lawyers of the Gujarat High Court would form a panel of legal assistance for the Ashram in the hour of its need (Samachar: 9 July 1978; Vadodara Samachar: 10 July 1978). Indeed, Mehta and a group of young lawyers have since been the main source of legal support for Bhai and the Ashram during this crisis. They also coordinate, generally, the legal services programme of the Ashram both in the region and up to the High Court level at Ahmedabad. It is true that most lawyers thus associated with the Ashram owe allegiance to Congress (I). But many lawyers, of different political persuasion, seem also to be involved, as they find in the Ashram activities scope for idealism which everyday experience at the Bar unfortunately denies them.

It is natural that the Janata Party workers and leaders see the heavy hand of Congress (I) in whatever the Ashram does or tries to do. Some of them find the political situation so desperate, in terms of their prospects, as even to suggest (as noted) that the Ashram activities thus organized with the support of the Congress (I) actually result in the exploitation of the adhivasis. The pressures and tensions of electoral politics are very great, and palpably so, in the region. There is therefore no possibility of any balanced political critique of the Lok Adalat and Ashram emerging in Gujarat. But it must be said that much of the political evaluation has been substantially influenced by the dominant interests in the region opposing the redistributive thrust of the Ashram's social welfare activities. Politicians have, generally, failed to perceive that legitimation for the Ashram emanates not from politicians but from the people. The record of the Ashram's achievements in all-round development of the region, including popular adjudication, is more tangible and real to the people in the region than the alluring promises and the new not-so-seductive rhetoric of politicians.

This failure to understand the politics of the Ashram is not distinctive to the ruling party in Gujarat. The Congress (I) too is likely to misdiagnose Bhai's present need for support as a permanent one, leading to a distinctly viable political alliance. In the nature of things, this is a vain assumption; and political complexion. This order for investigation was not accompanied by any similar order for enquiry against police officials who had allegedly taken bribes. This too is significant, as between the 10 June sitting of the Lok Adalat and the orders for investigation issued on 18 June, the Lok Adalat leader and other people were agitating for a proper enquiry into the matter. Clearly, the use of discretion to investigate and prosecute was partly self-defensive; it was also partly influenced by the overall political contexts in which the Indian police have to function.

What makes this prosecutorial vigour even more interesting is the fact that the Dy. S.P. Baroda had received as early as 4 May 1978 an anonymous report alleging that Gharki had been murdered by certain named people. The report stated that Gharki was five months pregnant when she was killed, that certain named people were aware of the crime and were liable to be prosecuted for having concealed this information from the police. The Court had before it a copy of this document and agreed with counsel for the accused that it should be treated as the first information report and not the report filed as late as 18 June, on which the prosecution was based. The Court has not pursued the question as to why the very first report was not investigated. Nor has it passed any strictures on this default. But the fact that the Court itself acknowledges that no action was taken from 4 May to 18 June, is, objectively, a good enough indictment of the way in which the police work.

The prosecution clearly was an afterthought, compelled by directions from above and the necessity to protect the organization from exposure. Further, there was no evidence on the basis of which it could reasonably be argued that the crime had been probably committed. Gharki was cremated and with her the alleged blood-stained clothes. The only two pieces of evidence offered to make the charge even prima facie plausible were charred bones and an ornament (kandora). The charred bones were collected from the crematorium on 7 July 1978, 85 days after the death of Gharki. The Professor of Anatomy at the medical college in Baroda testified that the bones were totally charred, and that it was not even possible for him to say whether they were bones of a man or woman or even of a human being or animal! The other piece of evidence, an ornament, was supposed to have been discovered as a result of the interrogation of the accused; but Sobhan disclaimed that his girl wore the ornament and the judge ruled that in any case it was found in a wide open space, accessible to everyone.

It is thus clear that the principal plank of the prosecution was the alleged "extra-judicial confession" by the accused at the Lok Adalat; some of the panchas were made co-accused. However, even here the prosecution faced difficulties; it had to seek permission of the Court to cross-examine the bulk of its own witnesses, on the plea that they were "hostile" witnesses. A permission of this kind was asked for, and denied, even as respects the testimony of Bhai who deposed that the accused never made any confession.
of the crime before him in the Lok Adalat and that panchas did not, to his memory, adjudicate this issue at all. The two karakhats were drawn up by him much later, relying on his recollection of events at that long sitting and were signed also subsequently and not before the Lok Adalat. The Court believed the testimony of Bhai; thus the prosecution lost on all counts. Naturally, no appeal has been preferred against the verdict. This verdict also weakens to the point of its demise the related allegation against Bhai in a separate criminal proceeding, that he concealed information regarding the commission of murder from the police.

Thus although we have learnt many important things from this narration, the finding on the central question as to whether Gharki died a natural or a contrived death (and if the latter, who caused her death) remains indeterminate. It is significant that the death of the young girl, which brought about all these developments, remains still shrouded in mystery. Clearly, the state legal system failed to detect the crime and punish the criminal. But the people’s legal system, with participative communitarian justice, failed equally to do so.3

However, as compared with the state legal system, the system of popular adjudication did raise and settle the question of moral responsibility for Gharki’s death; it did produce a sense of remorse in MP for his wayward behaviour; it also produced pledges to maintain the public peace in the village and for immunity from vendetta. In this last respect, the Lok Adalat intensified social solidarity and the collective conscience of the community. At the same time it enabled the people to be collectively self-reliant in their fight against unscrupulous elements and aspects of the law enforcement authorities. None of such types of gain can reasonably be expected from the state legal order.

What is equally significant is that the Lok Adalat’s focus was prominently on deviant police behaviour, primarily the alleged extortion of money from the already long suffering adivasis (an aspect which did not enter at all in the trial of MP). This transformed a family’s bereavement into a manifestation of community solidarity against, as it seemed to them, the perpetual abuse of authority, and thus injustice, by the organs of the state. Bhai’s arrest in this very context seemed the acme of the process of the state as a dispenser of injustice. The issue was thus transformed to wider dimensions. It was not any more the question of everyday excesses of authority by holders of public power, nor even the specific excess of power in the events surrounding the death of Gharki. The issue now was nothing short of the very survival of the collective organization of the people, and their unique culture, against the predatory aggressions by the external system of power politics. To this issue, the answer of hundreds of people in the area was the battle cry of self-determination reproduced at the beginning of this paper. The battle cry was foreshadowed in the handbills widely distributed to people urging them to attend.

They make interesting reading. They are entitled: “Our Lokadalat is Under Attack by Agents of Litigation” (Apani Lokadalat Uppar Kijiyado no Humlo).4 The leaflets maintain that the present events constitute a frontal attack on “people’s democratic right to conduct Lok Adalat”, which is but a “manifestation of people’s power”. It explains that just as swara (freedom, self-rule) means a social order where “people rule themselves”, so also it means that “people settle their own questions in their own way”. The latter is an activity which sustains (gives life to) the people. It condemns the source of attack on the Lok Adalat as kajjalalas, and “corrupt officials”. A telling Gujarati saying is used: “chor ni ma ne ajwalo na game”; the mother of the thief does not prefer broad daylight. The leaflet exhorts people to participate in the rally despite inclement weather and work in the fields to demonstrate their strength and solidarity and to communicate to officials, through a “peaceful and disciplined” protest, that “we are citizens of a free country and that we shall meet with all our might anyone who attacks our rights”. The purpose of the rallies, as stated, is to maximize the autonomy of the people and their traditions: “to demonstrate that we shall not allow others to interfere with our social and economic life”.

The battle has been won by the people’s organization. But the war remains to be won.

V

The Rangpur experience can be viewed from several perspectives (see Baxi 1979). We conclude this presentation, however, with reference to only one perspective, namely, the use of law and legal resources in the mobilization of the rural poor for self-reliant development. In the context of Rangpur the term “law” embraces both the people’s law and the law of the state. Rangpur provides us with a rather unique insight. It is that the needs-centered, participatory, self-reliant model of development entails the growth of a body of norms and practices as well as institutions of the people’s law. In other words, the need to deal with social conflicts at a collective level, within the milieu of the group’s cultural and social traditions, emerges in the Rangpur experience as a felt human need, integral to its notion of “development”. People’s law is thus a real political resource itself for the Rangpur community. If dispute handling and conflict management are generally regarded as governmental functions, then the Rangpur experience suggests that the political dimension of self-reliant development is the recognition of self-government. If law is to be identified wholly with state law, and politics and government only with the formal constitutional polity and government, then (at least in the case under study) there is no possibility of self-reliant, participatory development.
Recognition of people's law does not necessarily mean denial of state law but rather an acceptance of a plurality of legal systems and the underlying systems of power and authority. The Rangpur experience shows that people's law and people's power can be used to reinforce the positive (for the people) values of state law as well as to combat its negative aspects. The involvement of the Lok Adalat in fighting corruption and exploitation demonstrates the latter aspect; the Asram activities in support of the debt relief legislation demonstrates the former. In both respects, people's law and people's power are used for fostering the values of self-reliant development of the rural poor. In both situations, the existence of a people's court, or more aptly a people's adjudicatory forum, plays a vital role.

The Lok Adalat certainly performs several functions in addition to conflict management and dispensation of justice. As regards deviance by government functionaries, it performs an ombudsman function, manifest in the case of Gharkhi and in other cases (see Baxi 1976). It performs powerful investigatory functions in regard to the grievances of the people in the area against public functionaries. It provides a focal point for efforts at mobilization against injustice and strategies of direct action to combat it.

The Lok Adalat also performs, as our earlier study of it shows (Baxi 1976), the additional and crucial task of providing for legal literacy and legal services. Its officials help people to prepare representations against authorities. It gives people procedural advice to enable them to exercise their rights against various dominant groups. It offers unerring guidance to people in regard to their rights over land and revenue records, which are open to manipulation in favour of the literate and the economically and politically powerful. The service aspect also involves access to beneficent aspects of state law and administration. This aspect includes the provision of surety for loans from nationalized banks for agricultural inputs, guidance concerning execution of instruments for credit and mortgage, formation of cooperative societies, and access to other services such as crops, seeds, fertilizer, irrigation, etc. In all these diverse fields, there is involvement of state law and bureaucracy; the Lok Adalat secretariat makes available the necessary information, skills and competences for maximizing access. The Lok Adalat also performs an ancillary, but no less important, recordkeeping function. It provides for registration of marriages and divorces, alienation and custodial loan and other transactions, and land records. Though far from perfect, the recordkeeping is an important device, in a basically illiterate society, used tellingly against the prevations of moneylenders and some governmental departments.

In the ongoing struggle between people’s law and state law, there are increasing signs that, as the state uses its legal processes and institutions as part of its strategy to contain the reach of the Lok Adalat and to question bases of its legitimacy, so also the Lok Adalat activates courts both self-defence and pre-emptively. Indeed, the Rangpur communities have now developed a fully-fledged salaried lawyers' legal aid scheme, which is, generally, used to manipulate the state court system to reinforce the legitimacy of the Lok Adalat, and the people's law.

If one were to adopt the framework of a recent ICLD (1979) analysis, we could say that this mobilization is made possible by the autonomous pursuit in Rangpur of "human needs-centred means and ends". The experience of Rangpur has undoubtedly shown that it has pursued such needs as civic education (defined as "developing functional knowledge of rights", to claim "resources essential to well-being"), collective advocacy (defined as "developing means of asserting these claims by challenging public agencies and other dominant interests such as landlords, and setting up "...structures to provide resources... or resolve problems shared within the group"), and finally "political participation" (defined as "developing new means of influencing governmental policy making in the more remote areas of decision-making"). In addition, demands for autonomy, self-rule and even self-determination in the domain of socio-cultural traditions forms the "essence of development" in the Rangpur experience.

NOTES

1. This paper is a revised version of a paper by the same title prepared as a part of series of studies of participatory organizations of the rural poor in India. The earlier unpublished version (July, 1979) deals also with other aspects of the crises surrounding the Lok Adalat and Rangpur communities. This paper was presented at the Belagio Symposium of the IUAES Commission on Contemporary Folk Law with a hope that it would direct attention to the relations of complementarity and conflict between state legal systems and the people's law and the impact of the relations on the aspiration and achievement of social development.

2. The multi-party Parishad was constituted in 1976. Harivallabh Parekh played a key role in its formation and functioning.

3. For example, a lawyer elected to the Baroda Municipal Corporation on the Janata Party ticket, and who is the Chairman of the party unit in the city, has undertaken to defend Bhai in the second matter now pending.

4. This failing is not peculiar to the present party in power. When Bhai supported the socialist movement in the Nawadi area in the 1954-56 period, those people in the Congress who sided with or were Gandhians sharply criticized him for collaborating with "leftists" and thus "sabz-Gandhian". Bhai also assisted the Praja Samajvadi Party's (PSP) movement during 1957 in Paradi sathyagraha; at that time too he was criticized by several political leaders in the area for betraying sarvodaya by associating with socialists. Some of his critics have joined Congress (I) and others have joined the Janata Party. It is understandable that Bhai's "tolerance" constantly creates problems of politically "rational" comprehension all around.

5. On the other hand, it seems ironic that single-minded dedication to the cause of the poor in the first place be called "eclecticism" and in the second should remain politically incomprehensible to the very group of people who repeatedly pledge themselves to remove

Interestingly, the Lok Adalat seems to have taken account of a number of special features...
of the case in absolving MP of the charge of murdering Gharki. The facts which appear to have weighed with the panchas were that she was a patient of epilepsy, and might have fallen from the tree because of a sudden fit; alternatively, she might have committed suicide out of the problematic relationship, and exasperation at alterations, with MP. (Both were consistent with the posture in which the corpse was found.) There was no evidence for the panchas to infer that Gharki was killed. The Court might have reasoned the same way, although its decision does not reflect any of these reasons. In this respect too the Lok Adalat processes are more public than those of the state judicial process.

"Agents of Litigation" is a poor translation for the Gujarati word kajjadalal. The suffix dalal is a word of opprobrium for unscrupulous bargainers and agents; the word kajja literally means quarrel and litigation but in the context it may be read to connote "agents of the State Law".

GLOSSARY OF INDIAN TERMS USED

Advisoi Tribal communities, usually Scheduled Tribes under the Indian Constitution.
Ashram Hermitage, a religious retreat for colony of disciples.
Bhoodan Gift of land.
Foskar Police constable.
Gramaan Gift of village.
Lok Adalat People's Court.
Mahaveer Tree Maple tree.
Sahukar Moneylender.

REFERENCES

Avadh Prashad 1977 Lok Adalat, Sterling (in Hindi).

Some comparative generalizations about the differential use of state and folk institutions of dispute settlement

Franz von Benda-Beckmann

INTRODUCTION

In my paper I wish to make some comparative generalizations about the differential use of disputants (excluding the administrative agencies of the state) of the various folk and state institutions of dispute settlement. My analysis is confined to situations in those, mainly Third World, states where indigenous politico-legal systems have been superceded by and incorporated into a colonial/national state. The study of this topic forms only one part of a more general inquiry into the relative social significance of different laws and institutions in a pluralistic legal system. It gives us an important indication of the social significance of institutions of dispute settlement, of the laws upon which they are based and of the laws which they use to rationalize and justify their decisions. The patterns observed in these domains may, of course, vary from patterns of law use and/or from the significance of folk and state institutions in activities other than dispute management; they therefore must not be taken to indicate the general social significance of folk-law/institutions and state-law/institutions.

Folk and state institutions and processes of dispute management have been studied by anthropologists and jurists, but systematic studies of the laws dealt with in my paper are rare. Jurists tend to view the problems and are involved through the eyes of the official colonial/state law and its legal use. Here, state law is given the status of "dominant law", whereas folk law is treated as "servient law" (Hooker 1975:4). Studies of the actual use of institutions of dispute settlement by jurists are usually carried out in the new context of those institutions which are officially constituted or utilized by state law. Here, state law may indeed turn out to be the dominant law in practice. However, the practice of these courts may merely be a significant part of the comprehensive pattern of the differential use of institutions of dispute settlement. Legal anthropologists, on the other hand, who have studied the practice of dispute management usually have directed their attention to dispute processing on the local level and by folk institutions, and their main interest has been the style of dispute processing rather than the effectiveness of such proceedings. Only in recent years have anthropologists begun to turn to intra-societal comparisons of dispute settle-