

## **GRAM SHALISHI - AN INFORMAL DISPUTE RESOLUTION MECHANISM**

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### **Abstract**

Even after seventy one years of independence access to justice for a formidable section of Indian society arises from constraints from low socio-economic status. Marginalized social and economic status, compounded by geographical barriers and linguistic constraints prevent the poor and vulnerable from approaching formal institutions to resolve disputes. This inability of the poor and disadvantaged to access justice has wider consequences for achieving development and democratic goals. Being of Persian origin the term 'shalishi' denotes mediation or arbitration implying an ancient system of dispute resolution. The informal gram (village) panchayat organized shalishi- sabha (local mediation conferences) has emerged as viable mode of dispute resolution in rural West Bengal. Based upon consensus-building, they represent interface between indigenous knowledge and dispute resolution. The shalishi have been part of administration of justice since ancient times where disputing villagers approach the gram-panchayat (village panchayat) to resolves disputes. The present account is based on an empirical research carried out in the district of Murshidabad, in West Bengal (India)

**Keyword:** Gram-panchayat, dispute resolution, gram-sabhas, gram-shalishi, Informal, shalishdars.

## 1. INTRODUCTION

It is an acknowledged fact that access to justice has eluded the vast majority of socially marginalized and economically deprived. Apart from complexities of the legal system and inability of the poor to hire best legal brains and travel long distances to access the services of legal courts, the globalized world has set its priorities in dealing with cyber-crimes and issues of intellectual property rights. The poor can ill-afford the luxury of getting justice through formal institutions and the feeling runs high that issues can best be resolved through informal institutions at the local level without wasting resources in terms of time and money. In such scenario of both institutional and personal limitations in resolving disputes, the Constitutional guarantee for justice has little meaning. Since the demand for justice reform has ever been gaining momentum, the Government of India through the Tenth Five Year Plan and the National Common Minimum Programme has delved into fostering justice reforms as an essential condition for achieving democratic goals.

The framers of the Indian Constitution have accorded the village panchayats the due respect and recognition as effective means of social empowerment. Article 243G stipulates, “subject to provisions of this Constitution the Legislature of a State may, by law, endow the panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for devolution of powers and responsibilities upon panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to (a) the preparation of plans for economic development and social justice, (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.”<sup>1</sup> Therefore, the gram-panchayat organized shalishi-sabha enjoys the tacit support of law and it is this recognition of its informality by the state that accords the forum the distinction of being an informal institution.

However, one must not confuse the gram-panchayat organized shalishi-sabhas with that of khap-panchayat.<sup>1</sup> Though prevalent in certain specific pockets of India, the khap-panchayat do not come directly under the rubric of informal justice mechanism for the sole reason that the state do not recognize its operation as informal dispute resolution mechanism. ‘The Supreme Court has declared illegal khap-panchayats as which often decree or encourage

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<sup>1</sup>Panchayati Raj, Available: <http://www.rural.nic.in/anual0203/chap-1.pdf> (10<sup>th</sup> October, 2011)

honour killings or other institutionalised atrocities against boys and girls of different castes and religions who wish to get married or have married'.<sup>2</sup>In April 2011, the Benches of Justices MarkandeyKatju and GyanSudhaMisra observed, 'this is wholly illegal and has to be ruthlessly stamped out. There is nothing honourable in honour killing or other atrocities and, in fact it is nothing but barbaric and shameful murder ... which is wholly illegal'

Since the state does not recognize its utility as informal institution of justice disbursement the khap panchayats do not enjoy the distinction of being an informal institution of justice disbursement unlike the gram-panchayat organized shalishi-sabha which enjoys the tacit support of law. Therefore, it is the recognition of the informality of an institution by the state that accords the forum the distinction of being an informal institution.

## **2. JUSTICE SECTOR REFORMS**

The Government in recent years has focussed its concern on democratization and decentralization of justice sector as it seeks to strengthen access to justice by creating alternate mechanisms for dispute resolution. The Law Commission of 1958 recommended setting up of panchayat based on simple procedures with power to decide petty issues. Behind such a move the Government expressed its "hope of resolving the alienation of villagers from the legal system ... by reviving panchayat and moulding them on the right lines we will be taking a much needed step in the direction of making law and administration of justice reflect the spirit of the people and become rooted once again in the people". The disability of the poor and vulnerable in accessing justice has been brought out by The Report of Justice P. N. Bhagwati Committee on Judicature (1977) It reads, "today the poor and the disadvantaged are cut off from the legal system, they are functional outlaws not only because they are priced out from the legal system by reason of the expensiveness and dilatoriness but also because of the nature of the legal system. They have distrust and suspicion of the law, the law courts and the lawyers for several reasons. One is illiteracy and ignorance on their part which prevents them which arises out of reason of social disabilities and economic dependence and that also places the legal system effectively beyond their reach. Apart from these, the functioning of courts is shrouded in mystery for the poor and the underprivileged. There is an air of excessive formalism in law courts which overawes them and scares them. Often the proceedings are conducted in a language which they do not understand. They sit as helpless spectators, not

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<sup>2</sup>Stamp Out Khap-Panchayats: Courts, The Hindu, (20<sup>th</sup> April, 2011).

understanding what is going on in the court in regard to their own case. They are completely mystified by the court proceedings and this to a large extent alienates them from the legal and judicial process. And lastly our system of administration of justice which is an inheritance from the British is archaic and suffers from obsolescence and obscurantism. It is not at all adapted to our socio-economic conditions and is wholly unsuited to our national genius. The result is that it has failed to inspire confidence in the poor and they have little faith in its capacity to do justice.”<sup>3</sup>

The 114<sup>th</sup> Law Commission Report (August 1986, Chapter V para. 5.3) stated, “... Article 39A of the Constitution of India directs the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by economic or other disabilities. This is the constitutional imperative ...”

“The Commission identified the rural poor as victims of the present day judicial system and accordingly drew up its agenda in which the rural poor were assigned the highest priority [114<sup>th</sup> Law commission Report, Chapter1, page 2, para 1.4].

The Report further reads, “If litigants can be appropriately described as consumers of justice and the court system is devised to render service to such consumers on payment of fee for the service in the form of court fee, it is implicit therein that the service must be within the easy reach of the consumers of service ... justice must be taken to the doorsteps of the people, ... [Chapter III, page 10, Para 3.9]

### **3. HISTORICAL ANTIQUITY**

While formal legal courts have failed to satisfy the justice aspirations of local population the need for an alternative is an urgent necessity. To fulfil their justice needs, the village population fall back upon the gram-panchayat, the roots of which can be traced to ancient village council. In West Bengal, the administrative gram-panchayat satisfies the justice aspirations of indigenous population; they adjudicate upon local disputes by organizing the shalishi-sabha as and when necessary.

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<sup>3</sup>D. Bandopadhyay (2005). Nyaya panchayats: The Unfinished Task. Economic and Political Weekly, 40(51), 5372-5375.

The term panchayat literally denotes an ‘assembly’ (ayat) of five (panch)’; considered respectful elders of society chosen by the local community because of their old age, experience, wisdom or supposedly higher degree of ‘mana’.<sup>ii</sup> Having an ancient flavour the panchayat system is deeply rooted in Indian civilization as evidence suggest that self-governing village communities had always existed in India since Rigvedic age. References of village administration being carried out by village councils have been found in ancient text as ‘Shanti Parva of Mahabharata, Kautilya’s Arthashastra, Manusamhita, Dharmashastras, Upanishads, Jatakas and others. However, the Vedic literature neither talks about any judicial organization nor the king as judge either in civil or criminal because “administration of justice did not form a part of the state’s duties in early times”. (Atlekar, 3<sup>rd</sup> ed. 1958)

A glance at the historical antecedents of village councils brings to light while Rigveda talks of ‘gramini’ or the village headman employed by the king, the Atharvaveda cognizes us with the institution of ‘sabha’ and ‘samiti’, entrusted with judicial responsibilities. Flourishing freely ‘in the days of ancient Aryans’ (H. G. Franks, 1930) the village councils were part and parcel of administrative set up which conducted its proceedings on the authority of indeed, strong traditional customs rather than the rule of sovereign or regular laws. These customs, absolutely strong exacted obedience from one and all, as justice implied their strict observance (Maine, 2008). The village institutions functioned on absolute foundation of democratic principles in all spheres of political and public life; the roots of its success lay in moral fitness of the people disciplined to cultivate constant concord among themselves originating from the domestic realm of family and emphasising on development of moral attitude, based on co-operation mitigating acerbities of narrow individualism. These councils based on well-established axioms regarded an act as crime only if it was intentional but covert actions as abetment, supplying weapons and providing funds to fulfil criminal intentions were punishable too. Similarly treason, acts of unfaithfulness and disloyalty and even attempts to forcibly capture forts were met with stern actions. Grave acts invited grave punishments as mutilation, banishment, imprisonment and death sentences; these being inflicted upon those condemned of heinous acts as murder, dacoity, sex offence, treason and rebellion. It was usually the offender who was penalized and in no way his family relations or kin was made to suffer. Though fine was the most common form of sanction but it differed according to the nature of crimes. The judges before arriving at any conclusion delved into

the matter to ascertain the real cause of its occurrence without ignoring the age and status of the accused.

Basham (2004), states that such institutions had existed in several parts of both Northern and Southern India during the 4<sup>th</sup> & 5<sup>th</sup> century. Irfan Habib (1999) contends that 'panch' was a collective body or assemblage that its appearance in 1599, the composition of which, however, was not limited 'to a single family or caste'. Official Mughal documents show that village headman or 'muqadam' was an important functionary from the ranks of village oligarchs'. He was held answerable for any crimes committed within or near his village. In cases of robbery or murder of travellers, especially, he was obliged to produce the culprits and goods stolen. Writers as John Matthai (1915), Hugh Tinker (1954) and H. D. Malaviya (1954) endorse Habib's view that there existed practically no connection between the king and villages and no inducement was exhibited by those in power to interfere in local matters of villages. Every village manned by panchayats and entrusted with judicial powers over time gained sacred authority. The association of these councils with customs and religion transformed them into something sacred and divine earning the connotation of 'panch-parmeshwar' or 'panch-pradhan'<sup>4</sup>, or to quote the words of Maine (Ancient Law, 2008), 'the judges enjoys, in some undefined way, the confidence of the Gods'. The customs, considered sacred and perpetual had the command of law, an obligation imposed upon citizens, the disobedience of which evoked sanctions. It was a perfect link of interaction between its members both in the microcosm as well as macrocosm having no fixed composition which varied with time and space; gathering with the sole purpose of arriving at decisions. Functioning on wide basis and enjoying monopoly over decision making process, the village council was an integral part of the larger administrative system fundamentally reconstructing relations within rural society. Though its membership differed with place and time but it was a composite body representing all shades of society. The village community was the most perfect 'in which there were the clearest signs of an original proprietary equality between all the families composing the group' (H. G. Franks, 1930). Besides keeping general supervision over local affairs, the council's most important function was controlling the village with a jury of civil arbitrators selected voluntarily for the purpose. Being effective units, they ameliorated conflicting interest and evolved consensus thereby manifesting unity

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<sup>4</sup> J. P. Gupta (2006), Key Paper on Rural Local Self-Government in Punjab: Its Evolution, Functioning and Functional Deficiencies [Online]. Available: <http://www.crrid.res.in/pdf/keyrural.pdf> (24<sup>th</sup> September 2012).

and cohesion in village life. In larger perspective, they dealt not only with complaints of individual wrongs but also with disturbances of the order of entire village where disobedience was awarded with sole punishment of universal disapprobation.

Therefore, these archaic village panchayats were held in reverence by common villagers as Tinker (1954) states 'they gave unity and dignity to village life'... In the panchayat is God'. Henry Maine (1883) says, their old age had invested them with wisdom and highest authority and dignity, their life-long experiences reserve for them a place of honour in society; these village communities are living, and not a dead, institution. While Tinker (1954) look upon these village communities as self-sufficient, Robert Wade (1988) took them to be universal and 'organic whole' where villagers were emotionally linked and dependent upon each other for moral support. Though these village councils were bereft of legal status but that did not prevent their decisions from being unanimous, obligatory and unchallengeable.

#### **4. POST-INDEPENDENCE INITIATIVES OF INDIAN GOVERNMENT**

However, post-independence the institution of village panchayat has undergone tremendous changes. The Indian Government's drive for decentralization has transformed village panchayat into the lowest tier of administration. The government reactivated these local bodies through the 73<sup>rd</sup> Amendment Act (1993)<sup>iii</sup> which envisaged setting up of gram-sabha with the intention of intensifying democracy at the grass roots. The government empowered the gram-sabhas for safeguarding and preserving the traditions and customs of the people, their cultural identity, community resources and customary (traditional) mode of dispute resolution. From the point of governance, the system facilitates decentralization in the administration of justice.

#### **5. GRAM SHALISHI – ITS SOCIAL RELEVANCE**

In West Bengal the administrative gram-panchayat fulfils the justice aspirations of indigenous population; they adjudicate upon local disputes by organizing the shalishi-sabha as and when necessary. The term panchayat literally denotes an assembly of respected five (panch) elders chosen by the local community because of their old age, experience, wisdom or supposedly higher degree of 'mana.'<sup>i</sup>

It is a well-known fact that the way people resolve their differences is part of their social structure and value orientations. Since village is a complex society with people enmeshed in

multiple relationships with each other, the formal legal system embedded by law of procedure and evidence and the winner-loser principle does not rhyme well with local peoples' preferred choice of settling their disputes through traditional mechanism. The rural population is closely tied with the larger village community and anything outside the village structure is alien to him. The villagers admire their traditional system and settling their differences through informal gram-shalishi based on consensus and local participation largely outweigh the legal strategy of deciding disputes through court system. Dispute resolution by gram-shalishi takes place in democratic space; there is considerable public visibility to the role of elected members and local community members acting as shalishdars' or mediators in local level dispute resolution. There is a high degree of receptivity of rural population towards dispute resolution through shalishi'. The shalishdars who are generally the elected members of local panchayat shed the authoritative mantle of their position, preferring instead to use more non-binding informal means. Their dispute resolution role stems largely from their social role. The rural population approach them not because of their administrative position but their status as *insider-impartial* mediators, as persons familiar to everybody and expected to be fair in their dealings with them. Resolving issues through dialogues in open fora constitutes the heart of mediation process. Empirical observations have proved that though the decisions of the shalishdars' approximates local notions of social justice; under varying situations they provide solutions that could be justified in public for the sole reason that their decisions remains open to public scrutiny.

The shalishi-sabha provides a picture of organized life in purely non-individualistic sense, where the local community take part in dispute management. Most disputes that reach shalishi for redressal are immediate and local. The deliberations are often held in the presence of those who care to attend, it is seen that a majority of them care for each other and attend, if not openly participate in undoing the wrongs; it seems precisely for this that the traditional forum of gram-shalishi is viewed as universal. The gram-shalishi is an exercise to remain connected to ancient usages and ideas associated with such usages and customs. The shalishdars by virtue of belonging to the same local area and professing similar norms and values are closer to the villagers; they are able to perceive local problems from short distance and in articulating their demands become catalyst of social harmony. Occupying strategic position they form a link between the under-privileged sections and the administrative world and have a specialized role to play in village affairs.



The shalishi-sabha encourages local participation providing greater scope for mediation, reconciliation and compromise based on local knowledge and local behaviour. Community participation helps in setting goals and priorities right to achieve desirable goal of justice dispensation and quality enhancement of village life. Being psychologically close to the villagers, the institution inspires confidence as a stand-alone category to render justice to the victim. With emphasis upon spontaneity, boldness and temperament to learn through mistakes, the kind of justice dispensed by gram-shalishi is not only a package of positive acts towards dispute resolution but an enforcement of rights including providing relief to victim and initiating remedial action against the aggressor. Resolving disputes as locally conceived, the shalishdars rely upon social norms and social wisdom free from protracted procedural wrangles and any digression towards legal or other recourse is taken as transgression from traditional village life. Decisions made under the aegis of shalishdars are based on consensus, applying rules - a queer mixture of local customs and norms. Applying a mixture of official rule and customary law, the shalishi process constitutes an alternative forum blending old norms with new values. The shalishi process is aimed at changing the nature and direction of forces which marginalizes the poor and vulnerable thereby empowering the poor and the downtrodden. The shalishdars in their empowerment process not merely resolve disputes; they encourage local variation and innovation in dispute resolution through open interaction with local community. The shalishdars make the whole process more inclusive and educative by helping the villagers identify their needs of social justice. The onlookers form a sort of chorus although they might not have direct share in resolution process. Therefore, as natural corollary they become natural expression of corporate life of individual village.

The choice of the forum used in community disputes indicate to the other party the rules that must be followed in that dispute but that does not preclude the use of another forum. Notwithstanding the informality the gram-shalishis hold legitimacy for they help to safeguard and preserve the traditions and customs of the people, their cultural identity and community resources. The system is unique in so far as they settle disputes without detriment to any law for the time being in force'; care is taken to ensure the shalishi process is consistent and in harmony with legal and humanitarian norms. Besides mediation, the shalishi process resort to negotiation and conciliation and if need arise impose social sanctions and threat of social ostracism. Apart from panchayat members, the shalishidars include important local individuals as local school master, individuals from respected traditional families usually the

eldest male member and members of local club. Empirical evidences have shown that local villagers despise the presence of political leaders in shalishi meetings. The shalishisabhas are more a social conference rather than a political conglomerate.

Although the power of shalishi is circumscribed yet the scope of disputes which it handles is varied. All kinds of familial disputes - quarrels between spouses and in-laws, dowry disputes, dissolution of marriage-tie, problems of maintenance wife-beating, alcoholism, bigamy; disputes concerning land encroachments, use of common open space, cases relating to property, issues concerning distribution and access to water, breaches of contracts concerning debts and promises of marriage, disputes over titles, gifts and inheritance, cases of public nuisance, open gambling, destruction and wilful misuse of public property, wilful injury, perjury and giving false evidences, trespassing, eve-teasing and various others. However, grievous offences like murder, battery and homicide covered by the Criminal Code lie outside its purview. Keeping alive the traditional method of dispute settlement, the shalishi employ both non-coercive and coercive methods and disapprobation. Most disputes that came before the shalishi for their redressal are voluntary in nature. Observations have shown that social factors remain crucial in accessing gram-shalishi. It has been found that the poor and vulnerable access gram-shalishi unhesitatingly while the known and traditionally respected families exhibit reservations. The traditionally respected families refrain from taking their family disputes to the shalishi-sabha for fear of social prestige and traditional awe; however they access shalishi-sabha for resolving disputes with their neighbours.

Usually such meetings are held at neutral places, either within the campus of the panchayat office or at open space to elicit maximum participation of villagers. It is seen that when proceedings are conducted in open public, it exerts subtle psychological pressure upon the accused. Secondly, that the perpetrator will be punished in open forum serves as a social punishment. Since the forum is a neutral space for negotiation it provides an avenue that is objective by virtue of the fact that it belongs neither to the litigant nor the accused. This tradition of conducting open meetings serves as a deterrent for potential perpetrators.

Usually it takes more than one sitting to resolve the issue. The atmosphere is informal; all present — the litigant, the accused, the shalishdars, the audience all knows each other by virtue of belonging to the same village or its neighbourhood. The case is presented before the shalish parties themselves which help in expressing themselves more accurately. Therefore

there is greater understanding of the exact nature of compulsions that both parties in the dispute have and a closer view of the complexities through which relationships are established and broken. The shalishi begin their discussion taking an account of the background of the dispute and then following the normal method of discussion deliberate unless a consensus is reached. In case of stand-off, the meeting is adjourned and attempt is made to reconvene another meeting at next date. One of the prime functions of shalishi is to give hot blood time to cool and let the offender realize his own mistake. The shalishi members take unto themselves responsibility of redressing men of inherent badness and incidental vices. Rooted in the process of dialogue and discussion, the verdict of gram-shalishi approaches near to that of law, an obligation for the accused to carry out its orders and sanctions threatened in case of reluctance or display of ignorance.

Recognizing the principle of ‘audi alteram partem’ (hearing both sides) and natural justice, the shalishi never declare their verdict in the absence of either parties. Normally, the decision of the shalishi is accepted by disputing parties. The shalishi practice of arriving at a consensus decision rather than justice deliverance has greatly added to its advantage. The locals get together and talk, and eventually an opinion emerges which is the opinion of all. There is no majority for they are unanimous; there is no minority, for the minority has been talked over and absorbed within the majority. Though the verdict in most cases lack elements of mature jurisprudence, they are carried out for its proximity to local customs; prohibitions and orders of one type are applied to all acts of the same category which are obeyed for obviously good reasons. While taking decisions, the shalishi also draw upon precedents. The shalishdars often ask the parties to substantiate their claims through proofs of individuals or documents. Enquiries are made in the neighbourhood to decide the veracity of versions presented before them. The shalishdars aware of local idioms and beliefs employ skilful diplomacy and facilitation for negotiation; steering through and providing a working solution to the issue at stake striking balance between ideal solution and pragmatic circumstances.

Gram-shalishi as an instrument of intervention provides meaningful solutions to cares and problems, the benefits sometimes, if not always, accruing to the most deprived section of society. Their ability to dispense justice based on conciliatory approach eliminates the need for lawyers and complex law. Their initiative to empower the people at the grass-root and resolve disputes amicably solves many of the problems that are faced by conventional justice-delivery system. The system resolves the issue of access to justice system for those living in

remote regions by keeping alive the written law and feeding life into it. However, these informal shalishis are not romanticized units representing people's forum or units doling out decisions on complete consensus but nonetheless, one notices the spirit of association when (some, even if not most) gather to dissolve the dispute of his fellow villager. Gram shalishi scores high over the formal system which speaks in retributive terms of handling down punishment, lock-ups and imprisonment. Believing in not punishing the offender severely, but rather educating and correcting his errant behaviour, gram-shalishi as part of the ancient heritage provide door-step justice, speedy, transparent and cost effective. Keeping with its goal of regulating social relations in the village, the sanctions are mostly measures of social pressure such as mandated apologies to victims, small fines, censures, reprimands and sometimes socially useful service. The initiative of gram-shalishi towards resolution of local disputes is an attempt to reconcile the past with the present; the shalishi justice has kept villagers at home. The shalishi has made villagers realize the maxim, the good of one lies in the womb of every one's good.

## **6. CRITICISM**

The ability of the panchayat members to resolve disputes is looked upon by villagers with both awe and respect; but one cannot rule out the existence of distrust and suspicion. All is not good with the shalishi system; it is often marked by tendency of being dispassionate where group politics and inter-community rivalry sometimes influence decision-making. The institution is not bereft of its own hazards as there have been evidences of culprits in collusion with men of influence and power-groups impose their dictates on the poor and weak. The shalishi-process often subordinates intentions and motives to the consequence of the action; they appear to be less interested either in knowing nor identifying the real cause for which such actions have occurred; they seemed to be satisfied with the notion that end-result of the act have inflicted harm upon other(s). Consequently they do not distinguish between facts whether the act has been committed deliberately with a clear-cut intention or is it the result of an accident.

Though decision taken by majority voice is keeping with the notion of liberal democracy, but justice may actually be denied and grave injustice done when a brute majority pushes the shalishi towards a certain consensus. Participant observations have shown that issues of domestic violence are often met with insensitive attitude and lukewarm response because a

violent act within the household is seen as an aberration, let alone a crime. Often in such cases negotiation becomes tough because what the woman wants and what the family is willing to concede remains far apart.

## 7. CONCLUSION

In the contemporary period, the informal, traditional-indigenous institution of gram-panchayat shalishi mirror community interests to end impunity. Notwithstanding their shortcomings, this informal institutions at its level send a clear message that they are less prepared to leave unpunished social and moral crimes and thereby stand to reduce, if not eradicate, culture of impunity and restore social disorder. With its aim of reconciliation, the shalishi system seeks to construct and maintain the social and moral fabric of society generally strengthening civil society and legal capacities of the poor in order to address their priorities. Adjudicating upon disputes on the basis of well-established customs and traditions, they uphold the ancient pervasive belief that society can be protected by robust and fair resolution of disputes by actors accountable to the community at large. The informal gram-shalishi as an institution set the adage that fair and impartial mediators' set the tone for society; their restorative justice helps in building legal powers of the poor. This is appropriate because in the rural areas disputes affecting the poor are not handled by legal courts but by shalishi members from the village community through the informal processes because they are more accessible, affordable and comprehensible.

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<sup>i</sup> A khap is a community organization representing a group a clan or a group of related clans. They are found mostly in Northern India, particularly among the Jat people of Western Uttar Pradesh and Haryana, although historically the term has been used for many communities. Khaps are not affiliated with formally elected government bodies and is instead concerned with the affairs of the khap it. It is not affiliated with the democratically elected local assemblies called panchayats. A khap panchayat has represents no official government recognition or authority, but can exert significant influence within the community it represents.

<sup>ii</sup> Mana is an indigenous Pacific Islander concept of an impersonal force or quality that resides in people, animals, and in animate objects. The word is a cognate in many Oceanic languages, including Melanesian, Polynesian, and Micronesian. In anthropological discourse, mana as a generalized concept is often understood as a precursor to formal religion. It has commonly been interpreted as "the stuff of which magic is formed," as well as the substance of which souls are made. Mana is more recently a New Zealand English word. The indigenous word reflects a non-Western view of reality. The New Zealand Ministry of Justice once said: Mana is a concept which has been attributed single-worded definitions by contemporary writers. As concepts, especially Maori concepts they cannot easily be translated in to a single English definition. Mana takes on a whole range of related meanings depending on their association and the context in which they are being used. In contemporary New Zealand English, the word mana, taken from the Maori, refers to a person or organization of people of great personal prestige and character. For instance, Sir Edmund Hillary is considered to have great mana both because of his accomplishments and of how he gave his life to service.

<sup>iii</sup> The 73<sup>rd</sup> Amendment Act came into force on 23<sup>rd</sup> April 1993. The act seeks to provide Constitutional sanction and a new kind of permanence to Panchayati Raj and has deepened the reach of decentralized polity through a multi-level structure of self-government. It has been empowered to have more developmental functions and exercise conduct of business in better participatory process. It provides for transfer of power from the apex of administrative hierarchy to the elected representatives of the people at the grass-root level and provides freedom to the people to shape their destiny. The 73<sup>rd</sup> amendment to the Constitution envisages setting up of local governance structures with the intention of intensifying democracy at the grass roots. This was to be achieved by bringing marginalised groups to the mainstream political process through affirmative action. Positive discrimination in the form of reservation of seats in the local governance structures resulted in spaces being created for better and increased participation by various politically marginalised groups such as women, SCs, STs and OBCs. The following can be counted as the salient features of the 73<sup>rd</sup> Amendment Act--- to provide 3-tier system of Panchayati Raj (Village Panchayat, Panchayat Samiti and Zilla Parishad) for all States having population of over 20 lakh; establishment of Gram Sabhas at the village level; fixed term of 5 years of local bodies at all levels [(Article 243E)]; regular elections to Panchayat bodies at the expiry of its term every 5 years; fresh elections within six months in case of suppressions or dissolution; proportionate seat reservation for Scheduled Castes and Scheduled Tribes and not less than 33% seats for women [article 243(D)]; constitution of State Finance Commissions to make recommendations regarding the financial powers of the Panchayats; constitution of District Planning Committee [article 243(ZD)] to prepare draft development plan for the district as a whole, with preparing of micro plans for socio-economic development beginning at the gram-panchayat level [articles 243G and 243H)]. To some observes, the 73<sup>rd</sup> amendment institutionalized a 'third stratum of Governance' at the local level.