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Nehru Memorial Museum and Library
2014

Published by

Nehru Memorial Museum and Library
Teen Murti House
New Delhi-110011

e-mail : ddnehrumemorial@gmail.com

ISBN : 978-93-83650-60-6

Price Rs. 100/-; US $ 10

Page setting & Printed by : A.D. Print Studio, 1749 B/6, Govind Puri Extn. Kalkaji, New Delhi - 110019. E-mail : studio.adprint@gmail.com

A *Matha* Court in Karnataka and the Demand for Legality *

Janaki Nair

How the field of legality has been imagined or reconfigured in post colonial India has been a central concern of many scholars, of the city[1] of the state and politics,[2] of law itself[3] or of social life in general.[4] In what is fast becoming a new orthodoxy, Partha Chatterjee and Arjun Appadurai shift focus, though in very different ways, from the fantasies

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* Paper presented at a conference titled 'Thinking Through Law: South Asian histories and the legal Archive', held at the Nehru Memorial Museum and Library, New Delhi, 25–27 April 2013.

[1] Arjun Appadurai, "Deep Democracy: Urban Governmentality and the Horizon of Politics", *Public Culture*, 14: 1, 2002, pp. 21–47; Amita Baviskar, "Between Violence and Desire: Space, Power, and Identity in the Making of Metropolitan Delhi", *International Social Science Journal,* 55 (175) 2003: 89–98; Ravi Sundaram, *Pirate Modernity*: *Delhi's Media Modernism* (Routledge, 2009); Solomon Benjamin, "Governance, economic settings, and poverty in Bangalore", in *Environment and Urbanisation*, 12:1, April 2000, pp. 35–56; Thomas Hansen, "Sovereigns Beyond the State: On Legality and Public Authority in India", in Ravinder Kaur ed., *Religion, Violence, and Political Mobilization in South Asia.* New Delhi: Sage, 2005, pp.109–144.

[2] Partha Chatterjee, "A Postscript from Kolkata: An Equal Right to the City" in Kamran Ali and Martina Reiker eds. *Comparing Cities.* Karachi Oxford University Press, 2009*,* pp. 304–324; also his "Democracy and Economic Transformation in India", *Economic and Political Weekly,* 43:16, 2008, pp. 53–61.

[3] For instance, Marc Galanter, "Indian Law as an Indigenous Conceptual System", in *Law and Society in Modern India*, Delhi, Oxford University Press, 1989; Upendra Baxi, *Towards a Sociology of Indian Law,* Delhi: Satavahan Publishers, 1986.

[4] Veena Das, "Citizenship as a Claim or Stories of Dwelling and Belonging among the Urban Poor", Dr B.R. Ambedkar Memorial Lecture, 2010. Ambedkar University, Delhi.

generated by "rule of law" and an abstract matrix of rights to the vast and luxuriantly populated field of illegalities.[5] The constitutive modalities of this field of illegalities have been variously called the "politics of stealth"[6], "the politics of patience"[7] or "political society".[8]

These insights take on particular salience largely with reference to the urban poor. Would the inclusion of a relatively large and significant sector—non–metropolitan masses–reveal quite another *life of law?* My focus on forms of dispute resolution that rely on the instrumentalities of religious institutions, such as the *matha* (Monastic Institution), and have been known in village communities for at least the past century, opens up a different possibility. Rather than making a case for "continuity" with the modalities of mediated power as embodied in earlier roles and traditions, the author argues for their *radical contemporaneity*, i.e., new engagements with the political economy of the region, styles of individuation and constitutional law.

Karnataka is one of the few regions where the matha as an institution has long existed among two dominant communities, the Brahmins and Lingayats.[9] Of these, the Virasaiva/Lingayat mathas,

[5] Partha Chatterjee, "Radicalizing Democracy in India: Three Political Imaginaries", paper presented at CPS seminar, JNU, January 2014; "A postscript from Kolkata: An Equal Right to the City", in Kamran Ali and Martina Reiker eds., *Comparing Cities.* Karachi Oxford University Press, 2009, pp. 304–324; see also his "Democracy and Economic Transformation in India", *Economic and Political Weekly,* 43:16, 2008, pp. 53–61. Arjun Appadurai, "Deep Democracy: Urban Governmentality and the Horizon of Politics", *Public Culture*, 14: 1, 2002., pp. 21–47.

[6] Solomon Benjamin, "Politics by Stealth?", in Insights Development Research, No. 38. November 2001, ID 21 at the Institute of Development Studies, University of Sussex.

[7] Appadurai, "Deep Democracy".

[8] Chatterjee, "Radicalizing Democracy in India"; for similar examples of writing from outside India, see James Holston, *Insurgent Citizenship: Disjunctions of Democracy and Modernity in Brazil*. Princeton: Princeton University Press, 2009; Edesio Fernandes and Ann Varley eds. *Illegal Cities: Law and Urban Change in Developing Countries.* London: Zed Books, 1998.

[9] The Jains, a far from inconsiderable minority in Karnataka, also have mathas, which are being excluded from this discussion.

unlike their Brahmin counterparts, have, as their very founding principle, not only the promotion of learning but also an active engagement with the social world, which in the 20th century was translated into "social service" particularly in the areas of elementary and higher education.[10] An orientation to the social world is especially marked in those Lingayat mathas which have staked their independence from Gurusthalada mathas.[11]

There is a pronounced visibility to Lingayat mathas in contemporary Karnataka as the meaning and spread of their engagements change.[12] Among the most important is the Taralabalu Jagadguru Brihan Matha at Sirigere, a small village in Chitradurga Taluk, Karnataka. A visible sign of the changing relation between matha and its adherents, on the one hand, and matha and state on the other, is the Saddharma Nyaya

[10] See generally, Chandrasekhar Naranapura *Karnatakadalli Lingayat Mathagalu*, (Chikmagalur, 2003), and Sadasivaiah, *A Comparative Study of Two Virasaiva Monasteries,* p. 128. Naranapura has documented the founding and activities of 1,089 extant mathas for which there are records; he claims that there were 5,706, of which 3,838 are now defunct; of the 1,878 mathas which purportedly exist, some may be new ones. Naranapura, *Karnatakadalli Lingayat Mathagalu* , XVI. Particularly in the latter part of the 20th century, mathas have also proliferated as more and more communities have established institutions of their own. This proliferation occurs alongside the decline and disappearance of other mathas. Aya Ikegame, "Mathas, gurus and citizenship: The state and communities in colonial India", 2012; Sood, "The Matha State".

[11] Notably, those mathas at Sirigere, Siddaganga and Suttur: see Tiziana Ripepi, "The Feet of the Jangama: Identity and Ritual Issues among the Virashaivas of Karnataka" Kervan—Rivista Internazionale di studii afroasiatici n. 6 – luglio 2007, p. 83; Naranapura, *Karnatakadalli Lingayat Mathagalu*; R. Blake Michael, "Foundation Myths of Two Denominations of Virashaivism: Viraktas and Gurusthalins", *The Journal of Asian Studies*, 42:2, Feb., 1983, pp. 309–322, esp p. 313, suggests an alternative approach to the question of origins of the Sirigere matha which has achieved a mix of Virakhta and Gurusthalin traditions.

[12] Generally, see Naranapura *Karnatakadalli Lingayat Mathagalu* for entries on mathas at Sirigere, Siddaganga, Suttur; see Tiziana Ripepi, "The Feet of the Jangama", p. 83; R. Blake Michael, *The Origins of Virashaiva Sects: A Typological Analysis of Ritual and Associational Patterns in the Sunyasampadane.* Delhi: Motilal Banarasidas, 1992.

Peetha of the current Jagadguru of the Sirigere matha, Shivamurthy Shivacharya Swamiji. Throughout the 20th century, and at least since the 1940s, for which records are available, the Sirigere Swamijis have adjudicated cases pertaining to caste transgressions of the matha's adherents (and in some cases, other castes from the areas around the *mula (*or root) matha). They not only dealt with questions relating to interdining and sexuality, marks and modes of respect, but also more "secular" issues of property disputes and family tangles.[13] Since 2000, the court has taken a more formal shape, to become an increasingly popular site for conciliation/adjudication on a wide range of problems and issues.

What accounts for the growing popularity of the Nyaya Peetha in contemporary Karnataka? What do its engagements reveal of the its autonomy from, or dependence on, the state? Over the last two centuries, there has been a marked shift in the relation between the king/state to the *matha*, as the organic link between king and (broadly Hindu) community was recast with the establishment of indirect British rule, and later the nation-state.[14] Especially since the late 19th century,

[13] Sadasivaiah, *A Comparative Study of Two Virasaiva Monasteries* 1967; Gnanambal, *Religious Institutions*, 1973; indeed, Michael lists "conflict mediation" as one of the distinguishing marks of Gurusthalins to emphasise the engagement with, rather than withdrawal from, the world. *The Origins of Virashaiva Sects,* p. 174. Naranapura, *Karnatakadalli Lingayat Mathagalu* interestingly, does not list dispute resolution among the current activities of the Sirigere matha, though he notes similar activity in the Murugha Matha, in his magisterial survey of the Lingayat Mathas of Karnataka; see "Chitradurga Jille", pp. 376–416.

[14] A series of claims and counter claims disputing the right to use insignia (*birudugalu*) began to be made in late 19th century Mysore, between the Old and New Virasaiva/Lingayat mathas at Sirigere, and between both of them on the one hand and the long established Muruga matha in Chitradurga on the other. The battle was taken to the Mysore High Court and later to the Mysore Government. After four court cases through the latter part of the 19th century, it was the District Judge of Bellary 1918 who laid the issue to rest when he finally upheld the rights of the Old Sirigere matha and granted some rights to the new one. File no. 843, Muzrai Department, 1906–7, KSA; Schouten, pp. 267–68. The very establishment of the

the *mathas* have sought legitimation from the instrumentalities of the law and the bureaucracy; since independence, they have exerted influence in the realm of electoral politics as well.[15] Whether the matha constitutes a form of sovereign power is debatable, despite the layered sovereignties that have been identified by Thomas Hansen in his study of Mumbai, namely the several repertoires of power that have emerged from the "legal sovereignty of the state, the moral sovereignty of the nation, and the multiple forms of informal sovereignty based on local big men and everyday violence".[16] Rather, we have to ask anew about the sources of *matha* authority.[17] More specifically, it is queried if the renewed matha court is a sign of flourishing "legal pluralism" in the post-independence period, and what links if any it bears to earlier forms of dispute resolution.

Sirigere matha in the late 19th century, its claim to antiquity, and the bitter battles that ensued, both in courts, and on the streets, between contending claimants to "authenticity" is described in some detail in Mahadeva Banakar ed. *Ditta Hejje, Dhira Krama: Sri Taralabalu Hiriya Jagadgurugalavarinda* Sri Taralabalu Prakashana, Sirigere, no date: 1989?, p. 26 ff; especially see pp. 49, 53, on the role of state administrators in bestowing rights and honours on the mathas. For a discussion of a very early instance of matha reform, see J D M Derrett, "Modes of Sannyasis and the Reform of a South Indian Matha Carried out in 1584", in Derrett, *Essays in Classical and Modern Hindu Law Vol. 1, Dharmasastra and Related Ideas*, Leiden: E.J. Brill, 1976, pp. 111–119.

[15] Banakar, *Ditta hejje Dhira Krama;* S Nijalingappa, *My Life and Politics: An Autobiography*, New Delhi: Vision Books, 2000, pp. 67–8. Nijalingappa, while describing the role played by the Sirigere Matha in influencing electoral outcomes, remains conspicuously silent about the role played by the Murugha Matha.

[16] Hansen, "Sovereigns Beyond the State".

[17] Aya Ikegame argues that the matha is a "parallel state" making up for its failures, and sharing an ability to "make the law". Not only is the "shared sovereignty" a vestigial element of the medieval times, it is in some ways the mirror image of the state; only its figures have changed. "Segmentary State and Shared Sovereignty: A guru's informal court in contemporary Karnataka", paper presented at the Workshop on *Why History? On the Relevance of Cultural History for the Study of Contemporary South Asia* . Oslo, December 10–12, 2013.

The Limits of "Legal Pluralism"

In his short reflections on Indian Law as an "Indigenous Conceptual System", Marc Galanter suggested that the imposition of British legal doctrines and techniques did not completely replace indigenous regulatory systems.[18] Even the post-independence attempt at "nationalization" of legal activity did not displace "the continuing drive for self-regulation in many sectors of social life" and the new national institutions learned to accommodate local regulatory activity.[19] Arguing that there had long been a "tension" between "authoritative higher law and local law ways" (which were neither a British introduction nor unique to India), he called for greater attention to the relation between official law and "other normative orders" in order to generate deeper understandings of legal relations in contemporary India.

Upendra Baxi suggested Non-State Legal Systems as a possible description of the bridges between legal normative and institutional practice.[20] He identified broadly three types of institutions—caste, community and what he called innovative/reformative systems—while noting that little is known of an "interesting nexus" between caste panchayats and religious institutions (such as the mathas of southern India).

Since then, many other scholars have acknowledged the urgency of recognizing the accommodations that state law has made with a range of alternative dispute resolution (ADR) mechanisms which thrive and flourish in different parts of India, though, following Marc Galanter's caution, without romanticizing non state law.[21] The richly ambiguous

[18] Marc Galanter, "Indian Law as an Indigenous Conceptual System", p. 98.

[19] Ibid., pp. 98–9.

[20] Upendra Baxi, *Towards a Sociology of Indian Law,* p. 69.

[21] See Robert M Hayden, "A Note on Caste Panchayats and Government Courts in India, Different Kinds of Stages for Different Kinds of Performance", *Journal of Legal Pluralism*, 22, 1984 for an early formulation of the "pluralism" argument. For an unambiguous rejection of the cultural argument for legal pluralism, see Mitra Sharafi, "Justice in Many Rooms since Galanter: De-Romanticising Legal Pluralism through the Cultural Defense", *Law and Contemporary Problems*, 71:2, Galanter-

consequences of such non state legal systems for vulnerable sections of society—women, Dalits, juveniles, the poor—torn between the promise of justice in state-made "secular" law (and its context blindness) and the necessity of quicker, less expensive and communally mediated resolutions (in its socially-embedded context sensitiveness) have been recognised.[22] The continuance of institutions which wield extraordinary power in defining the rules of commensality and connubiality (social behaviour in general) particularly of women and lower castes, (*shalishi* courts in Bengal, *khap* panchayats in north India, and *kattapanchayats* in Tamil Nadu to name a few) have led to expressions of dismay by a judiciary which views these legal forms not only as a direct violation of constitutional guarantees but of the power and authority of the state itself.[23]

Meanwhile, feminist legal scholars, among others, have advised caution against tarring all non-state legal systems with the same brush, even guardedly advocating systems which favour the rights of women, dalits or tribals, in instances where state legal mechanisms are either scarce or difficult to pursue.[24] Local law-ways have long been discussed by historians as permitting greater flexibility and accommodativeness than state law, particularly during the period of colonial rule; new promises and threats, perhaps even the possibility of justice, may be held out by these institutions.

Influenced Scholars (Spring, 2008), pp. 139–146. A more ambiguous approach to the relation between statutory law and panchayats is in Tomasso Sbriccoli "Legal Pluralism in Discourse: Justice, Politics and Marginality in Rural Rajasthan, India", *The Journal of Legal Pluralism and Unofficial Law*, 2013 45:1, pp. 144–165; similarly also see Sylvia Vatuk, The "women's court" in India: an alternative dispute resolution body", *The Journal of Legal Pluralism and Unofficial Law*, 45:1, 2013, pp. 76–103.

[22] Erin O Moore, "Gender, Law and Legal Pluralism", *American Ethnologist*, 20:3, Aug., 1993, pp. 522–542.

[23] K Gopal vs The State of Tamil Nadu—Writ Petition No. 18955 of 2005 [2005] RD-TN 448 (5 July 2005); Karupiah vs The District Collector on 20 August, 2009.

[24] Vasudha Nagaraj, "Local and Customary Forms: Adapting and Innovating Rules of Formal Law", *Indian Journal of Gender Studies*, 17:3, October 2010, pp. 429–450.

Is the concept of legal pluralism, whether of the strong or weak kind, of use in understanding the role played by sectarian institutions such as the matha in contemporary Indian society?[25] This takes us back to the question of whether the source of matha authority is the state or religious community. Recent works have tried to come to terms with this dual source of the matha's authority in interesting ways: Aditya Sood characterizes the Karnataka matha as a state within a state, with the two locked in a symbiotic relationship.[26] Aya Ikegame on the other, draws on discussions of segmentary statehood to make an argument for the nested quality ("circles within circles", *pace* Kaviraj) of its power, here read as a form of political power.[27]

Legal pluralism had its attractions in more accurately describing the culture of the law in the colonial period, as Lauren Benton's study suggests: "State powers may have been new historical forces but as forms of power and sanctioned violence they were neither new nor foreign to legal actors situated in different spheres of the legal order".[28] However, Benton's argument pertains to a period when colonial regimes were yet to take firm shape: the resultant hybridity of the law in the nineteenth century clearly had no precedent and the attractions of a juridical (if not properly social) unity offered by the rule of law were quite novel.[29] So the notion of legal pluralism may have lost its explanatory edge to become a purely descriptive term: as Sally Engle Merry has rightly pointed out "virtually every society is legally plural

[25] Among the classic formulations that distinguishes between weak and strong legal pluralism is John Griffiths "What is Legal Pluralism?" *Journal of Legal Pluralism*, nr 24, (1986), pp. 1–55. The concept of legal pluralism holds particular salience in studying regimes of law which arise in a political interregnum (before the establishment of new systems of power) or of those which make accommodations with non-state legal orders. Paolo Sartori and Ido Shahar, "Legal Pluralism in Muslim Majority Colonies: Mapping the Terrain", *Journal of Economic and Social History of the Orient,* 55, 2012, pp. 637–663.

[26] Sood, "The Matha State", p. 259.

[27] Ikegame, "The Governing Guru: Hindu Mathas in Liberalising India", in

[28] Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900,* Cambridge: Cambridge University Press, 2005, p. 256.

[29] Ibid.

whether or not it had a colonial past".[30] Indeed, "Legal pluralism is not describing a type of society but as a condition found in varying degrees in all societies".[31]

As the author hopes to show, despite its formidable power, the matha makes no pretensions of being "state- like". If anything, as specific reference to dispute resolution mechanisms, and their effects, will show, the matha has reconfigured power at the local level, and in ways that are distinct from its historical forms.

Antecedents: Patrolling the Boundaries of Community

In a small but rich archive of cases decided by five different mathas in southern India, between 1923 and 1964, K Gnanambal revealed a triangulated field of operation constituted by religious institutions, caste panchayats and state law.[32] Four of the institutions whose records she examined are in Karnataka, of which two are Lingayat Mathas, one a matha which serves the non-Brahman castes of northern Karnataka and one the Brahmin matha at Sringeri. The well known Brahman mathas that she analyses (such as those at Sringeri and Kumbakonam) were seen as the custodians of Dharma, and were therefore approached on issues which were concerned with upholding varnashrama dharma, yet Gnanambal notes the declining power of that authority from as early as the 1950s and their reduction to an increasingly advisory role.

In contrast, the hold of Lingayat mathas was more complete, since the tenets of Veershaivism lay outside the realm of varnashrama dharma

[30] Sally Engle Merry "Legal Pluralism", *Law & Society Review*, 22:5, 1988, pp. 869–896.
[31] Ibid., p. 879.
[32] Communities also became legal adepts at settling disputes within villages, between warring communities, or within communities themselves, of which the Sirigere matha is exemplary. C Parvathamma, *Politics and Religion: A Study of Historical Interaction between Socio-Political Relationships in a Mysore Village,* New Delhi: Sterling Publishers Private Ltd., 1971; Banakar, *Ditta Hejje Dhira Krama*.

so "theocratic authority exercising social control is in reality to be found only in such mathas".[33] Their popularity is also attributed to the overtly political ambitions of such mathas in the mid-20th century.[34] All the disputes which came to the mathas in this period relied to some extent on referrals from caste panchayats, though original requests for dispute resolution were also entertained.

Gnanambal noted a vigorous appeal to the matha court, by not just Lingayats, but also subordinate castes such as Valmikis, for decisions on the propriety of practices which were contrary to customary law.[35] Indeed, she noted that a wide range of castes — Jambavas, Sagara/Upparas, Dombaras, and Valmikis—appealed regularly to the Srivaishnava Swayamacharya Purusha Peetha of Kanakagiri, in Raichur District (or Rajguru Thoppalacharya) most of whom "were illiterate and not even capable of signing their own names. To such people, the traditional ways of behaviour and caste custom are much more easily comprehensible than the laws of the state".[36] She concluded therefore that the "caste panchayat is still a powerful institution in Karnataka region … it is not therefore strange that even after Independence caste disputes are not taken to the civil or criminal courts for adjudication nor do individual members approach the latter to invalidate the decisions of the panchayat".[37] In contrast, HM Sadasivaiah, while noting the dispute resolution mechanisms in operation at two Lingayat mathas at Muruga—matha Chitradurga (hereafter Muruga matha) and Siddaganga matha Tumkur—commented on the waning influence of the caste institutions at the village level: "Up to the beginning of the 20th century these instruments of social control were effective. But gradually the people have started going to law courts and the number of disputes coming to the Mathas has dwindled

[33] Gnanambal, *Religious Institutions and Caste Panchayats in South India,* Calcutta: Anthropological Survey of India, 1973, p. 97.
[34] See also Nijalingappa, *My Life and Politics*; Sadasivaiah, *A Comparative Study of Two Virasaiva monasteries;* Parvathamma, *Politics and Religion*.
[35] Gnanambal, *Religious Institutions and Caste Panchayats,* p. 77.
[36] Ibid, p. 105.
[37] Ibid, p. 203.

into insignificance".[38]

In research done in the early 1960s, K Ishwaran noted that the caste panchayat's "traditional" power continued alongside the reconstitution of the "political" power of the elected panchayat. He found that "the illegal cast (*sic)* Panchayats are coming to assume more and more responsibility for intra-village matters. The duties of the caste panchayat are to deal with all personal matters pertaining to the family, the street and the village".[39] Ishwaran claimed, "In theory, formal power is, of course regulated by federal and state law, but in practice, *customary law* is the dominating secular force in the community. The actual exercise of power is thus much more diffuse and limited than it would appear to be from an examination of the statute books".[40]

All these authors agreed, though disapprovingly, about the continued existence of forms of "legal pluralism". The term is perhaps appropriate to describe the division of labour achieved, largely in the colonial period, between community adjudications (resolved by the matha) and larger social and economic disputes (which were referred to the state court). Principally, there were three kinds of cases with which the Lingayat Mathas (Muruga matha of Chitradurga, and Taralabalu matha at Sirigere) dealt: disputes relating to infringements of caste honour, notably *chappal* beating, slander and other forms of contempt, by members of the same or two different castes; those which referred to questions of sexuality, notably the sexuality of widows, but also cases of adultery, by both men and women; finally, there were also cases related to the division of property. Apart from requests for *lingadharana* (initiation ceremony) the overwhelming concern of six bundles of letters written between 1940 and 1960 which Gnanambal also examined, was with chappal beating.[41]

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[38] Sadasivaiah, *A Comparative Study of Two Virasaiva Monasteries*, pp. 66, 113.
[39] Ishwaran *Shivapur: A South Indian Village,* London: Routledge and Kegan Paul, 1968, p. 25.
[40] Ibid., p. 163, emphasis added.
[41] Gnanambal, *Religious Institutions and Caste Panchayats*, pp. 83–93.

Table of Cases decided at Taralabalu Brhan Matha, Sirigere

Nature of Complaint	**1941–42**	**1953–54**	**1958–60**
Total Number of cases	30	41	22
Chappal Beating/Abuse	6	15+4	11+1
Illicit Connection	14	4	4
Assorted quarrels	10	11	5
Partition of Property		7	1

Source: K Gnanambal, *Religious Institutions and Caste Panchayats*

The discussion of 24 cases decided between 1944 and 1960 by the Muruga matha reveals a similar pattern: five cases of chappal beating, 11 cases of illicit sexuality of widows, other women and some men in adulterous relationships, and the rest an assortment of other caste offences. All the recorded cases concerned transgressions of norms relating to connubiality and commensality, and revealed an anxiety on the part of the ostracized person to be readmitted to the caste fold and therefore to a fuller social life in the village (ranging from feasts and marriages to the right to inherit property) sometimes contrary to the decisions of the *kattepanchayat*.

Among the Lingayats, *achara* cases, as Sadasivaiah reminds us, were taken up at first in the Pattada mathas (regional centres of Gurusthalada/panchacharya mathas), with the Jangamas/(itinerant) Swamijis punishing those who deviated from the Panchacharas (five norms of conduct) in the villages/areas of their jurisdiction. The Virakta mathas, of which the Muruga Matha, Chitradurga, and the Siddaganga matha, Tumkur are examples, enjoyed wider jurisdiction and stronger intersections with the social world of the adherents, and also took up such cases.[42] Indeed, the Muruga matha had been deciding such cases as early as 1820 using a formal procedure that resembles state law, both in form and practice. In addition to identifying the disputants as

[42] Sadasivaiah, *A Comparative Study of Two Virasaiva Monasteries,* p. 111.

petitioner/complainant and accused/defendant, Sadasivaiah tells us, "the Swamiji holds an enquiry, takes evidence from the witness as on oath, and gives judgements after duly weighing the evidence on hand. Frequently the judgements given by the mathadhipathi are upheld by the courts of law in case the aggrieved party chooses to go to court of law" adding that such occasions were very rare.[43] The many petty cases which came for resolution to the matha referred to burnt hay stocks, faction fights, cattle maiming, etc, and the majority involved Lingayats.[44]

Although every effort was made to resolve issues within a short period of time (Gnanambal says they rarely exceeded a year) some disputes did remain unresolved during the lifetime of the persons concerned. Moreover, transgressions which were met with social boycotts or ostracisation were slow to reveal their effects, and therefore extended over several decades. In a case which was filed in 1944 before the Rajguru Thoppalacharya of Anegundi against a man who had misappropriated the funds of the local Basava temple, three notices were sent to the accused, and were ignored, until an order of excommunication was issued in 1950. The defendant died in 1956, and in only in 1958 did the wife and children ask to be readmitted to the Lingayat fold.[45] Similarly, an excommunication order on five Upparas of Koppala, Yalaburga Taluk had been in place for sixty years, and affected as many as 16 of the 60 families in the village, though the original transgression was no longer remembered, until the Rajguru Thoppalacharya declared the stigma null and void.[46]

The mathas disciplined their adherents through the twin measures of penalty (to serve as a deterrent) and penance (to reintegrate the violator of caste norms) within an overall tendency of mitigating the harshness of the kattepanchayat orders/local demands. Customary practices that governed widows and divorcees, and especially their sexual transgressions, were tolerated among Lingayat and other non-Brahman communities, and upheld by the matha. Women and men

[43] Ibid., p. 112.
[44] Ibid., p. 164.
[45] Gnanambal, *Religious Institutions and Caste Panchayats*, p. 162.
[46] Ibid.

were let off with fines and warnings, or after performance of *prayaschitta* (repentance), accompanied by assurances of good conduct.[47] In a 1952 case from Chitradurga, in which the woman was living with a non Lingayat man, the *matha* issued a purification letter with a warning not to repeat her offence[48] Similarly, a widow who had had an abortion in 1958 was fined, and warned not to repeat the offence.[49] At other times, transgressions were hierarchised and thereby tolerated: in 1943 the Rajguru Thoppalacharya ordered the parents of a young, unmarried, pregnant woman to protect the pregnancy and even get her married, since voluntary abortion was a more heinous crime than illicit sex.[50] By and large, the spiritual heads were also mindful of changing times, and in particular, the limits imposed on their authority by the arrival of constitutional law.

State Law and Reconstituted Legality

In the late 20th century, religious heads recognised the ways in which forms of traditional authority had been checked, or at least reframed, by the constitution. Customary law was thus brought into dialogue with broader societal changes, as well as with the provisions of state law when necessary, while retaining its relative lenience: thus the Rajguru Thoppalacharya took the part of a 20-year old Valmiki woman from Mallapuram village, in 1964, who did not want to marry her aunt's son, saying to the father that "your daughter M has attained majority. Therefore it is wrong to get her married to a person whom she is not willing to marry".[51] Yet do such decisions indicate a substantive subordination of customary law to state law?

Johan Peter Schouten discusses the hardening norms relating to marriage throughout the 19th century, particularly in north Karnataka, and the consequent narrowing of the relative freedoms of Lingayat

[47] An unusually severe case involving a Gowda Basappa who had a relationship with a Holeya woman seems to have led to bitter disputes between mathas with repercussions for a long time to come: see Banakar, *Ditta Hejje Dhira Krama*, 63 ff.

[48] Gnanambal, *Religious Institutions and Caste Panchayats*, p. 76.

[49] Ibid.

[50] Ibid., p. 139.

[51] Ibid., p. 168.

women.[52] Did the uniformities offered by state law completely reconstitute this ground? Gnanambal admits that "caste conventions are bound by political law …".[53] The Rajguru recognized the role of the state courts as the final authority even in intra caste disputes when he said while deciding the status of an excommunicated Valmiki caste member in 1959, "… there are Magistrate's courts to decide mutual quarrels". The norms and procedures of the civil/criminal court were often held out as a threat, but also as the larger context which subsumed the matha's decisions, in a graphic illustration of the "weak" form of legal pluralism identified by John Griffiths.

The field of legality was however dramatically transformed, not only by the Constitution, and the criminalisation of discriminatory caste practices, but by the longer process which reorganized power within the village community itself. C Parvathamma noted the repeated turn to colonial courts well before Indian independence (at least since 1910) by the politically dominant Kshatriyas and the numerically dominant Lingayats of Kshetra village in Bellary district, over the control of the Kshetra Linga temple and its economic resources.[54] She also noted the ways in which local Kshatriya dominance was converted into political capital and control of the Village Panchayat Board in a time of representative politics.[55] The effects of representative democracy on village life have been noted by several others.[56] The inequalities of caste, and the ritual dominance of the Brahmins were substantially reconstituted by post independence political developments, when state law became a potent weapon.[57]

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[52] Johan Peter Schouten, *Revolution of the Mystics: On the Social Aspects of Virshaivism*, The Netherlands, 1991, Kok Pharos Publishing House, p. 218.

[53] Gnanambal, *Religious Institutions and Caste Panchayats,* p. 197.

[54] Parvathamma *Politics and Religion*, pp. 167–191.

[55] Ibid., pp. 214–233.

[56] Sadasivaiah, *A Comparative Study of Two Virasaiva Monasteries,* pp. 252–4.

[57] On representative democracy's effect in delinking land ownership from authority in Indian villages, see Mendelsohn, "The Transformation of Authority in Rural India", *Modern Asian Studies*, 27:4, Oct., 1993, pp. 805–842, esp. p. 818: "the moral economy of the old order was nothing less than delegitimated by the individualist ideology of representative democracy".

The shift is evident with respect to distinctly offensive actions as chappal beating. The chappal or shoe was considered an "undesirable weapon" even in the course of a fight, but was deliberately wielded in disputes, not to inflict physical injury as much as social degradation (*padarakshana dosha*), since even the rumour of having been so beaten was enough to compel the victim to undergo expiation. Though Lingayats did not believe in leather as a polluting object, it was the act of beating which was considered demeaning, the offence being graver if the chappal came in contact with the face or the linga itself. In a dispute of 1944, the petitioner was not only struck with the chappal, but suffered further ignominy when his assaulter paraded the fact in the village through the use of the tom-tom.[58] Even the offender does not go scot free, and at least in one case of 1931, he was made to pay for his slander (*apavada dosha*). However, cases of chappal beating ceased to be brought before matha authorities from about the 1960s.

The matha cited the restraints imposed by state law on discriminatory caste practices. It also made the expiation somewhat more perfunctory by referring to changed times. In short, while the caste panchayat, or local caste orders relied on the matha to endorse its power, the matha in turn was critical to correcting harsh village or caste panchayat punishments. Punishments were tempered by moderation, so that offenders could be lightly reprimanded, while guarding against radically reform or overturning of caste orders.[59] This is most evident in the cases concerning women, since the relative tolerance of "illicit" sexual activity among widows and even some married women did not disembed the "symbolics of blood" and in fact only entrenched it.[60] But as the 1952 case discussed by Sadasivaiah revealed, representative politics had dramatically altered the fields of political power, and sometimes reorganised the registers on which power could be asserted. Moreover, many practices for the maintenance of caste discipline, such as excommunication, have been made illegal.

[58] Gnanambal, *Religious Institutions and Caste Panchayats*, p. 77.
[59] See Parvathamma, *Politics and Religion*, pp. 44–63; Schouten, *Revolution of the Mystics*, p. 237.
[60] On the "symbolics of blood" see Michel Foucault, *History of Sexuality*, vol. 1, p. 147.

It is clear from this brief account, that at least until the time of independence, the matha's mechanisms and the state court system, far from being contenders in the same field, were concerned with two separate spheres of disputes, those related to patrolling the boundaries of the caste which were managed by caste panchayat and matha, and those which lay beyond, i.e., economic issues in particular. Though the collective social memory was the most effective tool by which punishments were either implemented or removed, the matha on its part, had the obligation to maintain an archive, though more as proof of expiation than as a body of case law precedent.[61] In the latter part of the 20th century, the matha acknowledged the reconstituted field of the legality, and of political power itself, while remaining attentive to the needs and pressures of its adherants.

Nothing in the colonial archive or in the early years of independence prepares us for the form taken by the matha court today. Yet, since dispute resolution, both in the past and today, relies largely on the moral authority of the mathadhipati, the achievement and performance of this authority in the service of its "public" is a critical sign of this reconstituted authority. This is not to suggest that the performative aspects of the law alone explain the new interest in, and growing popularity of, this realm of dispute settlement, but to the new routinisation of the charisma of the Swamiji.[62]

The Performance of Moral Authority

Apart from the summary adjudications by the mathadipathis on tour, systematic dispute resolution has today become more exceptional than the rule.[63] The Sirigere matha has emerged, in the second half of the 20th century, as one of the most important Lingayat mathas in

[61] For instance, the Muruga matha was requested in 1946 to furnish the records of a 1910 case of a woman whose ostracism was lifted and who had been readmitted into the caste.

[62] I am grateful to Marc Galanter for suggesting this point.

[63] The Muruga Matha, which had a long history of such adjudication, no longer undertakes this function: indeed, the Sirigere Nyaya Peetha ranks along with the dispensation of "divinely ordained" law at the Manjunatha Temple, Dharmashtala, as an exception in this regard.

Karnataka, and its power has extended well beyond the subsect of the Sadar Lingayats who are its primary adherents.[64] Located about 20 kms from the other powerful Lingayat matha, the Muruga matha at Chitradurga city, the Sirigere matha, in its rural setting, has long been engaged in the field of social welfare, beginning with the establishment of hostels, primarily for Lingayats, and expanding into the sphere of education, setting up and running as many as 150 primary schools to degree colleges in various parts of Karnataka.[65]

It would take me too far afield to chart the large and complex involvement of the *matha* with life of the region, but the functioning of the Nyaya Peetha gives us important insights into the range and depth of these engagements.[66] While the matha adjudicated on disputes in places through which the Swamiji travelled, as well as in the main matha, a formal structure has emerged only in the new millennium. The Nyaya Peetha retains the flexibility of earlier dispute resolution mechanisms while formalizing certain other aspects through its resemblance to a full-fledged court. Under the leadership of

[64] Raghavan and Manor describe the Sadar Lingayats as one of the two most politically powerful subsections of the Lingayat caste cluster or sect, and among the prosperous cultivators in northern Karnataka. They say, "The swamiji (religious head) of the Sirigere math was arguably the most powerful religious leader in the state, since his followers were spread over 40 to 50 assembly constituencies. It had long been believed that he had the ability to ensure the victory or defeat of candidates in these constituencies merely by sending a directive to his followers, who in turn were mostly Sadar Lingayats." E Raghavan and James Manor, *Broadening and Deepening Democracy: Political Innovation in Karnataka,* New Delhi: Routledge, 2009, Fn 12 p. 27. They later describe the decline of such power. The matha now stands on par with several other major Lingayat mathas in Karnataka, such as the Muruga matha at Chitradurga, Moorusavira matha at Hubli, Siddaganga matha at Tumkur, Suttur matha at Mysore and the Tontadarya matha at Gadag.

[65] In the late 1970s, Shivakumara Shivacharya, who oversaw the huge expansion of educational institutions, declared "Building schools and colleges must no longer be the priority of the matha. Now one must build Dharma through the sacrifice and service of the mathadhipathi". Banakar, *Ditta hejje dhira karma,* p. 287.

[66] File No. 26 of 1929, Serial No. 1, 4 & 11, KSA.

Structure of court

Shivamurthy Shivacharya Swami, the head of the matha since 1979, and an accomplished scholar of Sanskrit, Kannada, German (and one might add, a computer adept), the Saddharma Nyaya Peetha has come into being since 2002. It convenes on every Monday, when new cases are admitted and hearings continued on old ones. Between 1983 (when the cases began to be systematically recorded) and 2010, a total of 2,340 cases have been heard in this court, the numbers swelling in the period after 2002. The bulk of the litigants come from the taluks of Chitradurga and Davangere Districts, (Channagiri, Chitradurga, Davangere, Holalkere, Honnali, Jagalur and Kadur) though cases from as far away as Mandya, Bangalore and Hassan are also heard.

The formal power and authority of the state courts is mimicked in the physical setting and layout of the Nyaya Peetha. The large hall, with carpets for litigants and their families, is dominated by the ornate and elevated chair on which the Swamiji/judge sits, flanked by his clerks, computer screens and telephones. The Swamiji's ochre robes and head dress announce his religious authority, though he moves between being judge, counselor, negotiator and religious head at one and the same time, harmoniously addressing, (to paraphrase JDM Derrett), "moral, social intellectual, spiritual and psychiatric problems,

along with those that would appear to be entirely legal'.[67] Facing him are the two docks for the petitioner (*arjidararu*) and the defendant (*prativadagalu*) with a space in between for mediators/lawyers (*madyastharu*).

Both court setting and the performance of the law at the Saddharma Nyaya Peetha speak of the accommodations made between the realms of the religious and the secular, since there is a marked display of the matha's sectarian identity, in the prominent display of silver bulls, scenes from Gitopanishad, and other religious mementos which have been gifted to the matha by grateful devotees/litigants. The presence of one or two uniformed policeman just outside the hall again signals the active incorporation of state apparatuses in this court: as a token of submission to the pontiff, policemen removed their footwear before entering the hall. In some ways, the very space of the Nyaya Peetha invokes the dual sources of matha authority, combining the moral–ethical leadership of the community with the trappings of state power.

Once the Swamiji is seated in the large hall where people have been gathering since the early hours of the morning, he receives adherents, while hearing a long list of cases (approximately 60 are scheduled for hearing in each sitting, which often extends until 9 pm). Adherents, largely but not exclusively Lingayats, hand over invitations to weddings and events, express their gratitude for some favour which has been arranged by the Swamiji, seek his blessings, and make appeals for jobs or admission to the institutions run by the matha. (Soon after the elections of 2008, when the BJP government came to power, a stream of newly elected MLAs came to the matha to "seek the blessings" of the Swamiji on their way to the swearing in at the state capital, Bengaluru.)

Strict decorum is maintained in the court, affirming the authority of the swamiji; assembled litigants are fined if they disrupt hearings by using mobile phones, plastic bags and so on. The continuous *performance* of authority is ensured by the genuflection of adherents,

[67] J D M Derrett, "The corpus iuris of Hindu Law in 1772", *History of Indian Law*, Leiden: E. Brill, 1973, p. 8.

the mandated silence, the throne like seat, even the flat screen computers themselves which inspire awe among those gathered as symbols of a unique power which connects the world of the matha to a contemporary material/political world. There is in short a simultaneous avowal and disavowal of this-worldliness, a paradox which was noted quite early by JDM Derrett.[68] A range of devices and people—phones, computers, the police, professional lawyers—connect the Swamiji to the organs and representatives of the state. In this sense, the Swamiji purveys state power through his very person, and is likewise a medium for communicating community concerns to the state. In both courtroom and in judgement, however, the Swamiji is compelled to resort to admonition, reminding them of his status which is above reproach (and certainly "above" or outside of the state law).[69]

Yet the Swamiji does not rely on his charisma or spiritual authority alone in his court: [70] contesting parties have to consent in writing to adhere to the procedures and outcomes of the NP (Nyaya Peetha) and sign, as part of arbitration procedure, an *oppige patra* (consent to abide by the decision) at the successful conclusion of a case.

In the NP, complainants are heard on a first come first served basis, according to a list prepared for hearing on each Monday. Complainants are rarely alone, and often display anguish or distress: women in particular appear with parents/other elders or children, to emphasise the strains on affective ties and family life produced by intransigent partners/elder family members. Entire village groups (of

[68] "It is odd that the more the mahant seeks to live an unworldly life, the more gifts are showered upon him and his math". Derrett, "Modes of sannyasis and the reform of a South Indian matha carried out in 1584", essays in *Classical and Modern Hindu Law, Volume One, Dharmasastra and Related Ideas*, Leiden: E.J.Brill, 1976, p. 113.

[69] For example, Case 398 of 2003, 14/11/2005, para 85 ; and 26/4/2006, para 114.

[70] He is often addressed as "budi" by the supplicant, indicative of awe for the local big man, even of a non-religious kind. See however, Ikegame, "The Governing Guru: Hindu Mathas in Liberalising India", in Jacob Copeman and Aya Ikegame: *The Guru in South Asia: New Interdisciplinary Perspectives,* 2012. She discusses the guru as "transferring charisma" in the procedures of the court, p. 54.

up to 75 people) often present themselves and their appeals for justice; extended family groups are not uncommon.

As already noted, there is a radical contemporaneity to the cases which have come for hearing in the 2002–2010 period: notably, there was only one slipper beating case.[71] A few cases pertain to religious issues (relating to temple lands and honours, or to the question of whether an *ayanaru* gives adequate time to all Lingayat families), but the vast majority of cases are concerned with: domestic/family disputes within conjugal families and extended ones (dowry, alimony, divorce, separation and marriage) especially partition disputes; purely financial issues (bankruptcy, bounced cheques, compensation, tax arrears); developmental works (irrigation); livelihoods (granite mines); environmental issues (particularly iron ore mining and its effects on the Chitradurga region).

The Swamiji pursues a number of strategies for dispute settlement: he assigns some (especially family) cases to other Swamijis, such as Swami Panditaradhya of the Sanehalli Sri matha, who sits at Sirigere

Court in session

[71] Case 1065 of 2005 in which both parties sought purification.

on Sundays to hear such disputes;[72] he could refer the case to civil court when he feels he has reached the limits of his abilities;[73] direct a local leader to settle the case;[74] he can also dismiss those cases which come to him without merit (often when the civil courts have been tried without success). Those cases he admits could take several years to be settled.

Mediating Politics: The Uses of Moral Authority

Clearly, the NP adapts itself and responds to new public demands. Those who approach the court, or more properly the Swamiji are no longer only the adherants but a wider public which sees an opportunity of reaching the more remote echelons of state power via the matha. On 25 May 2010, a group of 75 residents of Gollarapalya village waited their turn patiently in the NP to make an urgent plea for justice. Claiming that they had followed the traditional calling of quarrying for more than 200 years, the Bovis produced receipts for royalty paid to the government since 1984.[75] In 2002, their request for a quarrying licence was turned down by the land revenue department on the grounds that the area came under reserve forest. However, the newly elected Holalkere MLA Chandrappa, himself a Bovi, was awarded a licence to mine 10 acres including their land, and soon began blasting the granite to make jelly. From 20 May 2010, the stone quarriers were disallowed from entering their quarry, and two people were jailed for criminal trespass. The Bovis came to the Nyaya Peetha in the hope of saving their livelihoods.

The Swamiji recognized that the concerned MLA had been awarded a valid licence, so only the Deputy Commissioner (DC) could intervene. The Bovis claimed that the DC, when approached, had advised them to give up this work and take up casual labour. When the Swamiji called the DC from the court that day, he replied that the issue could not *be resolved legally but only politically*. The Swamiji therefore issued a notice to the MLA Chandrappa and the person to

[72] For example, Case 279/2003; Case 453/2003.
[73] Case 451/2003.
[74] Case 876/2005.
[75] Case 2354/10; 25 May 2012.

whom he had subleased the land, to attend the next court session.[76] In his notice to the MLA, the Swamiji also recalled the historic claims to the land of the Bovis of Gollarapalya.

By August 2010, both petitioners and defendants had signed o*ppige patra*-s agreeing to accept the decision of the NP, and allowing it to conduct investigations. By November 2010 the case had been amicably resolved with the hand quarriers getting permission (via a sublease given to Gurunath Kollur) to continue their work on 2 acres. As the Swamiji recalled, "Even after the mining was stopped, the defendant had already implanted dynamite, hence it had to be blasted" therefore "the villagers sat on a rock to protest, and it led to a tense situation. They had to be called off, and the defendant was allowed to blast the rock, subject to … the payment of regular prices (by the company)".[77] The NP fixed the rates at which the hand quarried granite would be bought by the company, and it was to be paid every Monday.[78]

The appeal of this lower caste non-Lingayat community to the moral authority of the NP secured immediate access to state officials, and to elected representatives including, in this case, the defendant himself. Although the NP recognized the defendants as "capitalists" and the petitioners as "poor", it focused on saving the livelihoods of the quarry workers by accommodating local demands within the larger frame of mechanized quarrying; the state's lawlessness was thus negotiated (not overturned or questioned) to allow one more generation of quarriers to continue with their threatened livelihoods. The solution was indeed a "political" and not a "legal" one. The proportion of "political" rather than strictly "legal" resolutions of complex local issues becomes clearer in the more protracted cases which called for continuous and complex negotiation, since the two sides of the dispute were not so well or sharply marked.

[76] 31/5/2010, postponed to 7/6/2010.
[77] Interview with Swami Shivakumara Shivacharya, May 2012.
[78] I do not track here the political career of Chandrappa, whose fortunes changed following the 2013 elections. See however, Ikegame, "Segmentary State and Shared Sovereignty: A Guru's Informal Court in Contemporary Karnataka".

Regulating Capitalism: Mediating Mining, Transport and Farmer Interests

In one of the oldest and long running cases before the NP, managers of Narayana Mines, John Mines and Poddar Mines,[79] approached the NP to urge the villagers of Muthugaduru to call off their agitation of 15 days which was obstructing lorries plying along the routes. Complaining that despite spending lakhs on ameliorative measures (such as box type drains, walls for the compounds of schools, and a link road from Sasilu Cross to the Sasilu railway station) in the villages affected by truck movement, namely Muthugaduru and Sasilu, villagers were blocking the roads, charging lorries Rs 50 per load, (sometimes using the photograph of the Swamiji!) the mine managers asked for their activities to continue unobstructed. In the course of this decade long "case", which continued until the Supreme Court ordered stop to mining activity in 2011 (para 386, 12/9/2011), the NP appears to have taken on several functions of the state, assuming the authority of asking the mines and mining affected communities to report to it on the first Monday of each month. Over the years, the NP has: collated detailed information on the exact nature of the effects of mining lorry movement, monitored the sourcing and licencing of lorries (e.g., para 133, 4/9/2006, para 167–8, 12/2/2007; 173 5/3/2007) set up committees, (representing five different interests: mine companies, lorry owners, lorry leasers, farmers and workers: para 114, 26/4/2006), fixed rates of annual compensation for affected garden and agricultural land (para 217, 6/4/2008), negotiated and monitored tonnage and rates for ore carried by lorries (para 382, 20/6/2011), arranged water supply for the area, compelled mining companies to adhere to the rules laid down by the state and central governments for the development of the affected villages (including the monitoring of bank accounts opened for the purpose: para 252, 10/11/2008;), and finally insisted on "fair play" by villagers who had been compensated for their land, labour and

[79] Case 398/2003. The establishment of the NP has been tied, at least in the popular press, to the sudden increase in iron mining in the area from the early 2000s. I am however less interested in tracing this "nexus" between matha and mining companies; mining cases are far overshadowed by the scale and range of other cases resolved. See however, Ikegame, "Segmentary State and Shared Sovereignty: A Guru's Informal Court in Contemporary Karnataka".

environmental damage. The NP thus enables the mining companies to continue their activities in restricted forms (para 252 10/11/2008; para 272 26/1/2009) .

Over the years, the NP has emerged as a central node for dealing with all mine related complaints and activities leading to a proliferation of issues as the demands from different villages affected by mining grew (para 65: 17/1/2005) relating to compensation for road accidents, (para 205, 24/12/2007), compensation for, or a stop to, lorry movement (para 318, 8/2/2010), denial of electricity or water to mines (para 288, 13/4/2009) or supervision of road repair or construction (para 281 where the mining companies were turned into the defendants).

Clearly both sides of the dispute use the NP to their mutual advantage, leading to a potential burden on the court: noting that "hundreds of people will enter for every issue relating to the mines", the Swamiji sought police help in limiting entry to the NP (para 258, 24/11/2008). Over the years, there were points when the authority of the matha was questioned, either by the concerned parties themselves[80] or by investigative reports in popular magazines such as *Hai Bangalore!*[81] These were turned into opportunities to publicly reassert and reaffirm the moral authority of the matha by all parties concerned (para 306, 12/10/2009). At the same time, the local economies were shifting and adapting to the prospect of participation in mining activity, leading to the blurring of the boundaries between these two sides.[82]

The Limits of Moral Authority

The NP clearly does not hesitate to closely scrutinise economic activities in the region, as the mining cases clearly show. In other

[80] When rumours circulated that the Swamiji himself had advised lorry owners to stop plying their lorries to put pressure on the mines to increase their rates, apologies were sought and given by the mines managers. Case 398/2003, para 114, 26/4/2006.

[81] Newspapers implicating the matha in corruption led to a serious challenge to the authority of the matha. (Para 303, 17/8/2009).

[82] Thus we may note that those affected by the mines themselves were beginning to participate in transport activities (Para 202, 19/11/2007).

instances, the Swamiji emerges as a representative of a social movement, openly using his power to pressurize authorities such as elected representatives and bureaucrats to fulfill their development promises. It is here that the NP appears as a "shadow state" originating from and yet not substantively mirroring the state's roles and functions, especially when the "defendant" is the state itself. In 2002, the villagers of Thuppadahalli filed a case in the NP against the Karnataka Government, the Karnataka Irrigation Department, L&T, and an individual from Halasabalu regarding the completion of a lift irrigation scheme sanctioned in 1994 (Case 57/2002). The scheme, which was intended to cover 22 tanks in the Davangere and Jagalur taluks, included the desilting of Kandkovi, Annaji, Thuppadahalli tanks. Frustrated by the glacial pace of the development work, in 2004, the project villagers discussed their agitational strategies and the formation of an organization to launch a struggle in the NP, requesting the Swamiji to lead their struggle.[83] Persistent pressure on politicians by the Swamiji forced the government to begin work, and a foundation stone was laid for a Rs 100 crore project.

The slow pace of the project led to fresh agitations in the affected villages, leading villagers to begin a fast which carried on for 43 days. Despite assurances from the local MLA Eswarappa that the project would be completed, the protestors wanted him to swear an oath (on paper) before the Swamiji pledging his commitment to complete the project (Para 4, 11/12/2006). The Swamiji, however, objected in the name of upholding representative democracy, saying he could not claim to be superior to an elected representative. In this case, the disavowal of temporal/political power went alongside a pronounced assertion of moral authority, resulting in a mutually recognised reciprocity that defined the two domains of religious/secular power. Even as the Swamiji heard petitions in the NP, met with concerned central and state ministers in Bengaluru and Delhi, and encouraged and even controlled the protest strategies of the concerned villagers, his moral authority was exercised with full recognition of the new constraints imposed by representative democracy.

[83] Memorandum to Swamiji, 7/02/2005 requesting him to take leadership of the movement, Case 57/2002.

Dealing with Ostracism

In 1999, the NP, still in its infancy, was asked to intervene in a case of ostracism of three men at Yelebethur village in Davangere.[84] It concerned the alleged burning of 12 sugarcane fields belonging to 17 others by G , his son-in-law K, and the latter's father C. Though the local panchayat found it difficult to affix the blame in this case of "anonymous" arson, a case made more complex by the flurry of anonymous letters, the three were sent out of the village on 31/12/1998 and also asked to pay fines. A panchayat of 12 was constituted to report on the state of things after their expulsion. Although the accused expressed their willingness to pay the fines, they were not allowed to re-enter the village. In 2003, B (wife of K, daughter of G and daughter-in-law of C) petitioned the NP to allow the men to return to the village, since they had already paid the fines. She also sought to absolve the men concerned by pointing out that there were several fires (eight) in the village even after the ostracism.[85] As her father, the petitioner G further submitted: "Since K and C have been exiled, about 40 acres have been burnt, this can be verified from the man who keeps accounts of sugarcane. So please bring the affected farmers to establish the truth. My son-in- law should not have gone out of the village and it has caused pain to me and my daughter".[86] He added that "When I met N H [of the committee of 12, which reported that the village was peaceful after their departure] and asked him why he said lies to get us punished, he said that it was because I went to the Sirigere matha and complained. 'We could have solved it here, so why did you go to the matha?'" The NP accepted the fines paid by all three men, and to avoid any suspicion that this was being misused by the court, decided that the money would be used to build a school meeting hall, and the matter was amicably solved.

The NP fulfilled the role of a "higher authority" to which even the local police, who were more dreaded than respected, appear to have ceded, making this an interesting case. Local notables resented the

[84] Case no. 31/1999.
[85] Petition from B to Nyaya Peetha, 3/2/2003.
[86] Letter from G to Swamiji, no date.

challenge to their authority from the matha, and the sense of shame at being dragged before a religious authority. Rehabilitating the accused in the village, which was the central concern of the families concerned, was finally achieved through the intervention of the NP, testimony to the regard with which it was held by the entire village.[87]

Entering the Private Domain: Gender, Sexuality and Desire

Despite disapproving of caste panchayats, Ishwaran viewed the imposition of the Hindu Code of 1955–6 as infringing on women's rights. In the village, Shivapur in which he studied, he said that two kinds of changes in kinship had come about, the first a result of federal legislation which enforced monogamy; therefore "what the law in fact has done is to substitute divorce for polygamy; instead of having half a husband, the barren woman now has none at all; instead of a secure position, with a home and a husband of her own, the law has in fact, though not of course in intent, deprived her not only of a sexual partner but of emotional and financial security as well". The legal equality bestowed by the Hindu Code was regarded by Shivapur villagers "as a deliberate and sinister attempt to destroy the family and morality … increasing divorce, desertion, adultery, destroying the love between husband and wife, depriving children of the certainty of a normal home life, and setting brother against brother, son against father, and man against man …"[88]

The growing sense of disquiet over the Hindu Code of the 1950s has, to some extent only, deepened with the more recent extension of coparcenary rights to the daughters, with uneven effect on women themselves. But, once more there is a striking contrast between the past and the present. Instead of the large number of petitions concerning "illicit" male and female sexual relations which were legion in the past, the new NP deals with a large number of property issues, which are embedded in familial relations. The violation of sexual codes

[87] It must be noted that this was not a case between contending parties (there were no defendants) but an appeal from members of the village for intervention.

[88] Ishwaran, *Shivapur*, pp. 182–3.

does not threaten the border of the community as much as newly en-gendered property relations. Brothers and sisters seeking the matha's intervention in partitioning property, older men and women seeking dignified care, and the preservation of their property rights from their offspring, women seeking to claim their share of the husband's or father's property, after the break up of a marriage, are quite a large proportion of these cases. In short, all manner of questions relating to the controlled and guided access to property by kin are arbitrated by the NP, which in turn reconstitutes family relations. While property deeds and documents are usually handed over to the two lawyers who are present in the court for assessment, no other reference is made to digests of law, or to previous cases as the conventional court system might do, relying on the cumulative knowledge of the Swamiji himself.

As the Swamiji said, he often counseled delays in the decision to divorce or sepatation, especially when it came to young women whose chances of either remaining married, or remarrying, were threatened in smaller face to face communiites. (The banning of child marriage has, as Ishwaran points out, led-to-fewer cases of widow remarriage as well.) In one case where a woman was pleading for separation and divorce on grounds that she did not get on with the husband, the visible reluctance of the husband, and his tears in court, were taken as evidence of the uncertainties of the couple concerned, who were asked to return after a few weeks. Yet in contrast to the cases which came from rural areas, the appeal by most urban women who came to the court was to end the marriage rather than save it.

In many such cases, the Swamiji plays the role of family counselor. In 2002, G from Kittenahalli (Case 65/2002) who had received a divorce notice from her husband, appeared before the NP (8/2/2002) seeking help to save her marriage. In her letter to the Swamiji, G said that she had married S in the Matha, and had given him 1.25 lakhs dowry towards a motorcycle, and 14 tolas of gold. She had a job in a Nallur "convent" (nursery school); within two months of her marriage, her husband began receiving anonymous letters which maligned her, forcing her to leave the job. When she was three months pregnant, the husband said he did not want the child and broke off all contact, remained unresponsive and insulting after the child was born. He had now filed for divorce in the civil court.

Like all legal institutions, there are two questions that the Swamiji has to decide: what happened (a process of fact finding) and what it means (normative evaluation).[89] But "a system in which such general social conditions can be seen as relevant to certain cases, cannot limit testimony to the facts of specific cases, as they cannot be defined".[90] Unlike the caste panchayats of an earlier period, where fact collection was less important than normative evaluation (since everyone knew what had happened), the renovated matha court may spend a good proportion of time in each case determining and collecting facts.[91] At the same time, unlike the impersonal space of the state court system, intimate knowledge of the norms, casteways, and possibilities for flexibility in village society enable the Swamiji to judiciously deploy a range of pressures. In this instance, 69 anonymous letters which were enclosed by the woman made reference to body marks in order to establish the veracity of the charge that the writer had been her intimate. The semi pornographic letters were addressed to both husband and wife, used a variety of handwritings and were posted from different locations in Karnataka, though most were from Santenur. They included a purported "abortion certificate". G claimed she had no clue about her stalker, firmly asserted her sexual purity, and requested the Swamiji's help in avoiding a divorce.

In his response to the NP, the husband explained that he had been bombarded with letters and anonymous phone calls, which threatened both himself and the wife. Neither he nor his family could make sense of these insinuations and threats, so he did not want to continue with the marriage.

During the hearings in June 2003 (6/10/2003) the Swamiji sought police help in tracing the anonymous letter writer which was sufficient

[89] Robert M. Hayden, "Excommunication as Everyday Event and Ultimate Sanction: The Nature of Suspension from an Indian Caste", *The Journal of Asian Studies*, 42:2, Feb., 1983, pp. 291–307, esp. p. 252.
[90] Hayden, "Excommunication as Everyday Event and Ultimate Sanction", p. 254.
[91] Hayden, "A Note on Caste Panchayats and Government Courts in India: Different Kinds of Stages for Different Kinds of Performance", *Journal of Legal Pluralism*, 22, 1984, pp. 43–52, esp. p. 44.

to end the harassment. The veil of doubt about the moral character and sexual history of the wife was cleared and the husband and wife came together once again; the divorce papers were withdrawn, the wife resumed work, in an unusual case of reconciliation.

Criminal cases are usually not accepted in the NP, but in this case of sexual harassment, the Swamiji did not hesitate to rely on the investigative powers of the police, which itself had the salutary effect of stopping the threatening messages. Yet that alone could not have restored the trust and faith of the husband and upheld the honour of the woman; clearly, the Swamiji played a crucial role in allaying the fears of the man and reconciling the estranged couple. The Swamiji frequently plays the role of counselor, absorbing to himself the sorrows and pains of his litigants, and proposing alternatives that need not immediately terminate the relationship between a couple.[92]

Despite taking on cases related to intrafamilial property rights, which in turn altered familial relationships, there is, no doubt, a larger commitment to the ideology of familial harmony. In the smaller room where the head of a branch matha at Sanehalli sits, a far more informal Swami Panditaradhya is surrounded by none of the accoutrements of the NP in terms of desks, computers or indeed any formal inscription of complaints and decisions. There are no formal lists of cases as in the Nyaya Peetha, and no written judgements are handed out when the Swamiji hears our cases relating to family issues, debts and partition. The Swamiji is however assisted by someone who knows the case history and makes some important notes. In short, it is a far more intimate and informal setting.[93]

[92] For an idealised account of Lingayat family life, which extols, among other things, the relationships between brother and sister as "life long" bonds, see Danesh Chekki, *Religion and Social System of the Vira'Shaiva Community London*, Greenwood Press, 1997, p. 78.

[93] Case No. 2328/10: A wife of 40 years, N, filed a case against her husband, his second wife and two sons for land jointly held by her and second wife. When there was no response to summons from the brother of the second, local investigations were conducted, a report filed, and decision passed to pay Rs 25,000 per year to the first wife, which was complied with in the first year. It is difficult to establish the later trajectory of the case.

The interest in preserving the family may also happen at the cost of the woman's independence, revealing a certain deafness to the changing pressures and demands of urban life. A family of four arrived (husband wife and two children) at the Sunday dispute settlement of Swami Panditaradhya: the man declared that he could no longer live with the wife since she was more interested in her job in a Bangalore garment factory than in running the household. The woman alleged that she had been beaten, (the man admitted his fault), and claimed that she needed help with housework from her husband as she was a frail person and both of them worked. The man and his brother both admitted that there was no major fault with the woman except her reluctance to do housework, adding that she seemed to want a *bhattaru* (i.e., a cook) to work in the house. After many emotional exchanges, in which the children were also allowed to state their preferences, the Swamiji asked the woman to leave her job and look after the household, and report back in two months time. The resolution was thus to reinsert the woman in unpaid domestic work despite her obvious distaste, and in spite of the husband's declaration that he be freed from the marriage.

The NP was reluctant to give either men or women easy access to divorce, in an ironic response to the increasing demand for it, particularly from working women in urban areas. The mismatch between the more rapidly individualized women compared with the men is resolved, in some instances, through making the woman give up her small freedoms. At the same time, the vigorous assertion by women of their rights to property, even at the risk of threatening filial and conjugal bonds, is often supported by the matha court.[94]

Shuttling between NP and State Legality

Unlike the broad division of labour that was evident in the period before the 1960s between state and matha courts, there is a new mutuality in the contemporary court, with borrowings, referrals and

[94] In one of many such cases, an unmarried woman who had won the case for division of ancestral property against her brother in the civil court came to the Nyaya Peetha to request the Swamiji to exert pressure on him to honour the judgment. The woman was successful in obtaining her three acres, and is now a sugarcane cultivator. Case 2194/2009.

mutual dependence, and ambiguous results for the litigant. The NP disapproves of simultaneous appeals to the civil court and the boundaries and "jurisdictions" of the two courts are respected by the civil court which may work in tandem with the NP to resolve issues.

In May 2006, SNR of Hospet, and his adopted son, N appeared at the NP to file a case against his wife of 33 years, S, and another party SM.[95] The petitioner was the owner of a small scale industrial shed in Hospet, which he had registered in his wife's name since he was a government servant. The estranged wife was now preparing to sell the property to SM (defendant 2). While SNR approached the Civil Court in Hospet to claim back his property, the destitute S, who had taken refuge in a Davangere ashram, first approached Swami Panditaradhya, who made the man promise to pay his wife Rs 2,000 per month in return for her agreement to relinquish the property, but this did not solve the problem.

The NP therefore suggested that the disputed property be sold and the money credited in the matha. A mediator was appointed to ensure the best price for the property, on the condition that the case in the Hospet court be held in abeyance pending the mediation of the NP. Yet although negotiations were on to get the buyer to honour his commitment by paying Rs 5 lakhs to the matha, and pressure was applied on the woman to accept his bid, the petitioner did not withdraw his case from the Hospet court.

The NP, over the six years of this (as yet unresolved) case, had continually warned the parties not to simultaneously approach the civil and matha courts. The purchaser of the property, who approached the civil court against the man and his wife, claimed that the NP had negotiated a price which he had begun to pay, but could still not obtain control of the property. The NP in turn, used both police and court pressure to bring the parties to the registration table.

Meanwhile, the wife filed a case in the family court seeking maintenance, which she was awarded. She attempted to bring a stay

[95] Case 1304/06, 29.5.2006; the case was not resolved satisfactorily until 2012.

on the verdict of Hospet court which had been won by the petitioner. Losing faith in the matha's capacity to resolve the issue, the buyer sent a legal notice to both the man and his wife asking them to fulfill their promise in July 2008. Turning once more to the NP, the buyer claimed that the woman as property owner was unwilling to put her signature to the registration deed as agreed before NP (August 2011). She in turn agreed to sign only if his case was withdrawn from the NP. In an unusual acceptance of the NP's adjudicatory powers, the civil court accepted the Swamiji as the arbitrator under the Arbitration and Conciliation act. No clear resolution has been possible in this case.

What does become clear in these protracted negotiations in both civil and matha court is the search for a quick and binding resolution on the part of the man and the buyer even, if necessary, through an appeal to the NP. On other hand, the woman who first appealed against the civil court in the matha, later appeared to prefer the space of state law for the resolution of all her problems, and remained somewhat impervious to the persuasive powers of the NP. Such deliberate referencing of state law as the occasion demands reveals a very complex negotiation of state law particularly in cases involving property. One might conclude that while the man sought a resolution that brought the Swamiji's moral authority to bear on all the parties concerned, the woman was less willing to accept either forum if it did not leave her with adequate room for bargain and maneouvre.

Conclusion

Taking liberties with Gerald Postema's meditations on common law, it is suggested that the Swamiji in the NP conforms to the characterisation of the "Judge" as Paterfamilias, developing systems of dispute resolution which keep procedural formality to an absolute minimum, keeping proceedings simple and inexpensive, and hearings "focused by the parties (i.e., without lawyers) on the dispute between the parties without reliance on a body of technical rules".[96] The goal here is not the proper execution of some substantive law: rather these

[96] Gerald Postema, *Bentham and the Common law Tradition,* Oxford Clarendon Press, 1986, p. 353.

are "courts of conscience" which operate with shared principles of justice without being bound by the law—and importantly, these decisions do not affect substantive law. Following Griffiths, we could also ask: do the litigants approaching the NP constitute a definable "semi autonomous social field" in which there is more than one "legal order?"[97] The NP proceeds on the basis that conciliation is a crucial aspect of adjudication, but at the same time goes beyond the particular to reconcile parties, although none of its activities are generative of an alternative legal order. Rather than representing "sovereign" power, as some scholars have argued, the matha is therefore a 'purveyor' of state law, though it achieves what the state law/court cannot achieve, combining or merging conciliative and adjudicative functions.

Does the NP merely foster a form for defusing crises in order to maintain and sustain traditional hierarchies of power, whether within the family or beyond? Certainly, what the NP shares with more radical approaches to the law and "people's justice" is the accessible, informal, quick, inexpensive, legal form. Thereafter, a more ambiguous pattern emerges, since unlike radical legal processes, it is not particularly interested in undermining local dominance or in politicizing mechanisms. Nor do the resolutions offered by the NP merely sustain traditional orders, or hierarchies, as the intra-familial cases reveal. Rather by positioning himself as a crucial, though conventional figure of power linking the social to the political, the Swamiji assumes the role of mediator. It is a role that has been completely reconfigured from below.[98]

We must therefore look beyond simple state law/non-state law binaries to a *field of legality*, in its fully context-sensitive social sense. In this sense, the supplicants at the NP are simultaneously inviting the state in and keeping it at bay, in an interesting instance of emerging "interlegality". This term, has been suggested by Fauzia Sheriff out of

[97] Griffiths, "What is Legal Pluralism?" p. 38.

[98] Ripepi alerts us to the dangers of using the distinctions between "religious" and "secular" in referring to the activities of the matha, as their mutual imbrications may call for altogether other terminologies. Ripepi, "At the Feet of the Jangama" 71.

her study of Santal relations to the law: "What I found in my own fieldwork was that the pushing away and inviting in of the state was not simply a matter of political control. It was a product of how the Santal framed their relationship with the state and the degree to which their own engagement with the state was capable of producing results".[99]

Karnataka Government today sanctions the appointment of successors to the matha, and retains the right to examine its affairs, while remaining mindful of the larger constituency over which the matha exerts its moral authority.[100] The NP possesses no coercive instruments of its own, and as been already noted, unlike state legal regimes, does not produce substantive law, only resolutions. Thus contrary to what Ikegame claims, namely that "The morality [dharma] is the domain of the sovereign. He can make the law within this domain," the Swamiji does not "make law" in the strict sense of the term, since he not only lacks the capability of law-sustaining violence, but his resolutions do not inform legal jurisprudence.

Above all, we must not underestimate the extent to which the concept of constitutionalism and right has been sedimented, of which an important sign is the "shuttling between" different institutional spaces by aggrieved parties. Unlike those who are radically estranged from the organs and institutions of the state, or are attempting to escape state law, most of those approaching the NP are fully cognisant of state law, and are willing to use any mechanism that will ensure the execution of those rights. Their choice emerges from knowledge, not the lack of it (as evident from the numbers of middle class people from urban areas who approach the court from as far afield as Bengaluru). This is an illustration of the popular embrace of *legality*, indeed a thriving demand for it, in contrast to what several of the scholars cited at the outset have shown.

[99] Fauzia Sheriff, "Harmony Ideology revisited: Spatial geographies of hegemony and disputing strategies amongst the Santal", *The Journal of Legal Pluralism and Unofficial Law*, 45; 1: pp. 124–143.

[100] Banakar, *Ditta hejje Dhira karma* traces a long history of the matha's engagement with state law for its own legitimacy and existence; this is in contrast to Sood "The Matha State", pp. 254–5.

What follows from this observation is a need for an emplacement of the law within the domain of the social: a socialization of the law in short. If "legal pluralism" was appropriate as a description of the division of labour between state and community law in the time before the Indian Constitution, such a juristic hierarchy no longer holds. Instead, the author would like to locate the renovated dispute resolution system of the Karnataka matha within a new triangulated space or matrix in which the emerging *demand for legality* from a more heterodox population displaces the centrality of the *nadedukolluva jana* (adherents/believers) and their (earlier) sectarian concerns, while referencing the state in a number of new and interesting ways.

The powerful appeal of the summary justice system of the NP, well beyond the community of Lingayats, appears to lie in its relative flexibility. Whereas earlier it was largely confined to patrolling the boundaries of caste, today the matha has inserted itself as a *territorial* power broker, serving the functions of development commissioner, statistical agency, banker, arbitrater, and counselor, unhesitatingly using compromise and conciliation, or the force of state law and its "instruments" (e.g., the police) as the case requires.

It is however important to ask whether the interests of maintaining order lead to a trading of justice for social harmony in the NP's decisions. Marc Galanter had sounded an early word of warning about indigenous law: "Although by definition indigenous law may have the virtues of being familiar, understandable and independent of professionals, it is not always the expression of harmonious egalitarianism".[101] The answer to such a question depends on where we position the NP vis á vis the goals of democracy more generally. What the matha gains from this legal activism is a question that remains to be fully investigated. One may not go as far as Sally Falk Moore in wholeheartedly endorsing the democratic potential of these institutions.[102] By inserting itself as mediator in the social/legal life of

[101] Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering and Indigenous Law", *Journal of Legal Pluralism*, 1981. No. 19 pp. 1–47, esp. p. 25.

[102] Sally Falk Moore, "Certainties Undone: Fifty Turbulent Years of Legal Anthropology, 1949–1999", *The Journal of the Royal Anthropological Institute,* 7:1, Mar., 2001, pp. 95–116, esp p. 111.

the area, the NP (and therefore the matha) broadens and strengthens its hold over multi-caste villages/communities, and breathes new life into contemporary democracy. At the same time we are constantly reminded about the tenuousness of its resolutions vis-á-vis the far more taxing, but more strictly "just" ways of state legal systems.

Acknowledgement

I acknowledge with gratitude the generous help and support of Shivamurthy Shivacharya Swamiji and Swami Panditaradhya of Taralabalu Jagadguru Brihan Matha, Sirigere, as well as all the staff at the matha. Thanks to Aya Ikegame for the useful discussions and material she has shared, and to Anil Gowda, and D Ravikumara for valuable assistance. Prathama Banerjee's comments at the conference *Thinking Through the Law* held at Nehru Memorial Museum and Library, New Delhi, April 25–27, 2013 helped me to critically reconceptualise this paper; Marc Galanter and A R Vasavi made provocative suggestions. Thanks to all of them.