



Interdisziplinäre Zeitschrift für
Südasienforschung

ISSN: 2510-2621

IZSAF 03/2018

Interdisziplinäre Zeitschrift für Südasienforschung

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ISSN (online) : 2510-2621

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Understanding Gestation Work in India through Surrogacy Contracts

Sneha Banerjee¹

Abstract: This paper engages with surrogacy contracts as crucial texts which seek to codify the role of a woman who act as a surrogate as a service provider engaged in gestation work, and not as a parent despite her central role of carrying a pregnancy and giving birth in a surrogacy arrangement. The paper analyses gestational surrogacy contracts sourced during fieldwork conducted in Delhi-Gurgaon and Mumbai, India and illustrates its salience in a surrogacy arrangement. It supplements a focus on the text of the contracts with insights drawn from interviews with lawyers who frame such contracts and ‘agents’ who recruit and supervise the women acting as surrogates. The paper contextualises the surrogacy contract in the evolving regulatory framework around surrogacy in India and engages in-depth with its main objectives and contents. It demonstrates how as a contract between two parties – the woman acting as the surrogate and commissioning parents – and mediated by facilitators like lawyers and agents, it renders the former to be an unequal party subjected to numerous controls and restrictions.

INTRODUCTION

Surrogacy is a *contractual* arrangement, where a woman agrees to give birth to a child for somebody else to bring up. When she receives a payment for doing so, the arrangement becomes commercial. The transaction involved in a surrogacy arrangement – especially when there is a payment for carrying a pregnancy, giving birth and relinquishing a child – has been a subject of often polarised debates on the nature of the surrogacy contract and what it entails (c.f. Richard 1990; Spar 2005). In the 1980s, validity and enforceability of sur-

¹ Some sections of this paper were presented at the Young South Asia Scholars Meet (Y-SASM), 24-25 June 2016 at the Centre for Modern Indian Studies (CeMIS), Göttingen. The author is grateful to Rukmini Sen (Ambedkar University Delhi, India) for her comments and inputs on a preliminary version of this paper. Constructive and encouraging feedback from Clémence Jullien, Sandra Bärnreuther and Johannes Quack at the Department of Social Anthropology and Cultural Studies, (ISEK – Ethnologie), University of Zürich has been extremely helpful in revising various drafts of this paper. The author thanks the anonymous reviewers and the editors of this journal, particularly Anna-Lena Wolf for their engagement with multiple drafts of this paper as it took a final shape.

rogacy contracts became a subject of judicial scrutiny most prominently in the USA, in the wake of child custody cases when women acting as surrogates refused to relinquish the children they gave birth to. Since 1980s, many countries in the global North put in place stringent regulations on surrogacy (especially, on commercial surrogacy which came to be prohibited in many jurisdictions). Markens (2007) notes how the controversial and prominent 1985 Baby M case in the USA, in particular, was a catalyst for major regulatory steps. Further, she documents that ‘most industrialized nations have rejected or greatly restricted the practice of surrogate parenting’, especially through commercial surrogacy including ‘Australia, Canada, Denmark, France, Germany, Great Britain, Italy, the Netherlands, Norway, Spain, Sweden, and Switzerland’ (Markens 2007: 23). In contrast to this restrictive legal scenario, since the early 2000s, the phenomenon of commercial surrogacy emerged and flourished in India for almost a decade and a half until the government announced a ban in 2016 (Bedi 2016). Surrogacy in India has been facilitated by an industry involving multiple actors and myriad modes of organising the arrangement. However, despite multiplicities in the way a surrogacy arrangement could be organised, it is always a contractual arrangement between the woman acting as the surrogate² and the commissioning parents. In India, even though they are primarily instruments to ensure that the woman acting as the surrogate relinquishes the child she gives birth to, in effect, such contracts are much more expansive. They include specific codes of conduct for women acting as surrogates for the duration of their pregnancy. Moreover, they have been deployed by the surrogacy industry as a critical tool to ensure a smooth completion of the process (Pande 2014; Majumdar 2017). In this context of centrality of the contract in a surrogacy arrangement, I focus on the surrogacy contract as a crucial text that frames what surrogacy entails and constructs the role of the women who act as surrogates. In this paper, I analyse the surrogacy contract – its text, the conditions it stipulates and the negotiations concerning it – as a window to understanding the role of women who acted as surrogates in India. I show how the surrogacy contract is designed to be a tool that not only regulates their lives when women act as surrogates but seeks to

² It is important to emphasise at the outset that in my research I use the long phrase *women who act as surrogates* and refrain from the shortcut of referring to them as just ‘surrogates’ in order to avoid invisibilising their personhood and to recognise them as active agents.

codify their role as that of doing, what can arguably be called *gestation work*. The surrogacy contract emphasises the role of women who act as surrogates as distinct from being mothers and only as that of *service* providers gestating a pregnancy and giving birth as part of their contractual obligation.

I draw upon field work conducted in Delhi-Gurgaon and Mumbai in India during 2014-15. The core of my fieldwork comprised of a total of 47 in-depth, semi-structured interviews with doctors who practice IVF and also facilitate surrogacy, counsellors at clinics and agencies (some of whom were clinical psychologists and others not), lawyers, commissioning parents, proprietors of agencies and their staff, individual agents and women acting as surrogates. These were held at the doctors' offices and consultation rooms at the clinics or hospitals where they practiced, with some individual agents and women acting as surrogates in the lobbies or waiting areas of the clinics or hospitals, the lawyers' chambers, offices of agencies, 'hostels' where some women acting as surrogates lived, to name the important spaces I could access. The interviews with doctors, counsellors and lawyers were mostly conducted in English, and with the all individual agents and most women acting as surrogates in Hindi (except two in Bangla). I was able to conduct these interviews without any translators since I can communicate with ease in all three languages. In this paper, I primarily draw upon discussions on surrogacy contracts from the interviews with seven lawyers (three in Delhi-Gurgaon and four in Mumbai), five individual agents (three in Delhi-Gurgaon and two in Mumbai) and two doctor-proprietors of a 'third party'³ agency' in Mumbai. Two core primary texts that I analyse in this paper are gestational surrogacy contracts that I sourced during my field research, one

³ The procedures using Assisted Reproductive Technologies (ARTs) that necessitate involvement of a 'third party', in infertility treatment e.g. in case of egg donation, sperm donation and surrogacy, are referred to as 'third party reproduction' in medical parlance. The establishments that recruit, supervise and coordinate with these 'third parties' (i.e. egg donors, sperm donors or women acting as surrogates) are often called Third Party Agencies (TPAs). They themselves are also 'third party' in a transaction that happens primarily between the clients and the doctors who act as providers of infertility treatment to them. Even individual agents can be referred to as 'third party agents', however, in the surrogacy industry only those establishments are designated as TPAs who have a more elaborate organisational structure in place and are not run entirely by only one or two people. In the Draft ART Bills, that I refer to in the next sections, these organisations are called 'ART Banks', a term that was not commonly used in the industry as I encountered during my field research.

each from Delhi and Mumbai. All the names of people I interviewed and have quoted in this paper are pseudonyms.

In this paper, at the outset, I outline a brief overview of the phenomenon of surrogacy in India. I then contextualise the surrogacy contract in a scenario of evolving regulatory frameworks and highlight its main objectives and contents. Thereafter, using my field research, I probe how key actors from the surrogacy industry envision a surrogacy contract, its salience in a surrogacy arrangement and accordingly frame its contents. To do so, I draw upon interviews with lawyers who draft and formalise surrogacy contracts, and agents who are entrusted with the task of ensuring that the contractual obligations are upheld by women who act as surrogates. I then proceed to argue how the contract envisages women acting as surrogates as gestation workers.

THE SURROGACY INDUSTRY IN INDIA

Along with a few more countries of the global South⁴, there has been a rise of the commercial surrogacy industry in India. It was often seen as a transnational 'outsourcing' industry with favourable laws (and also lower costs⁵), even though it did not cater to exclusively transnational clients. The Indian government announced a decision to prohibit commercial surrogacy and introduced the Surrogacy (Regulation) Bill⁶ in Parliament in 2016, in close succession of its deposition in the Supreme Court during the hearing of a Public Interest Litigation (PIL)⁷ to ban commercial surrogacy. Indian courts have also examined cases related to surrogacy, but those have involved transnational commission-

⁴ Other countries were Thailand (until it was banned there in 2015), Ukraine, Nepal (until it was banned in 2016) and Cambodia (until the government announced a decision to ban it in 2016), to name a few (Nadimpally et.al. 2016).

⁵ The cost in India could be less than half compared to for example, the states in the USA where commercial surrogacy is legal (Aravamudan 2014; Rudrappa 2012).

⁶ The Bill was introduced in the Parliament in November 2016, but still awaits parliamentary debate and completion of the legislative process. It does not ban the practice of surrogacy but merely bans a commercial transaction between the woman acting as the surrogate and the commissioning parents. Only, Indian heterosexual couples who have been married for 5 years can enter into an altruistic surrogacy arrangement with a close relative, according to this Bill.

⁷ Jayashree Wad v. Union of India; W.P. (C) 95/2015.

ing parents and citizenship issues of the children⁸. The surrogacy contract itself has not been a subject of examination by courts in India yet.

Until legal, the commissioning parents could be both foreigners and Indians, who were able to afford this process that costs up to \$35,000-40,000 (Rudrappa 2012). The women who acted as surrogates in India came from marginalised sections of the society, for whom the payment which could range from \$1,700 to \$8,800 [i.e. INR 1,00,000 to 5,00,000⁹] was a lucrative remuneration when compared to what they were otherwise engaged in like domestic work as maids, as cooks and nannies, factory work or as housewives whose husbands work in factories, have small businesses or other low-paying jobs.

An expanding body of research on the process of commercial surrogacy in India¹⁰ as well as incisive documentary films¹¹ on the subject have highlighted the proliferation of commercial surrogacy in India and analysed multiple facets of the way it was facilitated. The surrogacy industry mediates the arrangement between the clients of commercial surrogacy, i.e. the commissioning parents, and the women who act as surrogates. This industry includes a plethora of actors – doctors, lawyers, medical tourism agencies, agents who recruit women to act as surrogates, hospital administrators, counsellors, and so on. The type of commercial surrogacy that has flourished in India is *gestational*, where women who act as surrogates, do not contribute their gametes but only gestate and give birth to the embryos created using Assisted Reproductive Technologies (ARTs) like In-Vitro Fertilisation (IVF). Therefore, a primary centre where such arrangements are anchored is a hospital space which could be a ‘family-owned nursing home’, ‘In Vitro Fertilisation (IVF) clinic’ or ‘maternity home/nursing home’ (Deepa V. et al. 2013). Surrogacy is commissioned

⁸ The first such case and perhaps the most prominent among them is the Baby Manji case. *Manji Yamada v. Union of India*, (2008) 13 SCC 518.

⁹ This price range is a ‘guesstimate’ based on a survey of media reports, available research on this subject and information I gathered during my research in 2014-15 (Banerjee 2015). The prevalent conversion rate in 2014 was 1 USD = 60 INR.

¹⁰ Like that of Pande (2014; based in Gujarat), Rudrappa (2012 & 2015; based in Bangalore), Saravanan (2010; based in Gujarat), Majumdar (2017; based in Delhi), Sama (2012: based in Delhi and Punjab), Deomampo (2016; based in Mumbai) and Deepa V. et. al. (2013; based in Punjab, Maharashtra, New Delhi and Andhra Pradesh), to name a few but prominent ones.

¹¹ Some important documentary films on the subject include *Made in India* (Haimowitz & Sinha 2009), *Can We See the Baby Bump Please?* (Sama 2013) and *Womb on Rent* (Dutta 2014).

by people¹² who seek it as a mode of treatment for their infertility, when they cannot reproduce on their own. Women who act as surrogates in this process are recruited by individual ‘agents’, who may be working for the hospitals or intermediaries like a ‘third party surrogacy agency’ (TPAs), or ‘specialist transnational agencies’ (ibid.). These agents also supervised them during their pregnancy, and/or coordinated the logistics for the commissioning parents, including travel and visa formalities for foreigners. Thus, the surrogacy industry mediates between the commissioning parents and women who act as surrogates, bringing them together through a contractual arrangement.

EVOLVING REGULATION AND THE SURROGACY CONTRACT IN INDIA

The contracts were drafted and formalised by the surrogacy industry in an environment where some legal sanctity was accorded to them. The Indian government began its regulatory efforts since the early 2000s, and the National Guidelines for Accreditation, Supervision and Regulation of ART Clinics in India (2005) formulated by the Indian Council for Medical Research (ICMR) also included a framework for legalised commercial surrogacy (ICMR 2005). Modelled on these guidelines, various versions of Draft ART (Regulation) Bills, during 2008-2014, sought to regulate surrogacy and upheld the importance of a contractual arrangement between the women acting as surrogates and the commissioning parents (Government of India 2008, 2010 & 2014). The Draft ART Bill required the woman who acts as the surrogate to enter into a contract with the ‘ART Bank’ i.e. the agency which recruits her for the process as well as the ‘patients’ i.e. the commissioning parents, with the inclusion of a payment schedule. The other three parties – the ‘patients’; the ‘ART Bank’ that would recruit gamete donors or women acting as surrogates; and, the ‘ART Clinic’ which would medically supervise the process – were also directed to enter into contracts with each other.

When I conducted my fieldwork in 2014-15, some restrictions were brought in by the Indian government with regard to foreign nationals commissioning a surrogacy. However, in general, the lawyers, doctors, individu-

¹² Gestational surrogacy can be used as a mode of reproduction by not just couples who are diagnosed to be infertile but others as well, for example single people or homosexual couples. However, the Indian government has largely excluded others (especially in case where they are foreigners) and only favours heterosexual married couples to commission a surrogacy in India.

al agents and representatives of TPAs whom I interviewed, claimed to be operating in compliance with the conditions laid down in the Draft ART Bills, particularly with regard to the contractual nature of the arrangement. In near replication of the ICMR Guidelines, the Draft ART Bill 2010 contained a consent form to be signed by the woman who acts as the surrogate, titled 'Agreement for Surrogacy'. This agreement was only an expression of consent by her to act as a surrogate and an affirmation that she understands the medical intervention that gestational surrogacy would entail. It included an endorsement by the ART Clinic that it has been 'made sure to the extent humanly possible' that she understands the 'details and implications' of the gestational surrogacy process. In her pioneering work Pande (2014), noted that the clinic in Western India where she conducted her ethnographic fieldwork, used this consent form as suggested in the ICMR guidelines, for women acting as surrogates there. However, later research on the phenomenon (Deomampo 2016; Majumdar 2017), including mine, which emerged from other locations in India shows that there was no fixed format of such agreements, even if the basic template was adopted from the ICMR Guidelines and Draft ART Bills. For example, the Draft ART Bill 2010 contained an additional proforma called the 'contract between the patient and the surrogate', which simply stated that the 'patients' are the seekers of surrogacy and the latter 'willingly agreed to be the surrogate mother for a child of the patient'. It also included the payment that the woman acting as the surrogate would receive in five instalments – at the time of embryo transfer, on confirmation of pregnancy, at the end of first and second trimesters and after the delivery. The contracts that the industry mediated took the shape of a broader document that had elements of both the 'agreement' and what was envisioned as the 'contract'.

The lawyers who specialise in the niche area of drafting surrogacy contracts have used the formats suggested in the ICMR Guidelines and Draft ART Bills as templates. Yet, they also improvised to create contracts that are not merely consent forms and are more expansive in scope. Some of the lawyers I interviewed have been involved in drafting surrogacy contracts from as early as 2004-05. They drafted some of the first contracts on their own when there were no Draft ART Bills for reference. Later, they adopted the practice of drafting contracts in consonance with the templates given in the Draft ART

Bills. During my field research, I could source two sample surrogacy contracts from lawyers, one each at Delhi and Mumbai, which I analyse in this paper¹³.

OBJECTIVES AND CONTENTS OF THE SURROGACY CONTRACT

Primarily, the surrogacy contract is an agreement between the commissioning parents and the woman who acts as the surrogate. She agrees to carry a pregnancy, give birth to the child she gestates and relinquish it upon birth. The commissioning parents, in turn, agree to pay her a remuneration for doing so, to take care of all the expenses involved in the required medical treatments, and that they will take the custody of the child when it is born irrespective of its sex, health status or any disabilities. Generally, the husband of the woman acting as the surrogate was designated as a 'confirming party' for the woman acting as the surrogate. If the women acting as surrogates were separated, divorced or widowed, usually another close family member acted as a 'confirming party'¹⁴. This contract is supplemented by – an 'endorsement by the ART Clinic'; a separate financial agreement or payment schedule; a 'declaration of intent' by the woman who acts as the surrogate that she is gestating the pregnancy with the intention of relinquish-

¹³ Interestingly, while I could source sample copies of surrogacy contracts, they refused to share the contracts where the 'ART Bank' or 'ART Clinic' are one of the parties, citing 'confidentiality'. This meant that the 'confidential' contracts that I could not access included one between the woman acting as the surrogate and the ART Bank and the agreements that the commissioning parents, the ART Bank and the ART Clinic enter into with each other, as envisaged in the Draft ART Bills. Even though only two of the lawyers agreed to share the surrogacy contract in a 'sample' form, without names and identifying details of the woman acting as surrogate, her husband or commissioning parents, similar 'blinding', or my promise of maintaining confidentiality as an academic researcher, was not deemed to be enough as far as the ART Banks and ART Clinics were concerned by any of the lawyers I interviewed. In a sense, my inability to access the auxiliary yet crucial contracts that facilitate the completion of the surrogacy process opened a window to the centrality of the facilitators of the surrogacy arrangement – the agencies and the clinics – guarding whose confidentiality was held to be of most importance by the lawyers.

¹⁴ In my interviews with lawyers, agents, as well as doctors in Delhi and Mumbai, it emerged that the requirement of a 'confirming party' is seen as crucial. A confirmation from husband is considered as a condition that absolves the facilitators of surrogacy of any responsibility emerging in possible marital discord due to the wife 'being pregnant with someone else's child', or family members complaining of duping the woman who agreed to act as a surrogate in 'any immoral activity'. Such concern emerged from an assumption that in the marginalised sections of society from where most women who act as surrogates came, there is not much awareness about reproductive technologies like IVF and the possibility of separating sex from reproduction.

ing the child(ren) upon birth; and, an affidavit by her husband outlining his consent for his wife acting as a surrogate, that he has no paternity claims and understands that sexual abstinence is involved in the process.

The main objective of gestational surrogacy contracts is to ensure that the woman who acts as the surrogate relinquishes the child(ren) upon birth, neither she nor her husband can stake claim to gain custody, and parentage is established in favour of the commissioning parents. It also seeks to establish that the parties to the contract acknowledge that doing so would be in the 'best interest of the child'¹⁵. The contract that I sourced in Delhi lays this down elaborately as follows,

the parties agree that the any Child(ren) [sic.] born pursuant to this Agreement shall be *morally, ethically, legally, contractually and otherwise* the Child of the commissioning parents for all intents and purposes, and the Commissioning Parents shall assume all legal and parental rights and responsibilities for the Child, and that Surrogate and Husband do not desire nor intend to establish a parental or any other type of relationship with the Child. *Surrogate and Husband specifically relinquish any and all rights, responsibilities, and claims with respect to a Child born pursuant to this Agreement*, and specifically agree that it is in *the best interest of the Child* that the Child be raised by the commissioning parents and be the Child of the commissioning parents for all purposes, without interference by Surrogate and/or Husband (Recital to the Contract, clause G; emphasis added).

Moreover, a supplement to the contract is an additional 'declaration of intent' by the woman acting as the surrogate. In the contract that I sourced in Mumbai, in this declaration she specifies,

I have agreed to carry pregnancy and give birth to a child conceived by way of placement of embryos obtained by inseminating the eggs of the commissioning mother with the commissioning father's sperm into my uterus through ART process. I have no intention of having physical or legal custody or any parental rights or duties with respect to any child born of this surrogacy process [...]. I further acknowledge that it is in *the best interests of the child*

¹⁵ I refer to this aspect later in the paper.

born of this surrogacy process for the commissioning parents to have sole custody of said child. I therefore, agree to cooperate fully in allowing the commissioning parents to bond with and take custody of said child from the moment of its birth (emphasis added).

Thus, there is an emphasis on the role of ARTs in the process of surrogacy. Later in the paper, I will show how this is sought to be linked to establishing parental rights in favour of those who seek the ARTs in the first place, i.e. the commissioning parents. Another aspect that is evident from the above clause is that the role of the woman acting as the surrogate is envisaged as ending at the moment of the birth of the child when the commissioning parents take the custody. Moreover, similar to the elaborate provision in the Delhi contract, this provision in the Mumbai contract reiterates that it is in the 'best interests of the child' that commissioning parents are entrusted with sole parental rights. Indeed, the Draft ART Bills and the Surrogacy Bill also envisage this and stipulate that even the birth certificate of the child bears the name of the commissioning parents so that they do not need to undergo any transfer of parentage or adoption formalities.

It is poignant how such elaborate clauses are put in place to circumvent the possibility of 'a parental or any other type of relationship with the Child' for the woman who acts as the surrogate, by including it as a contractual obligation for her. As Byrn and Synder (2005) note, the practice of contractually ensuring parentage prior to the birth of the child in favour of the commissioning parents is intended to facilitate recording the commissioning parents' names on the birth records and discharging the child directly from the hospital to them. However, whether a woman acting as a surrogate must, can or should agree to sign away all her claims to parenthood has been a contentious issue in debates on surrogacy contracts. Some have highlighted the undesirability of a situation where women are expected to give informed consent to relinquish the children prior to giving birth (Okin 1990; Allen 1991). Given that she carries a pregnancy and gives birth, she must be able to refuse relinquishing the child if she so desires (Qadeer & John 2009). On the contrary, others have warned against creating special conditions around gestation in surrogacy that impinge on their ability to enter into a contract, because it can set an unwarranted precedent and can be misused as a pretext to exclude women from entering into other contracts as well (Andrews 1988). While not arguing

against women's freedom or capacity to enter into a contract for surrogacy, Phillips points out how surrogacy contracts unfairly require women acting as surrogates 'to relinquish the right subsequently to change one's mind' (2013: 79). The way the practice of recording the names of the commissioning parents on birth records is upheld in draft legislations on surrogacy in India has been criticised for promoting an erasure of the woman acting as surrogate (Qadeer & John 2009; Sama Team 2009).

Moreover, even without entering a debate on the difficulty that a woman acting as a surrogate may or may not have in giving prior consent to relinquish the child she gives birth to, and acknowledging women's agency in deciding to enter into such arrangements, the erasure of the possibility of 'any other type of relationship with the Child' as articulated in the clause from the Delhi contract above, can be criticised. The fact that she agrees to give birth to the child with the intention of relinquishing it should not mean that her status as the birth-giver should also be denied. Indeed, the erasure of her role is thought to be of such importance that she is further bound with a contractual obligation for non-disclosure and confidentiality. In the Mumbai contract there are two particularly important clauses regarding this,

3.1.23 She will never disclose anything about this Agreement or about her surrogate motherhood to the Child and for that purpose she agrees not to take or keep with her any copy of this Agreement or any medical papers and documents relating to her surrogate motherhood.

3.1.27 She will never take recourse to any legal proceedings claiming rights over and custody of the Child and declares that she is explicitly debarred from doing so and as such, any claim by herself or by anybody through her or in her name over and in respect of the Child and his/her custody shall be considered as null and void and she hereby unequivocally consents and agrees to passing of an order or direction declaring such claim as null and void by the court or authority before whom such proceedings may be initiated or filed.

These clauses seek to ensure that the woman who acts as the surrogate is deterred from staking any claim to the custody of the child(ren) she gives birth to. The substance of these clauses also demonstrates how she is not just an unequal party to the contract but is effectively signing on her own

subordination, forgoing even the right to keep documentation of the medical reports relating to her pregnancy while acting as a surrogate. Her obligations are seen to continue in perpetuity even after the process is over, however, neither the ART Clinic, agencies that recruit and supervise her, nor the commissioning parents bear any responsibility for the long-term consequences that gestational surrogacy might have on her health. The validity and enforceability of such contracts have not been challenged in Indian courts so far, unlike for example, courts in the USA that deliberated on the contract as I mentioned above. At the risk of speculation, one wonders how such contracts will stand the scrutiny of courts. Is it even possible for a citizen to waive off their right to legal remedies and provide a priori consent to a court order that nullifies their claim?

Both the sample contracts that I sourced during my fieldwork were in English. But the lawyers who shared them said that the provisions of the contract were translated for the women acting as surrogates, in Hindi or another Indian language as the case may be, before they sign it. Other studies (Pande 2010; Rudrappa 2015) have noted that most women who sign these surrogacy contracts cannot read and understand English on their own. Some lawyers I interviewed shared that contracts are also available in Hindi and in Mumbai some contracts are written in Marathi as well. However, the women who act as surrogates are highly dependent on the lawyers and agents to comprehend the technical language that is used in legal contracts even if it is in a language that they speak and/or can read and understand.

Surrogacy contracts are detailed documents, often ten to 20 pages long, but as I gathered from my interviews with agents as well as women acting as surrogates, the explanation given is not really a translation of the entire document, but just conveying a gist of what the contract signifies. Usha, an agent whom I interviewed in Mumbai, summarised what the women acting as surrogates are told,

this document says that you will complete this work in 9 months and hand-over the child to the 'party' [i.e. the clients who have commissioned the surrogacy]. You cannot leave the work in between and if you do then legal action can be initiated against you. All this is written there, they have to sign it and complete the work given.

In this crisp summary, the main concerns that the woman acting as the surrogate relinquishes the child after giving birth and that she commits to the completion of the process in a hassle-free manner are both highlighted. Her contractual obligations are articulated as 'work' that she is entrusted with. For the entire duration of the pregnancy, it involves a wide array of instructions that she is contractually obligated to follow. For example, in the Mumbai contract, a very broadly drafted clause stipulates that,

She will make the necessary changes to her lifestyle to minimize the risk of harm to the unborn child [...]. Whenever in doubt about a particular substance or conduct, she will discuss it with the Attending Physician and will abide (sic.) by the Attending Physician's decision and instructions.

The requirement of such 'lifestyle' changes is often also used as a justification to ask them to stay at 'surrogacy hostels' for part(s) or entire duration of the pregnancy. But even in cases that they do not stay at these hostels, the agents ensure everyday surveillance by conducting 'surprise checks' as another agent in Mumbai, Anandi, shared with me. Ethnographic work of Pande (2014) located in one such hostel, and that of Deomampo (2016) for those who continue to stay in their own homes demonstrates the myriad ways in which such surveillance is carried out by agents.

As Usha's summary above shows, the threat of punitive legal action is also deftly mobilised to disincentivise breach of contractual obligations by the woman acting as the surrogate. While the contract stands as a guarantee that she is entitled to her remuneration on completion of the process, non-completion entails penalties. In case she chooses to undergo an abortion or does not follow the medical regimen or 'fails to timely cooperate (sic.) with legal proceedings', consequences are delineated in the contract. These can lead to not just the forfeiture of her dues but also that 'she will be responsible for all monetary expenses incurred by the Commissioning parents, including, but limited to, medical expenses, psychological expenses, travel expenses, and all legal expenses', as the Delhi contract stipulates. The same contract obligates the commissioning parents to also pay what is due to her as agreed at the outset along with the costs of the procedure, in case they ask her to terminate the pregnancy or if doctors certify that there would be a risk to her life if she continues the pregnancy. However, it is striking that no equivalent

broad costs such as ‘psychological expenses’ are part of their obligations. Given their respective socio-economic status, such seemingly equivalent clauses are in effect designed to make the breach of contract more difficult and disincentivised for the woman who acts as the surrogate. This imbalance drafted into the contract has its roots in the way women who act as surrogates are perceived by the lawyers who draft the contracts and other agents of the surrogacy industry which I demonstrate in the next section.

The agents whom I interviewed, shared that the event of signing the contract by the woman acting as the surrogate and her husband is generally recorded on-camera. It is completed in the presence of the lawyers, sometimes also the doctor who medically supervises the process, and the venue is either the ART Clinic or the lawyer’s chamber. Moreover, in many instances, the woman who acts as the surrogate and her husband do not necessarily sign simultaneously as the ‘clients’ who have commissioned the surrogacy. In fact, in many cases they may not even meet each other during the entire process that is mediated by the surrogacy industry. In such a context the act of signing the contract itself pans out as such that the representatives of surrogacy industry and particularly the lawyers assume a position of authority ‘under’ whose supervision women acting as surrogates sign on the contract.

CONSTRUCTING THE SURROGACY CONTRACTS

In Mumbai, the lawyer, Sumit Karnik, who shared the sample contract with me, had an independent practice at a firm that he was heading as the ‘Managing Partner’. He worked with ART Clinics and commissioning parents who hired the services of the firm. In the case of the latter, mostly after referrals at ART Clinics, where they were ‘patients’. In Delhi, I sourced the sample contract from Sundar Bharadwaj who worked as a Company Secretary and Legal Advisor at an ART Clinic, part of a multi-national chain of such clinics, responsible for operations at the Delhi branch as well as at another in a South Indian city. The clinic also commissioned two other, independent lawyers as legal consultants. While Karnik had himself drafted the contract that he shared, Bharadwaj specified that the contract is drafted by an ART Bank with which his Clinic works. He mentioned that he is responsible for vetting each contract that ART Banks draft for them, but candidly shared that it is broadly the same template that is used for all the

agreements. Even though both of them worked in very different organisational setups, they had the identical task of ensuring the formalisation of the contract when the parties signed it.

The contracts that I sourced are very detailed and include clauses that pre-empt various scenarios and put conditions accordingly. The lawyers shared that the conditions stipulated in the contracts are in the best interest of all parties, but it was apparent that their clients' interests remain a priority for them. This scenario stems from the fact that women who act as surrogates, by virtue of their poor economic conditions (as highlighted above), cannot afford to engage their own lawyers. For example, Sumit Karnik in Mumbai told me that,

So far no surrogate has walked in to my office asking me to draft a contract, it will be the ideal situation, but that is not the case yet. So, I am obligated to keep my clients' interests in mind while drafting. But the surrogate is an equal party and I ensure that the clauses are drafted to reflect the same.

It is interesting how the interests of the woman acting as the surrogate comes as an afterthought for Karnik, where he acknowledges the principle of equality among parties to the surrogacy contract with a simultaneous emphasis on his allegiance towards his clients as a lawyer. In their own terms, the lawyers whom I interviewed, shared that the contracts are intended to be 'fool-proof' in ensuring that the custody of the child(ren) to be born remains with the 'patients' i.e. commissioning parents, and that the women acting as surrogates can be kept under surveillance to ensure the 'smooth completion' of the process. The completion and that too in a 'smooth' manner, is in the interest of the facilitators of surrogacy – the agencies and the clinics – for their reputation and commercial interests. This was deemed to be one of the crucial factors in establishing India as a favourable destination for transnational arrangements, until it was legal as well as to present an assurance to Indian commissioning parents. For example, Mumbai-based lawyer Viren Rajawat who has an independent practice along with his wife Rashmi Rajawat, shared that the clause to prohibit any claims to parenthood by women acting as surrogates or their husbands is one of the most important in the whole contract. According to him,

If the question of relinquishing the child and all claims to parenthood is left negotiable and unsettled then that jeopardises the entire arrangement, putting the commissioning parents through much uncertainty while going through such an expensive procedure, spending so much money on the surrogate.

Thus, the key concern that the surrogacy contract seeks to address is that of commissioning parents, who must be assured that they will have sole parental rights over the child(ren) born out of this process in order that they get 'value for money' services. Further, on the question of determining parenthood in favour of commissioning parents, he said,

This is what distinguishes surrogacy in India. In UK, surrogate can decide till 6 weeks after the birth, then a parental order is required in favour of commissioning parents, but that is not so in India. On delivery, the commissioning couple gets the child, the surrogate has no claim. In other countries this has been a problem – the issue of custody – but in India these women [i.e. those acting as surrogates] need the money not custody of children. She has her own children to take care of, which she struggles to do financially, why would she want someone else's baby, *she just needs the money* (emphasis added).

He rightly indicates that no woman acting as a surrogate in India has approached a court to claim the custody of the child she gives birth to. Implicit here is a reference to cases like the Baby M Case and Johnson v. Calvert in the USA where women who acted as surrogates refused to relinquish the children they gave birth to as a part of surrogacy arrangements and staked a claim on their own parental rights. Even though in both these cases, the women acting as surrogates did not succeed in their claim, they demonstrated the possibility of what Rajawat refers to as 'jeopardis[ing] the entire arrangement, putting the commissioning parents through much uncertainty', as highlighted above. He indicates that this major factor is addressed in India through the contract and also owing to the fact that women who act as surrogates in India, according to him, do not even want it to be any other way. The fact that she is negotiating financial struggles, is perceived as a guarantee that the woman acting as the surrogate will uphold the commitment to relinquish the child in lieu of receiving the promised payment since she is someone who 'just needs the money'. It was apparent in my inter-

views with lawyers that her financial situation and economic need is also perceived as a factor that makes her a 'potential trouble-maker', who can demand more money and possibly resort to 'blackmail'. For example, Vaishnavi Sehgal-Kapoor, who practiced as an independent lawyer in Delhi and drafted surrogacy contracts for her clients who are commissioning parents, ART Banks or ART Clinics, explained the role of lawyers and the rationale behind elaborate contracts, as follows,

As a lawyer, my duty is to ensure no party takes advantage of others. On one hand, it is true that the rich can afford to pay and the poor are vulnerable. But on the other hand, the poor have nothing to lose; a tussle can arise when the poor make undue demands or try to take advantage. For example, we may feel sympathetic to our house help, want to do charity and help her too but many a times they do take us for granted. So, the rich and poor both should be protected in their own way.

The hierarchy between the commissioning parents and the women acting as surrogates, could not be more apparent than how Sehgal-Kapoor articulates it. Even when her point of departure is seemingly egalitarian when she emphasises that her role is to make sure that 'no party takes advantage of others', the demonstration of prejudices against the poor is unabashed in her narrative. The clarity of such articulation, in fact, is the hallmark of various actors in the surrogacy industry who rationalise and justify the excessive surveillance and control of the women acting as surrogates. An important mode of exercising control is the disbursement of the payments to women acting as surrogates. In the contracts that I sourced during my field research, it is noteworthy that in contrast to the inclusion of the payment schedule in the 'contract' itself in the Draft ART Bills, the payment schedule was drawn as a separate supplement. In my field research it also emerged that adopting the five instalment formula as the Draft ART Bill envisaged, as I highlighted above, was also not uniformly followed. The commissioning parents did not make any direct payments to the woman acting as the surrogate, but to the clinics, agents and agencies. She received her remuneration in instalments that are at the discretion of these agencies.

During the course of my field research, doctors, lawyers, and agents routinely highlighted instances of some women who deliberately cause a miscar-

riage while acting as a surrogate or abort after the pregnancy is confirmed and they receive some payment. It is argued that since they are women in need of money, they may be looking to earn only the partial payment that a pregnancy confirmation would yield, but it is then a complete loss for the commissioning parents and also a loss for facilitating agencies. In their interviews, people in the industry narrated such instances to counter the notion that women who act as surrogates are in a subordinate position. They instead sought to highlight how the women acting as surrogates are in a more powerful position with the 'power to do anything' (as one doctor put it). Therefore, for the industry, all women who act as surrogates are potential 'trouble-makers' or at least capable of 'threatening' and 'blackmailing' for greater monetary benefits. As a corollary then, for the industry it is essential to keep such 'potential trouble-makers' at bay. It is in this sense that the gestational surrogacy contract, the possibility of punitive legal action on breach of contractual obligations as well as the possibility of withholding their remuneration is sought to be instrumentalised to foreclose any possibility for the woman acting as the surrogate to renegotiate the terms of her agreement to this arrangement at a later stage.

THE CONTRACTING PARTIES: THE PATIENT AND THE GESTATION WORKER

The fact that the pregnancy of the woman acting as the surrogate would be conceived as a result of implantation of an embryo fertilised with the technique of IVF is emphasised prominently in the surrogacy contract. The contract highlights the fact that this arrangement is anchored at ART Clinics, is facilitated by doctors, and involves the use of gametes from commissioning parents (or that of an egg or sperm donor as the case may be). It is crucial that the surrogacy contract articulates it in those terms. This is because gestational surrogacy is considered to be a mode of 'infertility treatment' that the 'patients' i.e. the commissioning parents, avail. As I highlighted in the previous section, the various legal guidelines and draft legislations often use the term 'patients' to designate the commissioning parents. They are diagnosed with the disease of infertility, but they themselves do not receive a treatment for it, merely 'assistance' in reproduction (Shah 2010) which in this case is by gestational surrogacy. The woman acting as the surrogate is therefore only the medium through whom they receive the 'treatment' in the form

of a child that they otherwise cannot reproduce due to their infertility. This framing of gestational surrogacy is what is 'endorsed' by ART Clinics and hence its endorsement is an important supplement to the surrogacy contract.

The two contracts that I could source are almost similar, both contracts are sought to remain valid for up to three attempts at impregnation of the woman who acts as the surrogate and the Delhi contract even specifies that 'maximum of three embryos per attempt' can be transferred in her womb. In the case of multiple pregnancies both contracts require her to undergo 'foetal reduction' if medically advised and desired by the commissioning parents. Such critical aspects of the procedures are beyond the purview of her decision-making and instead it is the commissioning parents, i.e. the 'patients' who can decide.

Thus, the surrogacy contract is not only a contract between two parties, it is mediated by the facilitators of surrogacy, and located as part of a process where despite the body of the woman who acts as the surrogate being the site of all the technological intervention, she is not deemed to be the 'patient' but a medium for the commissioning parents. Moreover, even when she is carrying a pregnancy and giving birth, the surrogacy contract is an instrument to ensure that she is not deemed to be a mother. This is ensured in a two-pronged way. Firstly, as key to successful culmination of this process, parenthood is sought to be conclusively established in favour of the commissioning parents via the surrogacy contract, through expansive clauses like the ones I quoted above. Secondly, the contract frames the process of surrogacy in a way that she is deemed to be a worker providing the *service* of gestation. In gestational surrogacy, and as codified in terms of her contractual obligations, the woman who acts as the surrogate is envisaged as performing, what I argue can be referred to as *gestation work*¹⁶. It

¹⁶ In deepening an understanding of surrogacy, various conceptual tropes have been deployed in recent ethnographic literature. For example, Pande (2014) argues that surrogacy involves 'embodied labour' that emanates from pregnancy and motherhood and yet when located in the market, women acting as surrogates perform the complex role of a 'mother-worker'. Rudrappa (2012) uses the more matter-of-fact term 'reproduction worker' for them. Others like Weis (2015) while writing about the surrogacy industry in Russia argue against deploying motherhood in such an understanding. For her, 'the temporality of identifying as a surrogacy worker renders evoking the allegory to 'mother' inappropriate'. While conceptually engaging with the experiences of women acting as surrogates and their self-identification is beyond the scope of this paper, I deploy the term 'gestation work' echoing Weis (2015). However, I emphasise 'gestation'

essentially involves: (a) following a strict regimen of drugs (administered orally as well as vaginally) and hormonal injections to prepare their body for impregnation of the clients' embryo which is created using IVF; (b) gestating the pregnancy – once the pregnancy is confirmed, there is additional injection and drug regimen which is followed at least in the first trimester; and, (c) childbirth. Agents, doctors, lawyers, counsellors ensure that the key scientific terms - uterus, eggs, sperm, embryo transfer – are internalised by the women acting as surrogates as critical components of what they are engaged in as part of their 'work', even when these terms may not be part of their everyday lexicon or their own experiences of being pregnant with and giving birth to their own children prior to acting as a surrogate. In such a context, through these articulations which are sought to be codified in the surrogacy contract, they are framed as gestation workers.

As I mentioned in the Introduction, central to the phenomenon of gestational surrogacy is the use of ARTs like IVF that have brought about the possibility to make use of women's womb for gestation of *any* embryo isolating the process of fertilisation which can be induced in a laboratory, separating reproduction from sexual intercourse. This compartmentalisation of reproduction facilitates defining the woman who acts as a surrogate merely as a 'gestational carrier', a term commonly used in medical parlance. For example, in a Glossary on ART Terminology by The International Committee for Monitoring Assisted Reproductive Technology (ICMART) and the World Health Organisation (WHO), there is no entry called 'surrogate mother'. Rather it contains a definition for 'gestational carrier (surrogate)' who is 'a woman who carries a pregnancy with an agreement that she will give the offspring to the intended parent(s). Gametes can originate from the intended parent(s) and/or a third party (or parties)' (Zegers-Hochschild 2009: 2686).

Interestingly, in the Mumbai contract she is referred to as the 'Surrogate Mother' while the Delhi contract simply denotes her as a 'Surrogate'. Even when referring to her as the 'surrogate mother', the Mumbai contract sees her role as someone who 'will only lend her uterus for carrying the pregnancy and giving birth to the child' (clause 2.2). At the very outset, the Delhi

and not just 'surrogacy' in consonance with the articulations that are codified in the surrogacy contracts I analyse here and how its provisions were sought to be conveyed by people in the surrogacy industry to women acting as surrogates.

contract specifies, ‘The term Surrogate refers to the woman who will undergo an embryo transfer procedure [...] and carry the pregnancy to viability and deliver the child(ren)’. With or without the deployment of the term ‘mother’, the surrogacy contracts in fact seek to underscore her status as a non-mother, and merely a carrier of the pregnancy while acting as a ‘surrogate’, a substitute whose ‘uterus’ and its gestational role is central to the process. The emphasis on her uterus contributes in constructing her, I argue, as a gestation worker through the surrogacy contract.

In her pioneering ethnographic work on ‘surrogate programmes’ that facilitated mostly traditional surrogacy arrangements in the USA during 1980s and 1990s, Helena Ragoné observed that ‘as the technological aspects of IVF are improved, there is little doubt that this method will become more and more commonplace in the surrogacy industry’ (1994: 73). It indeed became so in the surrogacy industry in India, where it not just became commonplace but became the only type of surrogacy provisioned by the industry in India and the practice has been sought to be codified in various regulatory instruments as well. The most recent culmination of these regulatory instruments in The Surrogacy (Regulation) Bill 2016, which defines ‘surrogate mother’ as ‘a woman bearing a child who is genetically related to the intending couple, through surrogacy from the implantation of embryo in her womb’ [Clause 2(ze)]. The notion that the woman acting as the surrogate is merely the ‘gestational carrier’ is sought to be codified and concretised through surrogacy contracts to the extent that even for grave situations like the possibility of sustenance on life support during the pregnancy, the commissioning parents would have an important say in deciding the course of medical care for her, the ‘gestational carrier’ of their child. In this regard, the following clause in the Delhi contract is striking when it states,

The Surrogate and the Surrogate’s Husband agree that in the event the Surrogate is seriously injured or suffers a life-threatening instance during her third trimester of pregnancy, if medically necessitated and advisable, and if requested by the Commissioning Parents, the Surrogate will be sustained with life support equipment to protect the foetus’ viability and insure a healthy birth on the Commissioning Parents’ behalf. The Surrogate’s obstetrician or perinatologist is to determine when the optimal time for birth will be. The Commissioning Parents shall be

responsible to pay the cost of any non-covered expenses for said life support, in the event the life support is provided at the Commissioning Parents' request for the sole reason of protecting the foetus' viability.

Inclusion of clauses such as this demonstrates how the woman acting as the surrogate is not just metaphorically only an incubator but is thought to be quite literally so. Thus, even in the case of grave medical danger and decisions like having to take recourse to life-support or not do not lie with her or her family but with the commissioning parents i.e. the 'patients' whose child(ren) she is gestating.

The fact that she is only gestating a pregnancy that is conceived in-vitro is deployed to assert that despite bearing a pregnancy and giving birth, she is not to be seen as a mother, but rather as someone providing the *service* of gestation for her clients who in turn offer her remuneration for it. Doing so helps distinguish surrogacy from baby-selling where the payment is made for the gestation and not for the child itself (Ohs 2002; Shapiro 2014). For example, in the proforma of the 'contract' in the Draft ART Bill 2010, with regard to the payment that she receives, there was a stipulation that, 'The surrogate agrees to accept the above amount for *bearing a child* for the patient' (emphasis added). This framing of the woman acting as a surrogate, providing a service in terms of the act of gestation had also found recognition in the way California Supreme Court in the USA decided in the Johnson v. Calvert case (1990) upholding the enforceability of the gestational surrogacy contract. Deborah Grayson notes that while dismissing the claim of Anna Johnson who acted as the gestational surrogate for the Calverts, the court emphasised that through the contract she 'was agreeing to *provide a service* to [...] the intended parents, and should have had no expectation that she would be able to raise the child she carried' (emphasis added; Grayson 1998: 534). While the California Supreme Court did not recognise that the genetic claim to parenthood should necessarily trump all other criteria, it gave precedence to the enforceability of the gestational surrogacy contract. It did so by framing the woman acting as a gestational surrogate, as a 'service' provider. This is significant in terms of facilitating a distinction between women acting as gestational surrogates in contrast to those who could be seen as having a greater role than *only* the 'service' of gestation. The importance of this distinction as a rationale of upholding the

surrogacy contract is clear when contrasted to the outcome of a similar case. The New Jersey Supreme Court in the USA in the 1985 Baby M case had similarly rejected the claim to parental rights by the woman who acted as the surrogate. However, the reasoning offered was very different and the court held the surrogacy contract to be non-enforceable. Mary Beth Whitehead who acted as a surrogate in that case, conceived the pregnancy through Artificial Insemination with the sperm of the commissioning father, in an arrangement that can be called traditional surrogacy. The court decided against Whitehead because the commissioning parents were deemed to be in a better position to take care of the child whereas she gave birth for remuneration. Arguably, the court affirmed that her claim was valid but instead it ruled in favour of the principle of ‘best interests of the child’, which has since been entrenched after the United Nations Convention on the Rights of the Child (1989)¹⁷. While it is beyond the scope of this paper to engage further with this aspect, it is noteworthy that this principle with a focus on the child is meant to somewhat ‘trump’ the interests of the parties to the contract. However, it has greater implications for the woman acting as a surrogate. The ‘best interests’ of children born out of surrogacy are seen to converge with those of the commissioning parents either when it is emphasised by the courts even while declaring surrogacy contracts non-enforceable (like in the Baby M case), or in clauses regarding parentage in surrogacy contracts in India (like the example from the Delhi contract highlighted above). In a sense, the way the surrogacy contracts mobilise the principle of ‘best interests of the child’ the distinction between one party as the ‘parents’ and the other as merely a ‘gestational carrier’ who is providing a ‘service’ and hence not a ‘mother’ is sought to be emphasised further.

Therefore, gestational surrogacy contracts in India seek to amalgamate two important and inter-related aspects, in its quest to be ‘fool-proof’, to use the term that lawyers who draft these contracts often invoke. First, the role of the woman acting as the surrogate is underscored as being that of a ‘gestational carrier’ who provides the service of gestation. Through a supplement to the main contract this role is endorsed by the ART Clinic and

¹⁷ According to the Article 3 clause 1 of this Convention, ‘In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration’.

thus emphasised further. Second, as highlighted through provisions in both the Delhi and Mumbai contracts above, the principle of the 'best interests of the child' born out of surrogacy is emphasised as coterminous with sole parental rights of the commissioning parents.

CONCLUSION: CONTRACTUAL GESTATION WORK IN INDIA POST- SURROGACY BILL 2016

In this paper, I have emphasised that it is important to underscore the fact that women acting as surrogates in India are deemed to be performing gestation work as is evident through an analysis of surrogacy contracts. This must be factored in for conceptually engaging with the labour of women acting as gestational surrogates. As has been highlighted by a growing body of research on this phenomenon, surrogacy arrangements are mediated by an industry that recruits, manages and supervises women acting as surrogates. This paper demonstrated how the industry uses the gestational surrogacy contract as a tool to foreground the role of women acting as surrogates as gestation workers. I have shown how the contract is effectively crafted to capitalise on the vulnerabilities of women acting as surrogates with threat of punitive measures and financial disincentives against any form of breach of its provisions. The provisions stipulated in surrogacy contracts are geared to instrumentalise the women who act as surrogates as mere 'gestational carriers', and indisputably establishing parental rights in favour of the commissioning parents. The contract is geared towards dislodging any claims to parenthood that she may have by virtue of being a birth-giver, seeks to bolster this with non-disclosure and confidentiality clauses and effectively frames her role as a service provider who is engaged in gestation work. I have demonstrated how as a 'gestation worker' she is in a subordinate relationship with her clients i.e. the commissioning parents and actors of the surrogacy industry who supervise her. Various clauses in surrogacy contracts render her to be an unequal party who is subjected to many controls and restrictive conditions in her work. Therefore, the surrogacy contract which seeks to regulate an arrangement involving reproduction, invisibilises a crucial actor in her capacity as a reproducer who is rather seen as a gestation worker. There is a tacit acknowledgement of the centrality of her role in a surrogacy arrangement by different actors of the in-

dustry, which drives them to construct the surrogacy contract and operationalise it in a way that she is relegated to the margins as only a 'gestation worker' who is bound by contractual obligations that ensure this.

The practice of commercial surrogacy has now been banned by the Indian government with The Surrogacy (Regulation) Bill 2016. It proposes to eliminate all intermediaries between the commissioning parents and women acting as surrogates who are now envisaged to be 'close relatives'. However, this legislation does not prohibit gestational surrogacy, only that the commissioning parents and the woman acting as surrogate have to be 'close relatives' and there cannot be a commercial transaction among them for this arrangement. While in a commercial surrogacy arrangement that was facilitated by an industry, there was an eminent socio-economic hierarchy between the commissioning parents and the women acting as surrogates, the arrangements within families may not be bereft of hierarchies. In fact, the patriarchal ordering of kinship relations within families can contribute in perpetuating a hierarchy, albeit of a different nature, where some women are perhaps pressured to, or have to negotiate an expectation to act as surrogates for others in the family. It thereby merely shifts the location of the gestation work that women are seen to be providing, from the surrogacy industry to their family. It also does not preclude the fact that gestational surrogacy arrangements would continue to be governed by private contracts, particularly to conclusively establish parentage in favour of the commissioning parents and perpetuate the invisibilisation of women who act as surrogates. In such a context, surrogacy contracts which are already in use and circulation, such as the ones that I have used in my analyses in this paper, would only require minor edits to remove the aspect of remuneration to the woman acting as surrogate. Therefore, it is crucial that gestational surrogacy contracts and what they entail for women acting as surrogates in India become a central focus for the contemporary debates on surrogacy.

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Protest against Sexual Violence and NGO Activism: Disruptions of Female Solidarity

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Abstract: This article examines the mobilisation of protest against an aggravated sexual assault of women from the urban poor in Chennai, South India. All women who participate in the protest are organised in a local women's rights NGO but their attempts to mobilize the NGO for the protest remain without success. By reference to narrations of women who organise and/or participate in the protest as well as the NGO director and staff, the article interrogates previous works about dynamics of inclusion and exclusion in practices of political mobilisation in India. The guiding question is, with reference to which moral and normative backgrounds the instance is rendered into an issue worthy of public intervention by women and how this definition of the situation is put into doubt by the NGO. On the basis of the empirical findings and literature about civil society and the public sphere in India as well as literature about development cooperation, I argue that the mobilisation of protest cannot be understood as a process of 'translation' (of concepts relevant in the NGO). Instead, women refer to a common form of female lamentation to render the incident into a 'women's issue'. Subsequently, I argue that the missing cooperation between NGO and women is not a result of this missing translation into a language that is accepted among civil society actors. Instead, it is useful to understand it as an outcome of situational processes of the actualisation of necessarily always vague normative ideas. I show how, in these processes, diverse, and sometimes conflicting, moral and normative references intersect to lead to practices of inclusion and exclusion in protest mobilisation.

¹ This paper was presented at the Young South Asia Scholars Meet, University of Göttingen, June 2016 as well as – in an earlier version – at the Max Weber Centre for Advanced Cultural and Social Studies, University of Erfurt, April 2016. It has greatly benefited from the suggestions of participants on both occasions. I also want to thank two anonymous reviewers for their detailed and perceptive commentaries. The first field research was enabled through a scholarship of the German Academic Exchange Service, the second and third field research were generously supported by the Friedrich-Ebert-Stiftung.

During 2014 and 2015 I frequently visited an urban slum called Arangkarai² in South Chennai, to collect data for my PhD project.³ In February 2015, I once again was heading towards Arangkarai, together with Padmavathy, my research assistant, and Sarvitha, who lived in Arangkarai and had become my friend. Just turning off the main road towards Arangkarai, we met a group of five women on their way home. They seemed agitated and stopped Sarvitha to talk to her. It transpired that an aggravated sexual assault had been committed in Arangkarai, provoking the women to anger. They just came back from the hospital, where they had visited the victim of the assault whose name was Vasantha. Women were frustrated and angry that the perpetrator – another woman named Preethi – was not yet under police arrest. They decided that Sarvitha should get in contact with an NGO that frequently organised women’s rights programmes and trainings in Arangkarai to discuss what could be done.⁴ A few days later, my phone rang. I picked up and Sarvitha started speaking to me in an excited tone, I heard the sound of the hustle and bustle of the road and other women discussing and shouting in the background. She related that Vasantha had died in the previous night and that they currently were blocking a junction nearby Arangkarai with a couple of women to protest against the sexually-violent assault and its consequences. She asked me to send the current phone numbers of the NGO staff and director, whom she wanted to ask to support their protest.

The next day, I headed to Arangkarai with the aim to find out what exactly had happened. All women I talked to gave me a somewhat similar account of the sexually-violent assault and its antecedents. Preethi and Vasantha were known in the area for having been very close friends in the past. It was ‘a well-known truth’ (*potu unmai*) that Vasantha conducted an affair with Preethi’s brother-in-law (Arun). They had this affair while her husband was

² All names of persons, organisations and places used in this paper are pseudonyms.

³ The present article analyses material collected during the field research for my PhD thesis in 2014 and 2015. The project involved 7 months of field research – preceded by 10 months of internships and field research for my Master thesis, stretching over a period from 2009 to 2012 – with women’s rights NGOs in Tamil Nadu. The interviews have been conducted in Tamil and were simultaneously translated to English. Afterwards, I produced exact translations of the Tamil parts of the interviews with the help of native speakers. The quotes analysed in the present paper stem from these exact translations.

⁴ This NGO served as my conduit to Arangkarai and Sarvitha had been a local staff earlier.

still alive (he died some years back) and he was aware of it. Two years back, for reasons that are not clear, a conflict started between Vasantha and Preethi. People from Arangkarai witnessed a couple of fights between them, one including Preethi's neighbours (a so called 'pipe fight'⁵). They knew that Preethi and Vasantha had gone to the police station frequently to settle their fights. A year back, people from Arangkarai had filed a complaint against Preethi and Vasantha at the local police station because of their constant public fighting. The police officer advised Preethi to move away and she did so, moving to the nearby Housing Board block.⁶ People thought – mistakenly, it transpired – that the conflict was resolved. Arangkarai's women report that Preethi started to accuse Vasantha of having an affair with her husband. These accusations escalated into aggravated sexual violence: Vasantha was beaten up, kicked in her genitals and violated with a rod by Preethi, Preethi's husband and other relatives of Preethi. After an unsuccessful attempt to file an FIR⁷ at the local police station Vasantha immolated herself using kerosene⁸. She was hospitalised and the events I described above kicked in. Three days later she died in hospital. The following day, women organised the spontaneous protest at a nearby junction.

In the following two months, I continued visiting Arangkarai, remained in contact with Vasantha's family, and talked to women who were willing to discuss with me about what had happened, how they evaluated the incident and about their participation in the protest. The present article is an attempt to understand how the protest became possible. It is also an attempt, to understand why the NGO did not pay heed to the request of the

⁵ Women refer to the term 'pipe fight' when they talk about (small) fights in the neighbourhood. They explain that the origin of the term are small fights occurring when women wait for their turn at the public water pipe.

⁶ The Housing Board of Tamil Nadu is the administrative unit which is responsible for publicly funded housing programmes all over Chennai. A lot of former slum settlers have already shifted or been forced to shift to such Housing Board blocks. The larger settlements of the Housing Board are referred to as resettlement areas and are located at the outskirts of Chennai.

⁷ The filing of a First Information Report (FIR) is the necessary first step to initiate a police investigation and file a court case. Cases which are seen as less serious offences, domestic violence matters being an example, can be filed in the Community Service Register (CSR) as being potentially solvable by mediation and compromise (Kethineni 2009: 24).

⁸ To fully understand the background of this incident, it seems important to know that female suicides are horribly regular amongst slum women in Chennai (Kapadia 2014: 242-3). Also, Roberts notes that 'the most common method of female suicide was *tikkulittal* ("bath of fire"): the woman doused herself in "Krisna oil" (kerosene) and lighted a match' (Roberts 2016: 81).

women. Such insight into the mobilisation of protest amongst women from the urban poor seems promising for providing a new outlook on dynamics of inclusion and exclusion in practices of political mobilisation in India. Since women try to make the NGO responsive to their protest, the case also allows to draw conclusions about relationships between NGOs and their ‘target groups’. In a first part, I describe the setting in which the incident took place – Arangkarai – more detailed. Subsequently, the argument will be developed in three steps. In the first, and longest part, I ask how women frame the incident (in contrast to most men and some women) as matter worthy of public intervention by looking at their narrations about the incident thoroughly. Behind this approach lies the intention to understand which moral and normative justifications enable the mobilisation of protest against a sexually-violent assault in the present case: How do women render the incident into a ‘women’s issue’? In a second step, I describe how the NGO reacted towards the queries of women to support the protest. Finally, and with the aim to draw conclusions, I contrast the present case with literature about the dynamics of inclusion and exclusion in the public sphere and civil society in India as well as literature about hierarchies in development projects.

THE SETTING

Most of the women I talked to participated in programmes of a women’s rights NGO which organised regular meetings and trainings in Arangkarai. The centrepiece of the NGO’s work are diverse programmes for women’s empowerment, e.g. vocational trainings, as well as trainings aimed at sensitising for women’s rights. Whereas the women who form the ‘target groups’ of the NGO are part of the urban poor, the organisation’s founders and most of its social workers live in middle class districts of the city. A majority is educated to Master’s degree level. The NGO also employs area staffs who are residents of the areas in which it operates, mostly urban slums or resettlement areas for the urban poor in the outskirts of Chennai. The head office of the NGO is located in a mixed (lower) middle class area in South Chennai.

As Arangkarai is adjacent to richer, middle class districts, the slum’s female residents have opportunities to seek various paid domestic positions:

Most of the women clean several houses or offices each day, some cook for a family or do all the chores in one household, some women work as old people's nurses in private households. Other women own small roadside stalls, selling vegetables or flowers, some (additionally) tie flower garlands in the evening or do small manual tailoring jobs. Their husbands mostly work on construction sites as day labourers, some clean sewage and channels on a daily paid basis or as low-ranking government employees. It is noticeable that a large number of the women organised by the NGO live without their husbands, being widowed or separated from their husbands (e.g. because their husband married a second time⁹). Thus, in most cases, women are crucial to the family income. Nearly all of the families in Arangkarai belong to the *vaṅṅiya (nāyakar) jāti* which is listed as MBC.¹⁰ A lot of the women involved in the protest were living without their husbands and thus felt free to share their opinions. It was more difficult to talk to married women about the incident, possibly due to the scepticism and influence of their husbands. Importantly, Sarvitha remained my close contact in Arangkarai during this time and had a specific position in the organisation of the protest: She is a former NGO staffer and handled the interactions with the organisation, as well as contacts with most other official agencies. All the other women who participated in the protest were more or less regulars in local meetings of the NGO. All except two of the women whose accounts I refer to in this paper are (distant) relatives of one or other of the main parties to the conflict, who both belonged to the same *jāti*: Preethi, who is identified as the perpetrator, and Vasantha, the victim who later committed suicide. The fact that they are (distantly) related is not very surprising since the neighbourhood is socially quite homogeneous and most of the families have lived in Arangkarai for 30 years or more.

⁹ Polygamy is illegal according to Hindu family law. However, most of the marriages in Arangkarai are not officially registered, proving the marriage thus can be a painful procedure.

¹⁰ *Jāti* is a term that is widely used for 'caste' in India. Due to the reservations for discriminated communities that exist in India, all *jāti* have been classified into Forward Castes, Other Backward Classes and Scheduled Castes. By referring to the term Most Backward Classes, I use the systematisation of the Tamil bureaucracy which diverges from the systematisation used by the Government of India.

HOW A SEXUALLY-VIOLENT ASSAULT BECOMES A PUBLIC MATTER

Before I start answering the questions posed above by referring to the narrations of women from Arangkarai about the assault and the protest, it is important to note that the basis for the analysis I provide in this article qualifies as gossip.¹¹ This is not meant to devalue the narrations of women. As the anthropologist Max Gluckman argued, gossip and scandal are essential for the maintenance of group unity and the upholding of morals and values esteemed in that group, possibly in distinction from the morality of other groups (Gluckman 1963). Criticising that Gluckman exaggerates the harmonising consequences of gossip, Sally E. Merry assesses that ‘gossip circulates around ambiguous situations: those with multiple rules, conflicting versions of the facts or undetermined facts, and uncertainty about the application of moral rules’ (Merry 1997: 53). Looking at how the women relate the brutal assault and the subsequent suicide of the victim seems a fruitful way to understand which multiple norms and (maybe conflicting) versions of morals are at stake and make their protest possible and meaningful.

Sexual relationships as ‘stomach business’ or prostitution

All narratives ponder upon the question of whether Vasantha and Preethi were ‘good’ or ‘bad’ women. This became especially virulent since both women were known in Arangkarai for having (an) affair(s)¹². In the following I will ask how Vasantha’s affair(s) are described and briefly contrast these with narratives about Preethi.

In early reports about what had happened – on the day Vasantha was admitted to hospital – women told me that there was a conflict between two women who were related. Later inquiry revealed that they had re-

¹¹ For the present analysis, I refer to eight interviews, in which Padmavathy – my research assistant and translator – and I talked to nine people, six of them female residents of Arangkarai, one male resident (the victim’s elder son-in-law), the leader of the NGO and an area staff of Arangkarai, who is not a resident. Apart from that, I am referring to my field notes for non-recorded conversations. I do not have access to official documents regarding the case apart from a newspaper article.

¹² Adultery is punishable under Indian law (Section 497, Indian Penal Code). However, only men are punishable and consensual intercourse of a married woman with another man with the consent of her husband is not punishable.

ferred to it as ‘relation’ because of the affair Vasantha had with Arun, Preethi’s brother-in-law. This initial confusion sets the tone for the narration of Vasantha’s relationship with Arun:

Sarvitha: There is an aunt to Arun who stays in the main road. She’s also Preethi’s aunt, small mother-in-law. Vasantha used to go there and make garlands. While she went there for making garlands, she got to know Arun and they started meeting and speaking in the neighbourhood. That’s how they got to know each other and that’s how the affair started. She’ll speak with a friendly, smiling face. She doesn’t speak angrily at all. If she gets angry, her face looks like this and she’ll leave it. She won’t even remember that she was angry. As she spoke with a smiling, friendly face that’s how the affair started. Her husband himself didn’t mind at all. When the husband himself doesn’t mind, who else will bother to question her? That’s why everyone stayed silent. He [Arun – JV] also got married. His wife also knows it. His wife questioned him but the fight stayed within themselves. Also, she didn’t hand over her husband or Vasantha to the police. If she had done this, we could have blamed them publicly.

Vasantha’s affair with Arun is explained by reference to Vasantha’s ‘good character’: She is described as a pleasant, friendly, smiling woman. Those characteristics are also referred to, when women underline that she was a good woman: She didn’t quarrel, she didn’t get angry, she didn’t complain, she didn’t say any hurtful words against others, she didn’t involve herself in fights. These attributes which mark Vasantha as the ‘good’ woman closely resemble upper-caste/class¹³ discourses: obedience, patience, softness as opposed to disobedience, impatience, and loudness or aggressiveness (Kapidia 1995: 173). Her sexuality, however, totally fails to fit into rigid upper-caste/class norms.

Interestingly, women talk about Vasantha’s affair in a way which is not, predominantly, sexualised. Instead, they emphasise that the affair was a ‘well-known truth’ (*potu unmai*) in Arangkarai and that even Vasantha’s

¹³ In this paper I use the notation caste/class to point to deep interferences between social inequalities due to caste and class. Far from being only a theoretical subtlety, this notation seems to resonate with definitions of people who experience discrimination due to caste/class (Roberts 2016: 54-80).

husband knew about it when he was still alive and didn't care. They indicate that the affair could have been a matter of public condemnation – if Arun's wife had complained to police – but that it never acquired such a status. The ambivalent reference to Vasantha and Preethi as relatives in the beginning becomes understandable in this setting: The relationship between Arun and Vasantha was silently tolerated, even though they were not married and even though Arun was officially living with his wife.

When women talk about Preethi's allegation that Vasantha had an affair with her husband, the narrations take a different turn. This affair, most definitely, was not a 'well-known truth', women are not very sure whether the accusation is true. Those who consider that it might be true argue that 'having affairs' is a means to feed oneself and one's children:

Sreeha: God only knows whether they are good people or bad people. Till today she never even opened her mouth to say a hurtful word [*paṭukkunu*]. Even if you ask whether something is wrong, she will just smile and go away. She will never speak about it. She is doing it just as a stomach business [*vayattu polappukku*]. It's you who should keep your husband under control, what do you think?

Sarvitha addresses Vasantha's daughters in her relation of the incident. She talks about the (alleged) affair(s) as a mistake Vasantha made for her daughters' sake, without a clear reference to Arun or Preethi's husband:

Sarvitha: Will all the children stay silent like you? The mistakes she did were for your sake and not for her luxurious life! It is for her daughters' sake that she earned in that way. It was for her daughters that she earned. When you don't even take up the responsibility of defending the rights [*urimai*] of your own mother, you are worthless being a daughter!

Whereas the anthropologist Nathaniel Roberts made the observation in a slum in North Chennai that husbands or other men are a crucial source of financial support since waged work for women is generally not available (Roberts 2016: 87), the situation differs significantly in Arangkarai, as I described above. Thus, it is not very clear whether Vasantha's motivation for the affair had been to seek male support to fill her, and her daughters', belly. One factor against this explanation might be that the same women

who argue that Vasantha engaged in affair(s) for financial reasons also state that Arun frequently threatened Vasantha publicly, harassing her for money. Nonetheless, more importantly, the assumption that affairs can be 'stomach business' is based on the common ideal that women have to be provided for by men, ideally husbands or close kin (see also Still 2014: 195).

The argument that one sacrifices everything for the sake of one's children is very common, especially among women living without their husbands. Most often, the argument will be made in reference to the hard work one has been doing and the difficult life one has in general. The view that affairs are 'stomach business' has to be understood in reference to this discourse: a specific lower-caste/class discourse about women (living without their husbands) and the different types of 'difficulties' (*kaṣṭam*) they face in making ends meet and being good mothers to their children. Kalpana Ram argues that the discourse about repeated sufferings in a woman's life (after marriage), is part of the genre of female lament in Tamil Nadu which extensively feeds into biographical narratives of women (Ram 2013: 205). According to Ram, the suffering originates in an inconsistency between idealised representations of the female life-cycle and actual experiences of women (ibid.: 202). Whereas women in idealised representations are assumed to achieve *cakṭi* (Sanskrit: *śakti*, translated as ability, energy, power) through the following of specific life cycle rituals which culminate in being a child-bearing, married woman, the experience of women is rather that of a premature confrontation with the burdens of marriage (Ram 2007). Women mourn the premature ejection from their natal home and the inability of their marital family to fulfill their role as provider and safe haven (Ram 2013: 205; see also Ram 2007). Ram argues that these 'narratives provide little warrant for drawing a distinction between injustices specific to family life and those that might be explained by social class and labor exploitation' (Ram 2013: 205). I would argue, however, that the discourses which women refer to in order to partly legitimise Vasantha's affair as 'stomach business' are definitely class-specific. The framing of non-marital relationships as something women do only for the sake of their children seizes on the discourse of a whole lot of difficulties lower caste/class (and especially 'single') women face in seeking to survive.

Some women also consider that Preethi's accusation is a lie intended to sully Vasantha's reputation before the police.

Sarvitha: Lot of people were there. Preethi and her husband were complaining to the *police*¹⁴ man near the *jeep*: 'Sir, she is not allowing me to be peaceful at all. She is disturbing me even when I sleep by calling me to sleep with her. I didn't say anything to my wife, Sir. While I was coming back from work once, she beat me up, Sir.' The *police* man threatened Vasantha by saying: 'He is a guy. Would he even lie in this matter?' and he lifted a wooden log to beat her. [...] Preethi and her husband said she [Vasantha – JV] set up people to rape their daughter. [...] Just after giving this *fake complaint* Preethi beat her up. She did it so that even if Vasantha gives a *complaint*, the *police* won't accept it. She also gave another *case*, as Vasantha chased her husband everywhere and asked him for money, asked him to give her a life [as a second wife – JV].

While I'm not able to trace this way of interacting with the police detailed here, it is interesting that (falsely) accusing a woman of 'asking' for sex with another woman's husband is thought of as effective in influencing the police and their procedures. Two things become clear from this quote: First, even though women argue that Vasantha's affair(s) were to some extent tolerated, the public discussion of affairs seems to put women in a very vulnerable position, in which their 'righteousness' can be questioned easily and with dramatic effect. Second, another woman, Preethi, is described as the active party in the assault on Vasantha, her husband merely figures as passive supporter, ridiculing himself in front of the police.

The affairs of Preethi are described very differently to both the (alleged) affairs of Vasantha. The men Preethi had affairs with don't have any names, they are 'a police guy', 'a *pāppaṇ*'¹⁵, 'a lawyer', 'a cripple'. Preethi's affairs are often paraphrased as 'men she's having under her control', some women refer to her as a demon (*rākṣasī*¹⁶). The following quote gives an example of how her affairs are described:

¹⁴ English words which are emphasised in italics in the transcription were originally used in English.

¹⁵ *Pāppaṇ* is a derogatory term used for Brahmins in Tamil Nadu.

¹⁶ *Rākṣasī* is the female form of demons in Hindu mythology.

Kirusha: She [Preethi – JV] worked in a house of a lawyer. She has this lawyer under her control. There is a guy in house number 7 who limps. She's also having him under her control. She will fuck [*aṭikka aṭikka paṇattu*] him in the middle of the night. She goes secretly, wearing a Purdah. She will climb the wall and jump inside the backyard to fool money out of him. Look, how arrogant this whore [*tēvuṭiyā*] is. So self-centered. Shouldn't she be giving commission to the person who got her this guy?

The narratives extensively refer to the sexual behaviour of both women and seek to link these behaviours directly to their 'bad' or 'good' 'character'. There seems to be a spectrum of – more or less – tolerated types of sexual relationships apart from an actual marriage, legitimised by the tying of the *tāli* (a necklace that the groom ties around the bride's neck). However, these 'affairs' are not per se tolerated, sometimes they become conflicts negotiated at the local police office. In academic discourse, it is commonly assumed that lower caste/class women in some sense enjoy greater freedom, since they most often do work outside their own home and thus enjoy greater mobility (Kapadia 2002: 3). Women themselves don't frame the 'mobility' related to their work as a possibility to get access to the 'outside world' and achieve new knowledge or meet new people (like some women do with reference to the activities they pursue being part of the NGO). Instead, it is seen as one in the series of difficulties and sufferings women face, as a necessary and wearying 'mobility' which is caused by a neglect of sufficient familial and spousal care. The reference to the narrative form of lamentation, however, seems to help partly legitimise a broader spectrum of sexual relationships in portraying a woman who has (an) affair(s) as good mother who is committing a 'mistake' to make ends meet.

In most of the narratives, Vasantha is clearly established as 'good' – always, to some extent, 'even though' she had an affair. This reading did not, however, win universal acceptance in Arangkarai. The men we met during our visits to Arangkarai were mostly wary of or hostile towards us if we started to ask about Vasantha. Of course, there were exceptions: We talked for example to a close friend of Vasantha's family and to her sons-in-law, who helped to file a court case against Preethi. Sarvitha narrates that there were no men involved in the protest: 'Men don't get involved in this matter

at all. Some men don't open their mouths at all. Some men say: "The dead woman is just a whore [*tēvuṭiyā*]." This comment also seems to suggest a connection between Vasantha's reputation and the merits of an official pursuit of her case. I will come back to this point below.

Moral policing and female suicide

What would have been a proper reaction to fight against these cases of (alleged) adultery by Preethi or Arun's wife? Why was Preethi's reaction not legitimate? And would there have been any opportunity to prevent the severe sexual violence against or the suicide of Vasantha?

'The public' (*potu makkaḷ, ūr makkaḷ*) had already intervened in the dispute between Vasantha and Preethi: People in Arangkarai filed a complaint because of their frequent public fights and the police asked Preethi to move house. Preethi did so and is now living in a nearby area. Women argue that they didn't interfere between Vasantha and Preethi because they were unaware of the revival of hostilities. Generally, women say that it was only after the sexual assault that they learned of the earlier beating that Preethi had inflicted on Vasantha. Sarvitha argues that Vasantha didn't complain about the beating because she did not want Preethi's accusations to become public knowledge, which would have compromised the life of her daughter who had recently married in a nearby area.

All women assume that the violence Vasantha suffered was related to her (alleged) affair(s):

Darnika: They [Preethi and Vasantha – JV] were very close friends it seems. Wherever they went, they used to go together. Uh [...]. They say she [Vasantha – JV] had a *touch* [an affair – JV] with her [Preethi's – JV] brother-in-law. Even if that's the case, will one beat and kill for this? Tell me! [T¹⁷.: You're right.] They are saying so many things, not just these. [...] She was bleeding from the uterus because of the beatings, it seems. When she was hospitalized [...]. Will someone beat to that extent? Aiyoyo [expression of distress – JV]. They have beaten her up with rod it seems. That's so painful for me to think. What can you do for that?

¹⁷ The questions and comments of Padmavathy, my research assistant, are marked with 'T' for translator.

The mistake is also on his [Arun's – JV] part. If you beat her, why do you spare him?

Sarvitha: That's what we are questioning. If you are a righteous person and if you are beating your husband [...]. If you are beating your husband because he has an affair or burn yourself in anger, we will question. [...] When I do the same mistake of having an affair, how can I go and beat the woman who has an affair with my husband?

It becomes clear that women especially condemn the extent and shameful-ness of the violence and question why Preethi only beat Vasantha and not her husband or Arun. Whether beating as reaction to adultery should be condemned per se seems to be not clear, though women question the appropriate choice of object as well as the legitimate extent of the violence.

Also, Sarvitha argues that the legitimacy of your actions depends on your own 'righteousness' (relative to the person you judge and punish). Other women don't stress this point directly. However, the police did not take up Vasantha's complaint because Preethi filed (fake) complaints against her, accusing her of adultery. As I argued above, this shows that engaging in non-marital relationships makes women potentially vulnerable to questioning regarding their 'righteousness'. Thus, the discussion of the 'character' of a woman seems to have an influence on the evaluation of a crime amongst women in Arangkarai, amongst the police and to some extent even in legal procedures (see also Prasad 1999: 492-4).

Whereas the beating is not per se seen as an illegitimate reaction by every woman, and not every woman is so concerned with the question of whether Preethi was in a position to beat Vasantha or not since she herself had affairs, the severity of the beating as well as the sexualised, shameful nature of it are commonly seen as having caused Vasantha's suicide. This is what qualifies the incident as a murder. Not only Darnika (see above), but all women slip between 'suicide' and 'murder' in their narrations. Some women say that after Vasantha's death, they got to know from her daughters as well as the police that Preethi had beaten up Vasantha before. However, in their eyes the incident which led to her suicide stands out:

T.: Then did she immolate herself not being able to tolerate the pain?

Bala: I mean [...]. They have beaten her up all over her body, on places which one can't even describe!

T.: Oh my god!

Bala: First, they've beaten her up on her head. Here [pointing at body part – JV], they stabbed her with a pipe [...].

Sarvitha: She got beaten up for so many days but never disclosed it to anyone. She used to corner her and beat her till her rage pacified. It's not just once. Only this time she had beaten her up so shamefully [*avamāṇam*] to the level that she had lost her clothes and her honour [*māṇam*].

The women – as well as Vasantha's son-in-law Bala – frame the incident in a way that the severity of it lies especially in its sexual character. The sexual violence caused her 'to lose her honour' (Sarvitha). Importantly, although women blame mostly Preethi, it becomes clear in the narrations that it was Preethi's husband (and thus a man) who committed the most serious part of the violence: the violation with the rod. Apart from the pain, Vasantha was not able to bear the shame: She has been beaten on body parts 'which one can't even describe' (Bala). The descriptions contain much more detail than the few quotes I chose to refer to here. Most of them underline the brutal and sexual character of the crime.

Women also relate that Vasantha tried to reach the hospital after the violation. On her way to the hospital, the police apprehended her because of (false) accusations Preethi made at the police station (she allegedly set up people to rape Preethi's daughter, she allegedly badgered Preethi's husband to have sex with her, Preethi also filed a complaint that Vasantha owed her one lakh Rupees). There seems to have been a confrontation between Preethi and her husband and Vasantha in front of the police. The police did not believe Vasantha and refused to take up her complaint (FIR) against Preethi and it is not very clear what happened afterwards:

Kirusha: When she [Vasantha – JV] was taken to *hospital*, *police* caught her. The *police* threatened her: 'Are you enacting a play?' and beat her up near the liquor shop. Is there any honour [*māṇam*] left for us? [...]
Both, female and male *police* hit her in that place.

Sarvitha: Because she did all this [register false complaints – JV], they didn't take up the *complaint* from Vasantha it seems. Preethi also gave money in the *police station*, it seems, and so they beat them up heavily when they came to give a *complaint*. [T.: All the police people?] A woman *police* beat them up. She has beaten so much and sent them back. Vasantha's daughter it-self asked, it seems: 'Instead of you living, you can die. Why should you live when your honour [*māṇam*] is damaged so much?' She could have naturally said that in anger. The *police* woman said that even her daughter asked her like that. In anger, every woman could ask like that. If my birth mother would be shamed like this, even I would ask. Even my daughter would ask. It's not a big thing.

None of the women condemn the violence of the police directly. Vasantha is pitied for the violence she faced from the police, which is also referred to as the final reason which provoked Vasantha to suicide: With the police ignoring her complaint and beating her again, 'there was no honour left' for Vasantha. However, Preethi is seen as perpetrator in this incident, she is also the one who 'caused' the police to beat Vasantha by handing in fake complaints.

Although some of the women I talked to interfered before – in a less 'delicate' matter –, they didn't or couldn't prevent the sexual violence Vasantha faced. It is not very clear whether the incident could have been seen as legitimate if it had been less shameful and brutal and/or if Preethi had not had affairs herself. Women agree, however, that Vasantha made a 'mistake', just as Arun or Preethi's husband. They also agree that the limits of acceptability were definitely passed by the brutal sexual character of the incident. This shameful character caused Vasantha's suicide and makes Preethi and her relatives guilty of homicide in the eyes of the women.

Sexual violence and the negotiation of its public or private character

Since the incident occurred in public, the question of witnesses becomes a common topic in the narrations: If people witnessed the beating, why didn't they intervene? All women who suggest that people were present and watched Vasantha getting beaten up reason that Preethi asked people not to interfere by saying that it is a family matter. Sarvitha, for example, relates: 'If someone questioned they said: "It's our family matter, don't inter-

fere. We don't have any enmity between us. Don't interfere.'" Women narrate that Vasantha's attempts to solicit help were unsuccessful. Sarvitha says: 'Vasantha pleaded someone: "Please inform my daughter or my sister." She even fell down at their feet. Preethi threatened everyone around: "If you inform them, you will face the same situation.'" Kirusha relates: 'She sought safety by entering into a guy's house. They shouted at her to get outside, pushed her outside and locked the door.' Sarvitha further states that when a man at one point interfered, the beating stopped: 'Only one young man asked boldly in a threatening tone: "Why all of you are beating a woman like that? Just go away!" Then they stopped. So many people were watching silently.' Sarvitha also explains that she herself was present at the time when the incident took place and saw a group of people at the end of the road. She says that since she saw a man who was involved in another fight, she thought that this fight was going on and didn't realise that Vasantha was being beaten up.

Several points follow from these narrations. 1) Violence and fights in the public area – it's important to have in mind that in a slum a lot of things easily become subject to public surveillance since there is little space for privacy – are not necessarily seen as a reason to interfere. 2) One reason is that those fights can be framed as 'family matters' which do not allow a 'public' interference. 3) It is reasonable to assume that whether or not 'common people' / 'the public' (*potu makka!*, *ūr makka!*) intervene in a fight depends on how an incident is negotiated on the spectrum of public and private.

If asked directly, women argue that the incident became a public matter since it happened in the public area. However, the question of the public or private character of the incident seemed not to be so easily resolved and was not uncontentious in Arangkarai. Interestingly, Vasantha's daughters insisted that the road was empty when Vasantha was beaten up. Vasantha's son-in-law ended the conversation abruptly when we asked him about people who witnessed the incident: [T.: Everyone was witnessing it, right?] Bala: 'No, everyone there went to attend a function, there was a marriage. They did this when the road was empty. Ok, I have some work.... [leaves].'

What difference does it make whether the road was empty or not? If the road was empty, the incident didn't have the character of a public humiliation of Vasantha and thus would have been less shameful and less 'damag-

ing' for her 'honour'. If it was empty, there would also be no room for accusations against 'the public', who failed to help Vasantha. In order to understand what reason might be responsible for this striking difference in the stories, I want to look at how exactly it became possible that women protested at a nearby junction on the day of Vasantha's death.

The narrative form of lamentation as premise of female solidarity

Instead of the incident being a public matter simply because it happened in the public space, it is actively made a public matter by the way women frame the incident. For the women, the incident was obviously public and worthy of intervention: 20 to 30 women spontaneously blocked a nearby junction on the day Vasantha died, asking the police to conduct a proper investigation and arrest the perpetrators. The police beat them and drove them from the junction, promising to arrest the culprits. I narrated above how they were agitated already before, when Vasantha was still alive, and how they discussed with Sarvitha – the former area staff of the NGO – that they ultimately should find a way to put an end to these things happening in their area. The success in framing the incident as public matter amongst women becomes apparent in narrations, which frame the participation in the protest as a 'requirement' or argue that not participating would cause social harm:

Paavai: [...] If they come to our house and say that one person is required and if we don't go, they will think bad about us. If we don't go now, then no one will come for us. [T.: Aren't you scared that you face trouble?] P.: I can tell *directly*. We are not scared. It is necessary that we go together. They called one person from each home. 'We need to go.'

Priya: A lot of people went and so I too went along. That's all. [...] Since everyone went, I too joined. What will you say?: 'Why didn't you come? Everyone came [...].' Ok, I will come. Sh! If everyone dances *tappānkutu*¹⁸, you have to dance *tappānkutu*. You can't complain about that to anyone. I went to avoid those kinds of talks.

¹⁸ A dance commonly danced (by men) during funeral processions in Tamil Nadu.

How did the suicide of Vasantha achieve such a status among women in Arangkarai?

First, it might be helpful to understand why Vasantha's family didn't support the protest. The incident got established as something that couldn't be explained with reference to Vasantha's 'bad character'. Instead it got established as illegitimate questioning of and assault on Vasantha's 'righteousness' which led to her suicide. Women frequently slip between 'murder' and 'suicide' in their narrations. The incident got established as homicide by emphasis on the shameful character of the crime: the brutal sexual violence it included. To underline the shameful character, women extensively relied on narrations about reactions of witnesses. Sarvitha's statement and the reactions of men towards my research assistant and I suggest that women established this understanding of the situation against the understanding of (some) men who referred to Vasantha as a whore, as well as Vasantha's family, who denied that there were any witnesses. To sum up, women made Vasantha's case a public affair by extensively discussing Vasantha's character 'as a woman' – and thus discussing her affair(s) and Preethi's accusations – as well as explicitly narrating the sexual underpinning of the crime. Probably, this way of rendering the incident public gives insights into the reason why Vasantha's family tried to keep the incident from being a 'public affair'. Sarvitha assumes that Vasantha didn't talk about the repeated assaults of Preethi, trying to avoid the public discussion of her allegations. Also, Vasantha's family has been the main source for a newspaper article, which does not mention the (alleged) affair(s) or the sexual character of the crime. In some way, rendering the incident 'public' repeats the humiliation Vasantha faced initially through the public character of the sexual violence.

Secondly, the question is how exactly the above said transforms the incident into a matter worthy of public interference for women. Vasantha's affair(s) are partly legitimised as 'well-known truth', or as a 'stomach business', a 'mistake' which Vasantha made only to fill her and her daughters' belly. Her affair(s) are thus seen as part of the continuous series of sufferings and difficulties poor ('single') women face during the courses of their lives. With this way of narrating the incident, women refer to a common female form of narrative which is not necessarily caste/class-specific: The lament, pondering

upon the many instances in a woman's life where an idealised representation of female life cycles is not even a distant possibility and sharply contrasted by actual experiences of women, due to neglect, violence, or harassment by family or spouse or – and here it becomes caste/class-specific – due to social status. This way of describing the incident makes it a 'women's issue' and thus a matter of public import for women: In general, it becomes possible that every woman – who is a 'good woman', struggling to run a life without familial or spousal support – could get into a situation where her 'righteousness' is questioned with disastrous effect.

This specific way of framing the incident as a 'women's issue' renders a tension in Sreeha's narration understandable. At the beginning she distances herself from the agitations around Vasantha's suicide, she argues that her son doesn't want her to 'involve in such a big fight uselessly', that she minds her own work according to the wishes of her son and that she faces enough difficulties as a widow in attempting to marry her son off. Then, her narration takes a totally different turn:

T: Why did you go there [to the protest – JV]? Sreeha: Suicide! One life is lost. She is also a woman like each of us. That's why we went with the intention to *help*. *Police* people [...]. Vasantha's daughter also asked us not to interfere. That's why we are remaining *silent*. [T.: Who gathered all of you? Who brought all the people?] We came by ourselves. No one was required to gather. We are also *ladies*, tomorrow we will also face the same situation. Do you agree? God only knows whether they are good people or bad people. Till today she never even opened her mouth to say a hurtful word [*paṭukkunu*]. Even if you ask whether something is wrong, she will just smile and go away. She will never speak about it. She is doing it just as a stomach business [*vayattu poḷappukku*]. It's you who should keep your husband under control, what do you think? [T.: Yes, yes] Once they were so close to each other and had so much fun. Today this is the situation! If you ask me, the same will be the situation for us tomorrow! [...] [T.: Is this the first time? Haven't you done something like this before?] No. For us, this is the first time. Things like this should not happen in our area. Good or bad, we should adjust with all things. A family should not live [peacefully – JV, *vālak kūṭātu*] after immorally [*ani-*

yāmā] killing a life. Tomorrow they will do the same to us whatever they did to her. If they are not questioned, they will start feeling that they can do whatever they want [*uṭampula tulir viṭṭup pōyṭum*] [...] Room should not be given for that.

Sreeha makes a very direct reference to the incident as something that could happen to every woman. Can this formulation of the incident as a ‘women’s issue’ be understood as a reference to the feminist idea of sisterhood, which might be transported via the NGO? Since Sreeha addresses me as part of the NGO, the reference to ‘women’ – especially since she often uses the English term ‘ladies’ – could be strategic and aimed at convincing the NGO (me) to take up the case, or also merely a polite way to address the topic in front of me (a researcher who apparently likes to talk about ‘women’). Irrespective of this, I argue that the solidarity between women Sreeha refers to has a specific foundation: Whereas the first part of her account is built upon common forms of narrativization of life among Tamil women (the female lament), the second part then transforms this common narrative into a source of solidarity between women.

The possibility of female solidarity is not self-evident. Research in Chennai’s slums revealed that women often play a key-role in morally controlling their peers, a fact which reminds us ‘that patriarchy is usually enforced *by women themselves* – not by men. [emphasis in the original – JV]’ (Kapadia 2014: 239; see also Vera-Sanso 1999). The sexual violence dealt with in this paper obviously supports this assumption: It is a woman who uses brutal, sexual violence to police the ‘sexual behaviour’ of another woman. Nonetheless, as Ram argues, the female lament is a very common form of narrativization of life amongst women and thus a commonly available potential source of female solidarity (Ram 2013: 202-5; Ram 2007). To activate this source of solidarity, however, women obviously need to extensively discuss and prove the ‘righteousness’ of the respective woman as well as the severity of her sufferings: The acceptance of a repeated series of sufferings is exactly the premise onto which a notion of female solidarity can become meaningful. In this sense, the actual death of Vasantha – although this sounds disillusioning – might be a prerequisite for the protest.

NGO ACTIVISM AND LOCAL PROTEST

Having detected the normative and moral backdrops which render the protest possible, it is time to come back to the question of relationships between women and the NGO. As I related above, the women wanted the NGO to support the protest at the nearby junction in the name of the NGO or get the allowance to conduct it in the name of the NGO by themselves. Vasantha as well as most of the women who engaged in the protest were participants in the regular meetings of the NGO. They thought that conducting the protest together with the NGO would give it more authority and greater public acknowledgment. (A local newspaper reported about the incident the day after the protest but media attention immediately dropped thereafter.) Raji, the director of the NGO, didn't participate in the protest or in Vasantha's death rituals (Dushana, the local area staff, did). She also didn't agree to support the protest or conduct a protest in the name of the NGO. She helped, however, by formulating a petition which she advised to hand in at different state commissions, for example the Tamil Nadu State Commission for Women, and high-ranking representatives of the police. She insisted on formulating the petition in the name of the 'common people' instead of the NGO. Women did what Raji recommended but felt betrayed by her reaction and faced suspicion by officials when they handed in the petitions. Sarvitha narrates: 'But the *police* in the *CM cell* questioned us suspiciously: "Someone is behind you, it seems. You have lodged *complaints* everywhere so courageously. Is it a real *case* or is someone kindling you to give this false *complaint*?"'

When I asked Raji directly why she doesn't interfere, she argued that 'there are a lot of secrets [...] between two families.' She also indicated that there has been an affair and that she doesn't know what really happened. Dushana, the local area staff, reasoned in the same tone that it would be necessary to talk to Preethi's family as well, to understand both sides of the conflict. In a long conversation we had during another occasion, Raji seemed indecisive how to evaluate her observation that there is 'no value system' in lower class families compared to middle class families. She reasoned that this would allow lower class women to walk out of abusive marriages and engage in new relationships, but that it would also impair their

readiness to compromise to keep the family intact. Also, she remarked, the men lower class single women had 'connections' with, potentially sexually harassed these women's daughters if they got a chance to catch them alone in the house. Accordingly, in local meetings with girls and women, the staff of the NGO frequently discussed non-marital relationships (and sometimes even second marriages) as a safety hazard for daughters of the respective woman and advised women not to let new partners stay in their houses. All these examples show a specific stance of the NGO towards women who live without their husbands which diverges from the narrations I re-iterated above. It is a stance which draws on rather rigid middle-caste/class discourses of sexuality that prove to be sceptical towards re-marriage and ostracise women who choose to engage in sexual relationships outside the formal institution of marriage (for differences between upper- and lower-caste/class discourses of sexuality in Tamil Nadu see Kapadia 1995: 163-78; Kapadia 2014: 238-40).

CONCLUSION

I suggest that the present case confronts us with two surprising twists: First, nearly all of the women took part in programmes of an NGO which advocates women's rights and they frame the sexually-violent assault as a 'women's issue'. However, moral justifications which provide the background to act against the violence as well as to claims to solidarity between women are not deriving from ideas of (women's) rights transported via the NGO. Second, the formulation of the case as 'women's issue' seems to be a downright invitation to the NGO to take the case up as a women's rights issue. Nonetheless, the NGO refuses to pay heed to the claims of women and only supports them formally. What can these surprising twists tell us about gender, protest mobilisation amongst women from the urban poor and dynamics of inclusion and exclusion in civil society and the public sphere in India?

The academic discussion provides ample and profound controversies about the role and functioning of civil society in (pre)colonial and postcolonial India. Apart from positive and hopeful accounts of the promises of active citizenship (see e.g. Bhargava 2005), there is also a tradition of a rather critical and skeptical debate. The political scientist Neera Chandhoke argued that the public sphere is an exclusionary place, where 'the languages of

women in a male-dominated society, the languages of the so-called lower castes, or the languages of racial minorities' (Chandhoke 2005: 346) do not provide access to practices of negotiation, mediation or challenge which are attached to the often so positive myths of the public sphere (Chandhoke 2005). Access to the public sphere – and thus to negotiations in civil society – would thus be depending on translations into the 'dominant language', the language of 'legal and political modernity which constitutes the domain of the public sphere of civil society' (ibid.: 338). However, so Chandhoke, some languages defy such translations, because 'meaning systems underlying the two languages are incommensurate' (ibid.: 339).¹⁹ In a similar tone, Partha Chatterjee reasoned that actors in civil society form 'a closed association of modern elite groups, sequestered from the wider popular life of the communities, walled up within enclaves of civic freedom and rational law' (Chatterjee 2004: 4). At the same time, so Chatterjee, the vast majority of India's 'public' agitates in political society with distinct forms of mobilisation: the advancement of claims through political mobilisation or alliances with other (e.g. religious) groups rather than by demanding adherence to law or confronting the police; the involvement of violent means respectively the transgression of law and the invitation of authorities to declare exceptions to the rule of law instead of asking them to change the law (Chatterjee 2011: 11-21). Both scenarios invite a specific critique of middle class dominated NGOs which involve in concerns of the urban poor as excluding their 'target groups' as active agents (e.g. Harriss 2007), viewing them as belonging to a still-to-be enlightened 'rest of society' (Chatterjee 2011: 84). Both scenarios make one feel that the failure of Arangkarai's women to mobilise the NGO for their protest is not surprising. However, I suggest that they neither are helpful to understand the process which led to the mobilisation of the protest by women nor provide a full explanation of the NGOs rejection to support it. Chandhoke does not theorise a 'sphere' from which people who do not possess the language of civil society could possibly enter some sort of political mobilisation (see also Bhattacharyya 2003). And Chat-

¹⁹ In the present paper, I intentionally do not take into consideration the debate about the translation of human rights in social anthropology which yielded numerous publications (see e.g. Merry 2006; Bachmann-Medick 2014). I suggest that the finding that we are not dealing with an instance of translation holds true for these conceptions of translation as well.

terjee himself believes that ‘political society [...] tends to be a masculine space’ (Chatterjee 2011: 20).

At this point, a different, empirically informed perspective will be useful. Tanya Jakimow and Aida Harahap argue in another cultural context that ‘scenes of development’ may offer ‘possibilities for self-becoming’, as they put it (Jakimow et al. 2016). One of the interesting points they bring forward is the realisation that these programmes provide spaces where women attain new self-imaginaries. They argue that this possibility is vital for women since they ‘have fewer opportunities than men to engage in civic life’ (ibid.: 268). However, Jakimow and Harahap find that in their new self-imaginaries, women draw heavily on Islamic terms which, in short, means that their work in these organisations is a possibility to attain godly conduct (*taqwa*) (ibid: 267-9). I suggest that the way Jakimow and Harahap describe the process in which these programmes become relevant for women, cannot be adequately described as processes of translation into the ‘dominant language’ of civil society: Women neither use the vocabulary the programmes provide (like self-help etc.) nor do their new self-imaginaries become meaningful on the background of the values which are transported via development programmes. Yet there is no sense of exclusion but the programmes do become meaningful for women. Smooth cooperation – in Jakimow and Harahap’s case between Islamic forms of ethical conduct and (neoliberal) development programmes – seems to be possible *despite* different moral justifications and normative backgrounds.

On the background of Jakimow and Harahap’s findings, the protest of women in Arangkarai can be read as a – maybe rare – situation where the NGOs programmes and normative messages indeed do make sense for women: They claim that *this matter is* a ‘women’s issue’. This being said, the moral and normative background onto which they render the idea of female solidarity meaningful is not a liberal notion of rights. Instead, it is a common, inherited²⁰ narrative form which addresses discrepancies between idealised representations of female life cycles and the actual experiences of (lower

²⁰ The argument that inherited social norms and moral assumptions can provide the basis for protest mobilisation (especially if they are violated) is well-established since Thompson’s notion of moral economy (e.g. Thompson 1971).

caste/class, 'single') women.²¹ Nonetheless, far from avoiding the realms of 'rational law' – as e.g. Chatterjee's distinction between political and civil society would make us assume –, the women try to make the police and the NGO responsive to their own vision of women-specific problems.

Referring to Chandhoke's reasoning above, one could assume that women are not successful in claiming the support of the NGO (a civil society actor) because they use the wrong language: They do not frame the incident as a rights issue, a language which, one assumes, would enable participation in the public sphere. However, Jakimow and Harahap's findings taught us that such cooperation can function smoothly even though no processes of translation take place. Also, the way Arangkarai's women discuss the sexually-violent assault seems to offer a convenient docking point for the NGO to accept the incident as a women's rights issue. There are many explanations for the NGOs hesitation to support the women that come to mind immediately: The case does not fit the male-perpetrator versus female-victim narrative in which instances of sexual violence are preferably positioned. The victim is not a 'good victim' – a helpless child, a young, virgin woman – but a woman who had 'an affair' (see also Prasad 1999). Also, women disregard the common hierarchies of development projects and become active claimants of support in a situation which *they* define as women-specific problem. All these aspects might be relevant to disrupt cooperation. However, to focus the analysis, I suggest to look again into the reactions of the NGO I described above. The reactions show that Raji as well as Dushana don't accept the framework women in Arangkarai set to render the suicide of Vasantha a matter of public interference: They don't accept the framing as a 'women's issue' and as a general matter of security for

²¹ I want to clear up a possible misunderstanding that could evolve due to this article's focus on moral and normative justifications: It would be plausible to assume that even if it seems a little overstretched to argue that moral and normative justifications women refer to are translations of normative ideas that became relevant through the NGO, there could be an instance of translation with regard to the practice of protesting itself. However, the exact way in which women organise the protest – the blockade of the nearby junction which is a central traffic node – does rather resemble other protests of (male and female) inhabitants from Arangkarai than the protests organised by the NGO. I heard of two incidents in which people from Arangkarai blocked the junction in exactly the same manner: When they did not receive the TV sets which were distributed after the 2006 elections as fulfillment of an election promise by the then chief minister Karunanidhi, and when the reparations after the floods in December 2015 were not distributed as promised.

(‘single’) women in Arangkarai. They frame a case which women in Arangkarai strongly framed as ‘injustice’ (*aniyāyam*) and homicide and thus asking for legal consequences, as a ‘conflict’ between ‘families’ which is open to the possibility of compromise and mediation. Obviously, the NGO renders the incident into a matter that is *not* worthy of public intervention.

The normative endeavors the NGO engages in, which are variously described as achieving women’s rights, solving women’s problems collectively, or empowering women, are vague enough to stand for many things. In their vagueness lies the potential to collective action – as the women’s attempt to win the NGO for their protest shows – but also the potential for disruptions and exclusions. With reference to the US women’s liberation movement, one of the early organisers of the movement, Jo Freeman, points out that a vague standard of sisterhood can ‘be shifted with circumstances to exclude those not desired as sisters’ (Freeman 1976). She also assesses that the standards which are set through such exclusions often resemble ‘very traditional ideas about women’s proper roles’ (*ibid.*). In short: The vagueness of normative ideas (here: of women’s empowerment, solidarity between women, and the achievement of women’s rights) requires them to be actualised in concrete situations. In these actualisations, diverse, sometimes contradicting, moral and normative principles may become relevant at the same time. The above mentioned moral discourses about ‘single’ women thus help to explain why the NGO does not support the framing of the incident as matter worthy of public intervention. The convenient retreat to formalized procedures of legal proof and reasoning (e.g. the emphasis on the necessity to talk to both sides of the conflict) does come with an indirect moral condemnation. While women in Arangkarai talked about the affair as a ‘common truth’, the director of the NGO talks about ‘secrets between [...] two families’. She incidentally mentions the affair of Vasantha to cast doubt on who is victim and perpetrator in this case – a case where one of the two women had experienced aggravated sexual violence and committed suicide afterwards.

The NGO provides help to women in Arangkarai by making accessible higher units of the legal arena than local police cells. Not only the knowledge of a former staff member (Sarvitha) but also the infrastructure of the NGO – the weekly meetings of women – might take part in enabling

the protest mobilisation. Nonetheless, the NGO dismisses the women's call for legal intervention and argues that arbitration would prove more useful. As the accounts of Chatterjee and Chandhoke suggest, the NGO produces exclusions by reference to caste/class-specific discourses. These exclusions, however, do not only stem from a reasoning which refers to 'civic freedom and rational law' (Chatterjee 2004: 4) or the adoption of a 'dominant language' (Chandhoke 2005: 338). Instead, differences between caste/class-related discourses of sexuality result in shifts and fractures of visions of women-specific problems between the NGO and women in Arangkarai. The result is a disruption of ambitions of female solidarity.

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Did Pandialy Walk on Fire? The Refutation of an Ancestral Mythological Genesis as a Quest for Knowledge and Acknowledgment

Loreley Franchina¹

Abstract: In La Réunion, the fire-walking festival is an annual ritual cycle wherein, after eighteen days of preparation, abstinence and fasting, some Réunionese Hindus walk barefoot across a pit filled with hot embers. For a long time, practitioners claimed that Draupadī, best known as Pandialy, had walked on fire as mentioned in the *Mahābhārata*, locally named *Barldon*. The epic provides a dramaturgical backbone to the festival. However, some devotees now refute the ancestral mythological explanation of Pandialy walking on fire as the genesis of the fire-walking ritual cycle. They attribute this to a misunderstanding made by their ancestors, who came from India to La Réunion during the nineteenth century, and allegedly conflated two different epics: the *Mahābhārata* and the *Rāmāyaṇa*. Historical sources and scholarly research attest that the confusion cannot have been made by Réunionese, since a cult of Draupadī/Pandialy also exists in India. This refutation of previous interpretations is also based on the premises that there is such a thing as the original, pure version of a myth and a hierarchy between text and orality. Examining the ritual, the epic and the myth, this article shows *that* the refutation of the myth of Pandialy walking on fire in La Réunion reflects a quest for knowledge and acknowledgment.

Also called the ‘fifth Veda’, the *Mahābhārata* epic has travelled beyond Indian borders to reach a variety of places, universes, and imaginary worlds in multiple, complex ways. This paper addresses the story’s circulation in the Indian Ocean, where it has become a major reference on the island of La Réunion. A story with deep historical, economic and human echoes, closely tied to a ritual, to faith and to claim-making, the *Mahābhārata* is the dramaturgical backbone of the fire-walking festival in La Réunion. Fire-walking is a ritual cycle organised annually wherein, after eighteen days of preparation, abstinence and fasting, some Réunionese Hindus walk bare-

¹ This article received support from the Maison Interuniversitaire des Sciences de l’Homme d’Alsace (MISHA) and the Excellence Initiative of the University of Strasbourg. I would like to thank Jean-Yves Bart and Natalie Lang for language revisions.

foot across a pit filled with hot embers. The festival is dedicated to Draupadī, more often called Pandialy or Dolvédé on the island. For a long time, practitioners have claimed that Pandialy walked on fire on the basis of the *Mahābhārata*, which is locally called *Barldon*. For this reason, penitents² commemorate the goddess by taking on this ordeal. But lately, some worshippers have rejected this explanation and claimed that Pandialy never walked on fire. This belief, they say, stems from a misunderstanding by their ancestors, who came from India to La Réunion during the nineteenth century, when colonialists dreamed of building a sugarcane 'empire'. The ancestors are said to have mixed up the episode of Sītā walking through fire from the *Rāmāyaṇa* with Draupadī's life, conflating the two epics. This assertion inherently questions the ancestors' role, who, in the Hindu Réunionese worldview, play a pivotal role as they are represented as an *axis mundi* enabling communication between humans and the gods and their relationship with India. But also it depicts how some Réunionese Hindus are looking for knowledge and acknowledgement to fulfil the idea of a 'good worshipper'. This desire is linked to the idea of an existing Orthodox Hinduism and the implicit desire to invalidate claims that Réunionese Hindus do not know the 'good way' of practising religion.

This article is structured in three sections. The first presents contextual information on La Réunion, its inhabitants and Hindu religion over time and space. The second section describes the fire-walking ritual, its mythological frame and the challenge to the traditional genesis of this ritual practice. The third section explains why the first Indian labourers did not conflate the two epics and reflects on the epic, the myth, and the ritual, to point out the impossibility of reducing a myth to a single reality. The paper concludes with an analysis of the refutation of the myth in relation to the larger question of Sanskritization, suggesting that this refutation is a negotiation between the traditional heritage of the ancestors and a quest for knowledge and acknowledgment.

² I use this word in the emic sense, meaning practitioner or fire-walker, as this is what the believers call those who make a sacrifice in a ritual setting.



Image 1: Barldon, La Réunion, December 2014 ©Loreley Franchina

THE RÉUNIONÈSE CONTEXT

In the beginning...

... was an uninhabited island (Scherer 1965; Gerbeau 1992). Located 800 kilometres east of Madagascar, and forming the Archipelago of Mascarene with the nearby islands of Mauritius and Rodrigues, La Réunion has been known to explorers since at least the fifteenth century (Gerbeau 1992: 15), but its settlement began only in the second half of the seventeenth century. It is now a French overseas department and a territory of the European Union, where French and Creole are spoken and the Euro is the currency. While it is more wealthy than its neighbours in the Indian Ocean, its history has been built on violence and struggle. For the French government, the 'overseas department' status was the best means to achieve the emancipation of the colony during the mid-twentieth century period of decolonization, even if some scholars consider it as a new form of colonization (Bertile 2006). Once the French established the colony in the late seventeenth century, they soon launched an economy based on the exploitation of the land. To do so, they started a slave trade, especially with the African coast. The trade intensified in the early nine-

teenth century when the government, after having tried to cultivate coffee and spices with meagre results, decided to turn the island into a sugarcane monoculture. The 1848 abolition of slavery was a blow to the plantation system, whose business model requires a massive workforce. The indentured labour trade followed slavery. The government looked for labourers in many places and found the biggest harbour to cast out its nets for workers in India. Many Indians, from different parts of the country, especially the South, left their homeland with a fixed-term 5 or 10-year contract to work in the sugarcane sector. First-hand accounts and historical sources show the hard life indentured labourers were often forced to lead, and not only in the case of La Réunion. These difficult conditions made Hugh Tinker refer to indenture as *A New System of Slavery* (1974).

Many workers from different backgrounds, origins and religions met on the island. The formation of mixed couples launched a long process, which developed into a Creole culture (Pourchez 2002) and led to the foundation of a Creole universe. A new understanding of the world, informed by multiple sources, emerged and the *invention* of a *tradition* began (Hobsbawm and Ranger 1983), building on the beliefs brought to the island. This was favoured by the geographical distance between La Réunion and other countries – in this case, India. This process has not been characterized by a *dis-culturation*, in the sense of loss of meaning, but by the emergence of new meanings (Pourchez 2002: 372).

Hinduism in La Réunion

According to the working contracts, labourers were free to continue practising their religions in La Réunion, which does not mean it was easy, and they were entitled to use a piece of land for religious purposes (Fuma 1999: 13). Catholic representatives saw Hinduism as a pagan and demonic religion. Priests forced many conversions and unsuccessfully tried to cure Hindus of their beliefs. It must however be noted that many Hindus, when they realized they would not go back to India, chose to be baptised to facilitate their social integration. To them, baptism did not mean giving up Hinduism, but introducing themselves into Catholic society while continuing to follow Hindu rituals. Despite great struggles, Hindus managed to keep their religion alive.

The geographical distance between India and La Réunion made it difficult for Indians to maintain ties to their homeland. While during the indenture, some new labourers came to the island and others returned to India, in an exchange of sorts, after that period there was practically no more communication. Moreover, the lack of female immigration did not allow endogamy. More generally, under the colonial system, the leading factor in partner choice was indeed geographical and social proximity more than ethnicity (Gérard 1997). As a result, Réunionese have ancestors with multiple origins. Since then, individuals – often guided by an ancestor’s spirit – have chosen how and when to affiliate themselves with one or more origins. Practising several faiths is not a rare occurrence. A Réunionese can be seen in church, in a Hindu temple, and in a ceremony for his Malagasy ancestors, without this being odd. When a Réunionese is anchored to a specific *milieu* and even if he says he wants to *gard la ras* – save the race – this has a cultural rather than a biological meaning (Gérard 1997: 344). As Christian Ghasarian (2008: 110) suggests, I use *milieu* to define an undetermined ensemble of persons and places displaying cultural specificities, in order to respect the complexity of Creole society and to avoid the terms *group* or *community*, which are too reductive and associated with closure. One can go into the *milieu*, exit, or take a break and each practitioner gives it a particular meaning, which may vary according to their situation and personal history. Also, cultural variations are not incompatible with the Creole culture – they are actually a core component of that culture (Pourchez 2014: 61). In La Réunion, the idea of cultural identity has admittedly been the subject of various claims, but from an etic point of view, it is important not to read these claims solely in terms of ethnic groups: in a Creole society like La Réunion, the cultural system is not built on divisions between culturally uniform groups partitions where a group has a uniform culture (Barat 1989; Benoist 1998; Nicaise 1999; Ghasarian 2008; Pourchez 2002). Instead, culture should be seen as an intersystem – a continuum of multiple variations and transformations (Drummond 1980: 372). Therefore, Hinduism in La Réunion is experienced in a particular way. To define the way of practicing Hinduism in the Creole islands, Jean Benoist (1998) coined the phrase *hindouismes créoles* – creole hinduisms.

From ‘Malbarization’ to ‘Tamilization’: the Tamil revival

Despite the population’s intricate melting pot and the French policy of assimilation (Ghasarian 1991: 11) Réunionese make ethnic references – which do not systematically match a phenotype – to define themselves and others. Designations change depending on who defines who.

During plantation society times, the Indian migrants and slaves were indistinctly called *Malabar/Malabard/Malbar* by the non-Indians. These words were at the time loaded with stereotypes, often linked to witchcraft and sorcery (Barat 1980: 52–53). A Malbarization process began then, in the sense that all Indians were classified as *Malbar*. Among themselves, some of their descendants may refer to more specific origins – *moi lé Kalkita*, *moi lé Madras*³ – (Barat 1980: 47). In that context, an ‘Indian’ is someone who has recently come from India and does not have a Réunionese culture – the term applies for instance to newcomers from Pondicherry (Ghasarian 1991: 17).

From the beginning of the Tamil Revival, Hindus came together in religious and cultural associations. Those who had the means to do so travelled to Mauritius⁴ and to India. ‘Great temples’, as the Réunionese call them, with vegetarian practices were founded or expanded. It was as if Hindu descendants wanted to revive an imagined diaspora.

The Indian gaze on Réunionese Hinduism: a deformed religion

Religious representatives from India were employed to look after some temples and ceremonies in the wake of the Tamil revival. These gurukkals in the ‘great temples’ and the swamis in the ashrams have often represented the Réunionese Hinduism as a deformed religion, as if there was a good and a bad way to practice one’s faith.

As Jean-Claude Carpanin Marimoutou noted, ‘The Malbars are, generally speaking, assumed to be degenerate compared to the great Ārya culture and the supposed Indian wisdom’ (Marimoutou 2008b: 132, my translation). The following account reflects the climate of the revival period. Here,

³ “I am Kolkatan, I am Madrassi”.

⁴ Réunionese believe Hindu Mauritians have kept the religion more intact.

Ayèr Védaya⁵, a well-linked officiant and teacher in La Réunion, recalls on his arrival on the island in 1976 from Karikal:

I was a Tamil teacher in high schools. Somebody asked me if I wanted to come here [to La Réunion] [...] it was [...] a Pondicherrian [who asked]. When he came to La Réunion, he saw the situation here and he told me: in La Réunion, there are not enough people to explain the religion in French and they have no knowledge. They drink, they have no clue about how to pray. If you come, you can redress the situation of the Tamils here. [...] I did not come here to only ring the bell in the temple but also to ring the bell in people's heads! (in Calandre-Barat 2013: 4, my translation).

What is at stake here is clearly teaching 'the *real* religion' to the Hindu inhabitants of La Réunion, perceived as the bearers of a *degenerate* religion. This can happen even today. For example, Momo, a fairly young fire-walking officiant or *pousari*⁶, has been monitored by an Indian family friend, who helps him improve his knowledge in many ways. Momo genuinely appreciates his help and is happy to improve himself, but admits that being reprimanded constantly is difficult, and occasionally expresses his frustration at failing to meet the Indian's expectations: 'I'm fed up with it'⁷. While Momo recognizes the Indian guide's considerable knowledge, he learned what he knows from his *goulou*, an uncle who was a very well-known *pousari* on the island, and embodies his officiating style – he is secretly hurt by the Indian friend's admonishments.

Indian religious leaders who came to La Réunion convey a certain way of seeing religion. Those exchanges with India have enriched knowledge, but they also have wounded the honour of some Hindu Réunionese, who felt they were not up to the expectations of Indians, and not up to the standards of what a Hindu should be. They were seen as not cultivated enough, not respectful enough – in a nutshell, not good enough. It should be noted that the Réunionese do not systematically passively accept transformations

⁵ Ayèr Védaya, who passed away in 2014, was only one of a number of prominent religious personalities in Réunionese history. He is quoted repeatedly here because a collaboration with an anthropologist resulted in the publication of interviews and lectures.

⁶ *Prèt malbar* – Malbar priest – is another term used to refer to officiants.

⁷ Private conversation, August 25, 2014.

from India. This was the beginning of a process of constant negotiation between what came from India, which is often idealized and dreamed, and the knowledge of ancestors, the oral tradition passed from father to son.

FIRE-WALKING AND ITS GENESIS

Performing a ritual cycle

Intrinsically linked to the settlement of the island, the fire-walking festival is an eighteen-day ritual cycle performed every year in many temples all over La Réunion. It is locally called *mars dann fé*, *fèt Pandialy* or *timidi*, from the recently retrieved Tamil word *tīmiti*. The first written historical source to mention the ritual in La Réunion is a short text (Le Court 1860) describing an 1858 lithograph. Since then, this practice has increased in popularity and it is today one of the most popular, if not the most popular Hindu ritual, attracting not only practitioners, but also curious people and tourists who are impressed by the devotional act and by fire immunity. For the devotee, fire-walking, which is the climax of the ritual cycle, takes the form of a 'supreme commitment' (Pourchez 2002, 302), as the believer himself and his body are given as a sacrifice. Penitents who walk on fire generally make an oath to a goddess – *fé promès* – to have a wish come true, to redeem sins or to express thankfulness for the mercy they have received.

Even if differences exist between the temples, the structure of the festival is quite homogeneous and, in many respects, reflects the Tamil Nadu Cult of Draupadi described by Alf Hiltebeitel (1991). It is in fact likely that Indian indentured labourers who came from that specific part of India used to practice it. The ritual has inevitably changed over two centuries, but has taken a distinct identifiable local form, which could be seen as a Réunionese tradition. This form, however, does not suggest closure and immobility. Indeed, fire-walking, like any other ritual, is constantly evolving.

Every year, at specific times in the ritual cycle, passages taken from the *Barldon*, which gives textual and dramaturgical structure to the rite, are staged. Unlike in the Tamil Nadu Cult of Draupadī, which involves professionals called *Pārata-piracaṅkis*, literally 'the ones who recite the (Mahā)-bhārata' (Hiltebeitel 1982: 73), some of the devotees try their hand at acting. They are dressed in more or less elaborate costumes to embody a vari-

ety of characters: kings, princesses, warriors, sages, gods and demons. Beginners and seasoned players receive minimal instructions as to their appearance. In fact, the worshippers have seen these scenes staged every year since childhood and know the roles quite well. These moments are both educational and recreational. They may be preceded by a reading of the text in Tamil, then explained in Creole. Those scenes set the pace of the daily ceremonies and prayers until the fated day when penitents undergo their trial. Performances are embodied knowledge. Indeed, cultural learning is based on body, feelings and imagination (Wulf 2013: 20), and it is through the body and mimesis that knowledge is acquired and embodied in a specific frame context (Wulf 2009: 143). It is not only a question of embodying, but also one of seeing and receiving. Performances are thus also a system of conservation, appropriation, transmission and creation of knowledge and memory (Taylor 2003: 21; Wulf 2009: 142–43). Through the body, performative practices constitute what Diana Taylor (Taylor 2003) calls a '*repertoire of embodied practice/knowledge*', considered ephemeral because of its immaterial character. The repertoire allows embodied memory to develop through gestures, movements, and orality (Taylor 2003: 20). The embodied repertoire is updated with the new inputs from India, by Réunionese who travel there and come back with new worship tools or habits. However, the gestures and structure of the fire-walking are not often put in doubt by practitioners. Some simply perform rituals, especially these who come to the temple to make a *promès* to the divinity. Others, especially those who are quite sensitive to the identity question and are trying to redefine an imagined diaspora, are on a more intellectual and philosophical quest. They use their trips to India to ponder the 'real' meaning of religion and look for information in books, videos, and online, unlike others who they perceive as only interested in getting ahead in life. One of these quests consists in looking for 'reality' about the fire-walking, which involves researching the foundation of the mythological genesis: Pandialy walking across the fire pit.

Actualizing the myth – Emic explanations

During the ritual cycle, the penitents perform theatrical representations of the myth. However, they also actually walk on fire, and in that sense, they are doing more than merely actualizing the myth. Indeed, participants relate the ritual genesis to a mythological episode in which Pandialy⁸, the heroine of the *Barldon*, accomplishes the act walking across fire.

Many emic versions of her story are narrated. The most popular recounts that Pandialy walked on fire to reject accusations of having sexual relations with the five Pandévèl⁹ brothers, as Gustave, a 62-year-old officiant in small and family-run temples, states¹⁰. He situates the fire-walking episode after the nuptials of Pandialy and Aldjounin¹¹, a scene which is also re-enacted during the ritual cycle and is called *mariaz bondié*.

Gustave says that Aldjounin was in exile with his family when he decided to participate in a contest¹². The competition was organized by Pandialèn¹³, king of Pandialéndesson¹⁴ and the prize was the hand of his daughter Pandialy. Only Aldjounin fulfilled the challenge and deserved the rewards. When he went back to his mother Goundamandévi¹⁵, he told her that he had won a prize. Ignoring the nature of the prize, the mother told him to share it with his four brothers – and the word of a mother can never be contradicted. Aldjounin, who did not like keeping still, left his family and his wife and went into the forest to hunt and fight. It should be noted that the marriage was never consummated, which is why it is said that Pandialy was

⁸ She is associated with Draupadī in the *Mahābhārata*. If not specified otherwise here, Creole names are used whenever La Réunion is discussed. Sanskrit – Skt. – equivalents are indicated in footnotes to allow the reader to connect them with the Sanskrit *Mahābhārata*, which is usually the version that Réunionese can access in French translation.

⁹ Skt. Pāṇḍava.

¹⁰ The following accounts are taken from interviews conducted during my fieldwork in La Réunion. Those stories were generally told in Réunionese Creole; this particular one was recorded on September 29, 2015. Except when quotation marks are present, I condensed their accounts for readability reasons, but I tried to stay true to the phrases and images used by interviewees.

¹¹ Skt. Arjuna.

¹² A *svayamvara*, a traditional Indian marriage where the future bride chooses her husband by giving a garland to one of the many candidates, who are often submitted to a variety of trials (Dumézil 1995: 101–2 [1968]).

¹³ Skt. Drupada.

¹⁴ Skt. Pañcāla.

¹⁵ Skt. Kuntī.

pattini, which means ‘still a virgin’¹⁶. But as usual, in the village there was a lot of *ladilafé*¹⁷. One fine day, Aldjounin came back and discovered all the rumours about him and his family. The hearsay was that his wife slept with all his brothers. Pandialy was blamed although she was actually respectful of her husband and had never done what people accused her of doing. Aldjounin was angry, but not with his brothers. Rather, he began to be suspicious and distrustful of Pandialy; he did not trust her anymore. Everyone accused her of having sexual relations with her brothers-in-law. She could not bear the shame of the accusations levelled against her. Eventually, she decided: ‘well, if it’s going to be like this, there is only one way to prove my virginity!’ For several days, Pandialy fasted. She did not eat, she did not drink, or sleep. Nothing! She prayed to Akini¹⁸, the god of fire, and she asked him to let her prove her purity by fire, by immolating herself. By dint of praying, Akini appeared. She made a vow to walk on fire: ‘if I really deserve it, the fire will burn me, and I will never come out, but if I am innocent ... only God can judge me!’ She started to collect logs and took them to the yard where she made a ‘pretty pile of wood’. She sat in the middle of the pyre, in a lotus position. At that very moment, the fire blazed up. Everyone was present: her husband, her brothers-in-law, her mother-in-law and all the villagers. She remained seated in the flame for at least three hours, and when the fire was extinguished, she came out walking normally. Akini granted Pandialy her vow. She had demonstrated that she was *pattini* through the fire. Everyone came to bow at her feet. She said: ‘it is not worth bowing at my feet, because you criticized me, claiming I have sinned, but I didn’t. And today I proved it!’ According to Gustave, this is why devotees walk on fire today.

Brian¹⁹ says the suspicion of Pandialy’s adultery was reinforced by the birth of a child while Aldjounin had left seeking adventure. Pandialy, who felt lonely and desired to have a child, had chosen to make one out of wood, leaves and vegetables. When her husband came back, he thought his wife had cheated on him. Pandialy told him this was not true and that she

¹⁶ *Pattini*, in Tamil, refers to a virtuous and ideal wife (Madavane 2008: 60) and it is evident that this term undergoes a semantic shift in La Réunion.

¹⁷ Gossip.

¹⁸ Skt. Agni.

¹⁹ Private conversation, January 5, 2017.

would prove her fidelity to him. She walked on hot embers carrying her son in her arms and came out unharmed. But the child, who was made of fibres, not adultery, burned. Pandialy thus demonstrated her chastity.

In other versions, Pandialy has to restore her honour after having been stained by Kaoulévèl²⁰ who tried to dishonour her. According to the version recounted by Frédéric²¹, fire-walking is connected to the famous episode of the dice game in the *Mahābhārata*. He says the 99 Kaoulévèl were jealous of their cousins Pandévèl, because they had a castle. Among the Kaoulévèl, there was somebody who knew magic and organized a dice game against their cousins. During the game, the Pandévèl gambled everything away: the castle, the horses, the tanks – everything, really! They had nothing left; they lost everything but Pandialy. The Kaoulévèl then told them: 'now you have to bet Pandialy!' They gambled their wife and lost her. Then the Kaoulévèl took Pandialy and they tried to take off her sari. But Kisnin²², who was up there, prevented them from doing so by putting her clothes back on multiple times. Although this never happened, the Kaoulévèl, however, spread the rumour that they had taken the virginity of the Pandévèl's wife, anyway. She said: 'I am going to prove the truth to you. I'll light up a fire and I'll walk on it. If I am burned, this means I am not longer a virgin'. She was not burned.

While, in each of the above versions, interviewees situate the event at a precise moment in the history, most of the believers do not have in-depth knowledge of the narratives. This is not detrimental to 'the rationalizations of social actors, whose relationship to the divine remains loaded with meaning and functions easily without elaborate theological knowledge' (Ghasarian 1991: 46, my translation).

Their arguments are very short, as in the following three examples:

She [Pandialy] walks to show her purity. It was said that she was an easy woman because she had several husbands²³.

²⁰ Skt. Kaurava.

²¹ Recorded interview, September 17, 2015.

²² Skt. Kṛṣṇa.

²³ Dominique, recorded interview, December 21, 2014.

The *Barldon* says that she [Pandialy] had been raped; [she walked on fire] to prove her virginity²⁴.

The woman was accused of being unfaithful. Pandialy, to prove that she was not unfaithful to her husband [...] decided to cross a blaze to prove it²⁵.

All variants, told by man and women with varying amounts of detail, relate to the question of Pandialy's sexuality²⁶: adultery, rape, virginity. The fire-walking intended to restore purity or truth through fire²⁷.

A 'white' polyandrous marriage

Scholars of mythology have examined the question of Draupadī's polyandrous marriage. According to Georges Dumézil, this marriage can be understood conceptually. The author of *Mythe et Épopée I, II, III* (Dumézil 1995 [1968, 1971, 1973]) gave a 'simple and honourable explanation, of the scandalous marriage of Draupadī' (Dumézil 1995: 136, my translation). He indicated that polyandry did not exist during the Vedic period, when the epic was written. It was even against the uses of the Ārya (Dumézil 1995: 131–32). His explanation points to a pre-existing mytheme²⁸, which made it into the epic (Dumézil 1995: 74). This mytheme, he argues, is the abstract permutation of a tripartite vision of the world shared by Indo-Europeans based three hierarchically ordered functions: 1) 'magic and legal sovereignty', 2) 'physical and mainly warrior strength', 3) 'quiet and fertile wealth' (Dumézil 1995: 10). The Pāṇḍava, husbands of Draupadī, born from the power of their mother's divine invocation, sons of the gods, represent these three functions: 1) *dharma*, the code, the cardinal virtues, 2) *bala*, physical strength, 3) *rūpa*, beauty²⁹ (Dumézil

²⁴ Raphaël, recorded interview, Jun 16, 2015.

²⁵ Virginie, recorded interview, October 14, 2015.

²⁶ For an analysis of Pandialy's character and her sexuality, see (Magdelaine-Andrianjafitrimo 2008; Hildebeitel 1982).

²⁷ While it is beyond the purview of this paper to discuss at length, the theme of purity recurs throughout the ritual cycle.

²⁸ The term 'mytheme' was coined by Claude Lévi-Strauss to refer to a constitutive element of the myth (Lévi-Strauss 1958, 233–36).

²⁹ Yudhiṣṭhira – in Creole Darmèl –, son of Dharma, will become the king and he is the manifestation of *dharma* itself; 2) Bhīma – Vimèn in Creole –, son of Vāyu, and Arjuna – Aldjounin in Creole –, son of Indra, are the incarnations of *bala*, physical force; 3) the twins Nakula and

1995: 85). The brothers' attributes and the order in which they were born reflect this hierarchical tripartition; Draupadī is a synthesis of the three functions³⁰. Dumézil argues that the relationship between the five brothers, and between the brothers and their shared wife is the 'transposition in human terms of a meaning-filled theological and mythological situation' (Dumézil 1995: 132, my translation). In this sense, the five brothers establish a structural unity, and Draupadī is considered as a Goddess Mother (Azzaroni 1998: 277–78). For Dumézil the tripartite ideology is the backbone of the Indo-European myths, which share a common eschatology, and are not a reflection of life in society (Dumézil 1995: 45). While in the mythological exegesis, polyandry is understood in conceptual terms, in La Réunion, polyandry was actually practiced in sugarcane plantations (M. Marimoutou 1989: 237; Govindin 2014: 336), certainly because indenture essentially implied a male emigration. The women were few, very sought after and sometimes used as compensation for the workers (Fuma 1999: 202, 211). Yet, this did not affect practitioners' representations of Pandialy: they saw her not as a woman, but as a goddess. She is seen as a pure, uncompromising and powerful divinity. Most devotees regard her polyandrous marriage as a 'white marriage', meaning that no sexual intercourse was expected and that the woman had to keep her chastity intact. Antoine³¹, the president of a temple, calls it 'a philosophical communion, indeed; not a sexual encounter!' According to the believers, Pandialy is pure, and her reputation is only damaged by rumours – *ladilafé* – caused by jealousy – *zalouzi, i ral lo kèr*. Practitioners use this explanation because jealousy is an 'institutionalized idea' (Ghasarian 1991: 140) in La Réunion. Islanders are encouraged to protect themselves from jealousy, which brings with it the evil eye. As she is a victim of jealousy, believers sympathize with Pandialy's story. She also became a symbol of integrity: for that reason, whenever a vow is submitted to her, the ritual should be properly prepared – otherwise Pandialy could deny them protection and even make them pay.

Sahadeva – Nagoulèn and Sagardévèn in Creole –, sons of the Aśvin, are beauty, *rūpa* (Dumézil 1995: 85).

³⁰ In the *Mārkaṇḍeya Purāṇa* the theogonic explanation of their birth from five gods is linked to a previous event. The five brothers are reported to be an incarnation of Indra himself, having been punished for pride, and Draupadī is the incarnation of his wife Śrī, Prosperity, Fortune (Dumézil 1995: 138–41).

³¹ Recorded interview, October 13, 2015.



Image 2: Pandialy & Aldjounin, La Réunion, August 2014 ©Loreley Franchina

Actualizing the myth – The refutation

While the majority of believers associate the fire-walking with Pandialy, today some devotees reject this mythological derivation: in their view, Pandialy never walked on the fire, she rose from the fire. Gabriel, a fervent devotee of the goddess, is a proponent of this interpretation. According to him, the sacred fire – *yargom* – prepared in the morning in order to light the blaze is the representation of Pandialy, who was born from the fire of sacrifice. In fact, in the *Mahābhārata*, Drupada, king of Pañcāla, offered an oblation to the fire to give birth to a son who would carry out the father's vengeance by killing his enemy Droṇa. From the sacrificial fire, two twins were born: Dhṛṣṭadyumna and Draupadī. To the surprise of the assembly, it was the daughter who exacted vengeance, not the son.

Everybody says that Pandialy walked on the fire. I am 100% sure this is wrong. Pandialy never walked on the fire! Pandialy was born in a spiritual *yargom*. Make no mistake! [...] Pandialy never walked on the fire; she was born in the fire [...] I say it now and I shall repeat it and I would even defend the cause if needed. Pandialy was born in the fire. Fire-walking was invented by our ancestors, it is the tradition which was invented by our ancestors when they arrived in La Réunion. [...] There

are people who confuse this with the *Ramayanam*³², Sidé³³ and Rama³⁴.

Gabriel argues that the myth of Pandialy walking on the fire stems from a misunderstanding on the part of the ancestors who came to La Réunion as indentured labourers. He believes they mistook the *Mahābhārata* for the *Rāmāyaṇa*, the epic poem in which Sītā actually walks on the fire to demonstrate her fidelity to her husband Rāma, after her time as a captive Rāvaṇa, demon of Lanka.

The refutation of the myth does not really affect the representation of Pandialy in Réunionese society: like her, Sidé walked through fire to show her chastity and fidelity to Rama, meaning the mytheme remains unchanged here. I have elsewhere (Franchina 2015) documented the connection between the conceptual purity of the myth and the Malbar representation of women and of their position in the *milieu*.

Following the example of the believers who cast doubt on the myth, some scholars have asserted that the mythological framework of the rite is a blend of both epics. Yolanda Govindama, for example, contends that episodes of the *Rāmāyaṇa* were inserted into the rite of fire-walking by the *Malbar* out of necessity, because, being cut off from their country, they had to ensure the transmission of knowledge (Govindama 1997). Practitioners in search of knowledge may very well have also been influenced by this French scholarship.

Yet another different position is exemplified by Pascal, who knows the *Rāmāyaṇa* and is aware of the debates surrounding the question. He says he understands the arguments of those who deny that Pandialy ever walked on fire, but that they do not prevent him from believing in the divinity:

I do listen!³⁵ Then, if I walk on the fire for Pandialy, you see, it means that deep down inside myself I believe that she walked on the fire. You understand? When I walk on the fire I do not walk for Sidé, I walk on the fire for Pandialy!³⁶

³² Rāmāyaṇa.

³³ Skt. Sītā.

³⁴ Skt. Rāma. Recorded interview, August 1st, 2015.

³⁵ In the sense that he listens to the other explanations and understands them.

³⁶ Recorded interview, July 23, 2015.

MYTH'S DIFFERENT REALITIES

The cult of Draupadī in South India

If an amalgamation of both epics exists, it cannot have originated with Indian indentured labourers in La Réunion – the ancestors, as they are called – because sources report instances of fire-walking ceremonies in honour of Pandialy in India. Here are some examples where the heroine, called Draupati, Drobédé or Draopadī, walks on the fire. An 1899 chronicle published in *The Journal of the Polynesian Society* describes a fire-walking ritual in Alandur, close to Saint Thomas Mount, in the suburbs of Madras³⁷ (Jackson 1899: 190–93). The text traces back its mythological roots to the *Mahābhārata*, excerpts of which were staged during the ritual cycle.

In India from the earliest times the honour and chastity of a woman have always been considered absolutely sacred, and at the termination of the great war, Draupati, who had been subjected to the grossest insults by one of the Kurus, was required to establish her chastity to the satisfaction of her five husbands and an assembly of great men. And the divine Draupati, whose one strong armour of protection against danger throughout the great war had been her chastity, openly submitted herself to a trial by ordeal; and the form this trial took was walking through fire. Out of this ordeal Draupati came most successfully and established her innocence beyond all possibility of doubt. She went further, and gave additional proof – a proof the efficacy of which was to remain unquestioned for all time to come, in support of her character; that is, she proclaimed to the assembled audience that whoever, placing implicit faith in her powers, undertakes to walk over fire, will get rid of any maladies he may be subject to, and attain all objects of his desire (Jackson 1899: 191).

Though obviously to be read with caution, this text is extremely interesting, because it goes beyond the fact that Draupadī walked on the fire and why she did so. The mythological narrative reported here includes the origin of the celebration of the cult, which serves as a guarantee and protection against evil

³⁷ Today Chennai.

and which allows to make a vow³⁸ to the goddess. This is in effect quite close to the *promès* logic at work in La Réunion. Yet this explanation of how the ritual practice arises from the myth is not given on the island.

Pierre Sonnerat, chief administrator, naturalist and pensioner of the French king in the eighteenth century, refers to a fire festival called Nerpou-Tirounal held annually in honour of Drobédé and Darma-Raja (Sonnerat 1782: 98–100). As in La Réunion, the ritual cycle he describes involves eighteen days of privations and abstinence. It ends with the crossing of a blaze, and it is based on the *Baradam* [*Mahābhārata*].

The ceremony is held in honour of Drobédé. She married five brothers at the same time; every year, she left one to move on to another's arms; but before doing so, she made sure to cleanse herself through fire. Such is the origin of this singular festival [...] (Sonnerat 1782: 100, my translation).

The same version is found in the descriptive text of a lithograph published in 1827 in *L'Inde française*, drafted by Eugène Burnouf:

The fire festival, called Nerouppou Tirounâl in Tamil, is not celebrated in honour of the fire, which the Indians revere under the name of Agni, but in memory of the trial formerly endured by Draopadî, wife of the sons of Pândou, one of the former kings of Delhi. She had married five brothers, named in the heroic poems of India, Pândavas, and lived successively with each of them. But before moving on to the arms of a new husband, she purified herself by walking on hot embers. Such is, according to the tradition of the Hindus of Coromandel, the origin of this festival (Burnouf 1827, my translation).

According to Edgar Thurston, this fire festival was very widespread in South India. It brought protection to harvests and cattle, prevented all kinds of risks, and allowed every individual suffering from chronic ailments to make a vow to the goddess. Individuals walked on fire for healing. The festival's re-enactments were connected to the story of 'Draupati, the polyandrous wife of the five Pândavas, who, to prove her chastity during their absence in exile, submitted to the trial by ordeal of walking through fire' (Thurston 1906: 471).

³⁸ Called *promès* in La Réunion, which literally means 'promise'. They 'make a promise' when they make a vow and 'return a promise' when the goddess has granted them mercy.

These historical sources, which suggest that the practice of fire-walking in La Réunion did not arise from a misunderstanding by islanders, should however be treated with caution, as they are all from the late eighteenth and early twentieth century and filtered through a Western colonial gaze.

In his research, Alf Hiltebeitel, who analysed the continuity between the *Mahābhārata* and the living tradition, confirmed the occurrence of fire-walking ceremonies for Draupadī in South India – the climax of a cult lasting eighteen days. Hiltebeitel published two volumes on the subject, on the mythology (1988) and on the rite (1991). In his hypothesis, the cult of Draupadī gained momentum towards the end of the fourteenth century in the Gingee area³⁹ drawing on local mythology, the epic mythology, and everyday religious practice (Hiltebeitel 1988: 17). The cult would then have spread because of the depopulation of Gingee area beginning in the seventeenth century, a process that continued under the influence of English and French colonization in Singapore, Malaysia, the Fiji Islands and La Réunion (Hiltebeitel 1988: 23). This makes it impossible to imagine that the Réunionese bent the myth. It is, however, worth considering why certain Réunionese believers refute the myth, and which issues are at stake in this denial. To answer this question, different versions of the myth and its ontological definition must be examined.

Different versions of the myth

The epic

The only research that focuses on the mythological frame of fire-walking in La Réunion is Sully Santa Govindin's thesis. From a linguist and historian's perspective, he analyses the sacred language of the *Barldon* and how this language has influenced Réunionese Creole. To distinguish various versions of the myth, Govindin uses a classification based on Claude de Grève's concepts. First of all, the *model*: the 'founding text', the 'ideal version of the myth' (Govindin 2014: 182); second, the *modulations*, whereby which the model is rewritten, translated, even deformed (Govindin 2014: 182); third, the *variations*, which determine the reviews of publishers on the theme of

³⁹ Gingee was a kingdom during the Middle Ages. Today it is '[...] a taluk headquarters in one of the most out-of-the-way, depopulated, nonindustrialized, hot, mountainously rugged, boulder-ridden, and beautiful areas of Tamilnadu [...]' (Hiltebeitel 1988: 3).

the myth (Govindin 2014: 182); finally, the *vulgates*, which refers to the chapbooks. In the case of the *Mahābhārata*, the text considered as the canonical version is its Sanskrit version, a kind of 'continuation of sacred Sanskrit texts of the Brahmanical tradition' (Govindin 2014: 183, my translation). The writing of the epic has been formally dated between 500 BC and 400 AD. It is attributed to one or several writers, Vyāsa being the mythological author. It was written in an epic poem form based on pre-existing mythemes (Dumézil 1995: 74). Yet, even in the hypothesis that a prototypical *Mahābhārata* once existed, it never reached us (Hiltebeitel 1988: xx). The oldest versions we know are from medieval times. During the very same period, the myth inspired several poets who transcribed and rephrased the epic by subjecting the text to several modulations. These modulations reproduce the Sanskrit canonical text more or less faithfully and integrate folk traditions. This involves the formation of several ramifications which influence themselves mutually and which concentrate on two main branches: the Northern and the Southern (Hiltebeitel 1988: xx; Dumézil 1995: 62). Among the vernacular languages of the South of India, where rewriting is a frequent practice (Govindin 2014: 184–85) the oldest epic version is a Tamil one (Hiltebeitel 1988: xx). In the South of India, the most frequently version used during the cult of Draupadī is the Tamil *Makāpāratam*⁴⁰ by Villiputtūr Āḷvār, probably written in the late fourteenth century (Hiltebeitel 1982: 73; 1988: xxii). This modulation was inspired by older texts and by the regional mythology (Hiltebeitel 1988: xxii). In it, as Alf Hiltebeitel notes, Pandialy subjects herself to purification by fire:

After thus performing the marriage [with Dharma], she entered/bathed in turn in the very hot loving fire which gave birth to her, and emerged again, with full black hair, a chaste lady like the north star [that is, like Arundhatī]⁴¹; in this way the other four [Pāṇḍavas] married her' (Villiputtūr in Hiltebeitel 1988: 438).

⁴⁰ *Makāpāratam* is the Tamil transliteration of the *Mahābhārata*, called *Barldon* in Creole. They also sometimes use one other modulation, the Nallāppiḷai *Mahābhārata*.

⁴¹ According to interpretations of the readings of Villiputtūr, the North Star does not correspond to the pole star, but to Arundhatī, a star of the Big Dipper – Saptarṣi – which is situated next to the star Vasiṣṭha. Arundhatī is the wife of Vasiṣṭha. In India, it is common for spouses to watch these two stars at night on their wedding night, since they represent marital loyalty (Hiltebeitel 1988: 209).

This is the same version that a Réunionese brahmachari⁴², specialist of the Vedānta, told me. Draupadī used to spend one year with each of her five husbands. When she was with one of them, the other four were like her brothers. Every year, she entered the fire to purify herself before changing husbands. According to him, Draupadī walked on fire but not in the sense of a divine judgement, as stated by Réunionese believers.

According to Govindin, it is necessary to also consider *vulgates*, popular works often used in the repertoire of the terukkūttu, a popular form of dance theatre performed by actors/itinerant dancers/storytellers (Govindin 2014: 225). In India, these actors⁴³ stage and recite epic episodes during the ceremonial cycles for Draupadī (Hiltebeitel 1988: xvii). In La Réunion, however, instead of professionals, penitents and believers become improvised actors. The *vulgates* are written texts, but they belong to a 'mixed tradition' where the oral aspect of the representation and the chants update the text (Govindin 2014: 187).

The Myth

In his body of work, Lévi-Strauss repeatedly contended that there is no such thing as 'good' or 'bad' versions' of a myth (1990 [1971]: 632). He viewed the search for an 'authentic version' as one of the main pitfalls of mythological studies (Lévi-Strauss 1958: 240). He argued that there is no original text, no myth of reference, because every myth is the translation of a previous myth borrowed from the past or from other societies, translated in a new updated language; it is always a deformation (Lévi-Strauss 1990: 644-5). Mythemes are actually constituent parts of a myth and they can be transported across time and space, as for tales and legends (Gaster 1953; Propp 1975). Every myth is ultimately defined by the sum of its versions: written, oral, performed; past, present, future. Hence, the *Mahābhārata* cannot be only seen as a canonical Sanskrit text, 'but rather understood as a vast constellation embracing the totality of its oral, iconographic, ritual reformulations and thereby, all of its regional variants, both in India and on the Creole islands of the Indian Ocean' (Magdelaine-Andrianjafitrimo 2008: 547–48, my translation). According to the

⁴² Recorded interview, September 24, 2015.

⁴³ The professionals who play during the festival are the Pārata-piracaṅkis: the ones who recite the (*Mahā*)-*bhārata* (Hiltebeitel 1982: 73).

linguists' classification, inevitably, an implicit hierarchy is established where everything derives from the model, the canonical text, whose modulations and vulgates are only diversions. To consider the cult of Pandialy as a mere late ramification of the epic tradition would be one of the greatest errors which could be committed, warns Alf Hiltebeitel (1982: 78).

One should not consider a source text, but the entire range of its variations (Hiltebeitel 1982: 78; Magdelaine-Andrianjafitrimo 2008: 581–82; Govindin 2014: 181). The Sanskrit *Mahābhārata*, *Makāpāratam* by Villiputtūr Ālvār and all the versions of the *Barldon*, to use its Creole name, belong to a continuum. The epic is embedded in a fluid and *in fieri* tradition, including diverse classic and folk, Sanskrit and vernacular forms where the oral aspect is a fundamental component, in particular during the worship *per se*. The myth experiences several modulations in vernacular languages, which takes a variety of theatrical, narrative, danced and sung poetic forms (J.-C.C. Marimoutou 2008: 344; Govindin 2014: 183).

Ritual textuality and ritual orality

In La Réunion, during the fire-walking festival, officiants have recourse to textual material on two occasions. The first is when the *pousari* reads texts in Tamil in a loud voice and narrates the stories – *zistoir* – in Creole to the audience sitting in front of him. Often the reading is set to a simple musical accompaniment. Then, during the staged scenes – *lé rol* – the *pousari* directs the believers/actors and reads some parts of the text as a voice-over.

The textual material used for ritual cycle of fire-walking is the *Barldon* in an edition that differs from temple to temple, from officiant to officiant⁴⁴. According to the *pousari*, almost all former editions were destroyed by weather, in particular during the cyclones which ravaged the island. The Indian labourers likely brought the version by Villiputtūr Ālvār. Today, books are mainly bought in India during trips⁴⁵ and Réunionese buyers do not ask themselves which edition to acquire. For re-enactment of scenes, the *pousari* often use photocopies of the selected passages to protect the pages from potentially damaging powders and liquids. For some plays, some priests use vulgates: the

⁴⁴ For example, in a temple where I conducted fieldwork, a 1991 version was used.

⁴⁵ Some Réunionese who have sufficient resources organize trips to India, sometimes privately, but in most cases as guided tours.

*Vanavarson*⁴⁶ to stage Aldjounin's climb to Kaylason⁴⁷, and the *Aravan Kadabali Nadegam* to represent Alvan's⁴⁸ sacrifices.

The *Barldon* is read in Tamil, but generally neither readers nor listeners understand it: the reading is phonetic and the meaning of the words does not transpire. The *Barldon* is too complex, and the medieval language makes it difficult to understand even for native Tamil speakers. The officiants I met are unable to offer a simultaneous translation of the book. In Tamil, they know the prayers, the alphabet, and some keywords to find the episodes. The majority of the believers lack basic Tamil vocabulary; those with linguistic training, have often only learned beginners' level contemporary Tamil⁴⁹.

Even though they do not understand the reading in Tamil, many practitioners are to some degree familiar with the frame of the mythology and the outlines of the performed scenes, even though over the course of my fieldwork I did speak to people who could not narrate the stories performed and could only say a few words on Pandialy. Alleyn Diesel noted in her studies on the Tamil diaspora and on the Cult of Draupadī in Natal (1994) that practitioners retained the ritual aspects of the fire-walking. In La Réunion, not only the ritual is maintained, but also the mythologies are still being passed on.

The semantic knowledge of the narrated episodes is inevitably mediated through Creole orality, giving rise to a 'mixed practice', meaning that ancestral orality is anchored in artistic and literary practice (Govindin 2006: 60). Narratives are part of a 'sacred oral tradition', and new versions of the myth are closely informed by the creolization process (Govindin 2014: 229, 272). As Sully Santa Govindin notes, this 'mixed practice' is a factor of evolution in the *Barldon* tradition. Modifications are connected to the insertion of Creole language in the translation and to the comments made by the

⁴⁶ Sully Santa Govindin bases his studies on this vulgate, an eighteenth-century Tamil-language epic poem written in Tamil entitled Pañcapandava Vanavarçam, 'Chant of the Exile'. The actual or symbolic author is Pougajéndi Poulavar. The poem consists of twelve chants in free verses and corresponds in part to the third book of the Mahābhārata (Govindin 2014: 185–90). Kamabhāirava Vanam, the 'Twelfth Chant' of Pañcapandava Vanavarçam, also called 'Chant of the Mast', is used to perform Aldjounin's climb to Kaylason.

⁴⁷ Skt. Kailāsa.

⁴⁸ Skt. Irāvāṇ.

⁴⁹ The *Maison des langues de l'Université de La Réunion* has an academic course on Tamil language and culture. Some ashrams and private establishments concerns also offer courses.

pousari in the reading, when Tamil references ‘come into contact with the local realities’ (Govindin 2006: 70).

The prevalence of orality allows for continuous updates. The episode on Pandialy serves as the blueprint for the practice of fire-walking: ‘we walk on the fire because Pandialy walked on the fire’, practitioners say. Yet, the fact that some refute the myth is an opportunity to shed light on some dynamics at work in the *milieu*. In the Villiputtūr Ālvār modulation, as in oral tradition, the heroine is indeed the protagonist of a fire ritual which allows her to purify herself. Denying or disregarding this means to raise the epic Sanskrit version of the myth as the only unique and authentic reference model while giving no credit to the oral versions. For similar reasons, some scholars have asserted that Réunionese have distorted the myth, but they are coming from a different place. While for academics these are epistemological questions, the devotees’ arguments are of an individual and sociological nature. Remarkably, the people who refute the myth are among those who know the *zistoir* well. They have a keen interest in studying the religion, they take Tamil classes, they watch lots of video, read books, travel to India. Those who refute the myth have got in contact with information from books, the internet, people. They did not go to search for the ‘Sanskrit model’, but this is the only one they found; none of the practitioners I met in the island know the Draupadī cult in India and only few Réunionese saw the fire-walking during their travels in India⁵⁰.

REFUTING THE MYTH – A QUEST FOR KNOWLEDGE AND ACKNOWLEDGMENT

The refutation of the myth and the Tamil Revival in general can seem reminiscent of the Sankritization process in India. When he introduced the latter concept, M.N. Srinivas presented it as a tool to analyse Indian society, considering castes as the structural basis of Hindu society (Srinivas 1956). According to his argument, the lower castes appropriate the customs and rituals of the higher and dominant castes, who are more sanskritized, in order to achieve social

⁵⁰ These are often organized touristic trips. Over the course of three years of fieldwork, I met three Réunionese who attended a fire-walking ritual in India, but those were not dedicated to Pandialy. One of these three did not only attend but also walked on fire himself for Mariém/Māri/Mariamman.

mobility. Likewise, Réunionese have changed some of their practices to emulate a culture that is viewed as more rewarding. Indeed, in a broad sense, the Tamil Revival both symbolizes and strives for social promotion (Benoist 1998: 260). It allows Hinduism to be displayed as a major religion that distances itself from witchcraft and possession rituals. Yet, as the caste system does not exist in La Réunion, and Réunionese do not expressly and exclusively adopt Sanskrit religious forms, trends of Tamilization or Indianization seem to better describe the religious projects of those Réunionese Hindus who engage in a quest for knowledge and acknowledgement.

If Sanskritization is happening, it might be indirectly, in the sense that people from Tamil Nadu bring local worldviews and approaches to religion to La Réunion. To cite Ayèr Védaya once again:

Who walks on fire? They are villagers, people who do not have the means to practice religion like us, the *high class*⁵¹, to practice the classical religion, who do not have the means to understand the very intellectual things. Villagers, travellers, labourers, miserables who live in difficult economic situations, and do not have the time to practice religion every day. Over a year, they practice ten, fifteen days. [...] It is hard. [...] Not everyone can do it [...]. It is the only way the poor people can show their sacrifice. They do not know of others [in Callandre-Barat, 2013: 47, translated from French].

Obviously, claims that fire-walking is a practice of ignorants have not left Réunionese indifferent. Some have even internalized these discourse, but still practice the ritual anyway. Nambi is one of them. After having paraphrased Ayèr Védaya's discourse in bowdlerized words, he said: 'I told you, I'm gonna stop [walking on fire]. But each time I say that, I start again'⁵². Nambi may reflect on religion in intellectual terms, but he is still attracted to fire-walking. Like many other practitioners, he speaks of 'the call of the fire'. He also told me of his intensifying practice of thaumaturgy, which in La Réunion is closely linked to the use of medicinal plants, magic and witchcraft. This is an aspect of the complexity and diversity of Creole society,

⁵¹ In English in the original French text.

⁵² Recorded interview, March 16, 2015.

which also nurtures the idea that the concept of Sanskritization does not perfectly suit the Réunionese case.

Hinduism in La Réunion takes on multiple forms, seemingly organized around two different poles: one leaning towards a Tamilization and Indianization, and the other anchored to the ancestors' heritage, considering that everyone has a Creole culture through which information is filtered. A believer may shift from one pole to the other according to his desires and needs. Contrasting fire-walking with *kavadi*, a ten-day ritual cycle in the honour of the War God Mourugan (Murugaṅ, Kārttikeya, Skanda), helps illustrate this. It is unclear when the first *kavadi* took place on the island; some practitioners claim it was introduced in the second half of the twentieth century. Called *Tai pucam* in Tamil Nadu, it also ends with a corporal sacrifice. The practitioners pierce their bodies with *vel* – metal rods – and carry the *kavadi*, a symbolic mountain, from a river to the temple. The fire-walking is linked to Pandialy, a village goddess and involves animal sacrifices, while the *kavadi* evokes Murugan, son of Sivèn (Śiva) and Palvedi (Pārvatī), and features only vegetarian offerings.

Some practices like the *kavadi* are closer to Tamilization and in a way to Sanskritization, whereas fire-walking, a practice directly inherited from the ancestors, is more representative of the heritage-oriented pole, and has staunch devotees. Many of the practitioners have a striking attachment to the fire-walking ritual. They will never stop fire-walking: they see this practice as a symbol of being a Hindu in La Réunion as well as a highly effective ritual to improve one's life or to heal. The refutation of the myth must accordingly be situated within a broader dynamic. First of all, refuting the myth does not equate being against fire-walking. Rather, it is a part of a negotiation between the ancestral heritage, which is prominent in fire-walking and the successive waves of Tamil revival. Secondly, the literary and theatrical heritage Indians brought to La Réunion was not necessarily related to Sanskrit culture. On the island, this heritage was enriched by creolisation processes. The devotees who, like Gabriel, refute the myth of Pandialy, aspire to increase their wisdom. In the case of Pandialy, they reassess their knowledge in light of what they consider to be the model: the Sanskrit *Mahābhārata*, the only version translated into French and entirely

intelligible for the general public in La Réunion⁵³. Some believers also learn about the contents of the *Mahābhārata* online, through movies, and for those who speak English, through English-language content. In all these sources, Pandialy simply does not walk on the fire. Contrary to the past, when all believers based themselves on knowledge passed on by the ancestors, these Réunionese draw on everything that allows them to expand their knowledge, including scholarly Réunionese literature. They are the fathers and the sons of the Tamil Revival which began in the 1970s on the island. In fact, since then, some of the population has been making tentative steps via multiple paths towards the recovery of something lost, the construction of an imagined diaspora, the search for a ‘real orthodoxy’. These Réunionese see everything that comes from India as more authentic. Yet, even if practitioners draw on a Sanskrit version of the myth, the refutation reflects a Tamilization process rather than a Sanskritization. It echoes their wish to acquire knowledge and be acknowledged. That this fire-walking debate concentrates on the episode of Pandialy walking on fire, but not on other episodes, is itself noteworthy. Practitioners could have refuted other passages, for example Alvan’s sacrifice – *trant-dé morso* – which is staged but does not appear in the Sanskrit *Mahābhārata*. Devotees do not cast doubt on those episodes, simply because no one ever has. In a series of conferences on Hinduism in 1995, transcribed by Florence Callandre, Ayèr Védaya explained that Pandialy never walked on the fire; Sidé did in the *Ramayanom* (Vedaya Ramassamipoullé and Callandre 1997: 48). The questioning and refutation of the myth of Pandialy walking on fire ultimately appear to be part of a complex Tamilization process, exemplifying a negotiation between respect and love for the Réunionese ancestral heritage and a quest for knowledge and acknowledgment that is largely a response to the discredit of Creole Hinduism since the Tamil renewal started.

⁵³ For the purpose of philological exegesis, a comparison with a Tamil version would be interesting. Today, to my knowledge, there is no complete translation of the *Barldon*. This prospect also raises a methodological question: which edition of the book should be translated, since there are several in circulation on the island? The only accessible translated passages are extracts of the vulgate Tamil *Pañcapandava Vanavarçam* called in La Réunion *Vanavarson*. The translated passages by Sully Santa Govindin are the first one, the *Sourya Vanam*, ‘First Chant’ (Pougajéndi Poulavar 2000), and the twelfth, the *Kamabhāirava Vanam* ‘The Chant of the Mast’ (Govindin 2014: 533–48).



Image 3: Fire-walker, La Réunion, April 2016 ©Loreley Franchina

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Indien als Zufluchtsort für jüdische NS-Flüchtlinge: Flucht, Antikolonialismus, und humanitäre Solidarität in der Zwischenkriegszeit

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Abstrakt: Der Antisemitismus der Nationalsozialisten führte in den 1930er Jahren zu einer massenhaften jüdischen Flucht aus Mitteleuropa, unter anderem nach Indien. Dort kämpften indische Nationalisten für die Unabhängigkeit ihres Landes von der britischen Kolonialmacht. Gleichzeitig engagierten sich Vertreter der Unabhängigkeitsbewegung humanitär, indem sie ideologische und materielle Hilfe für Opfer von (Bürger-)Kriegen, so z. B. in Spanien und China bereitstellten. Diese Konflikte wurden vonseiten indischer Nationalisten als Ausdruck des globalen Kampfes zwischen den Kräften von Demokratie und Faschismus/Imperialismus verstanden. Vor dem Hintergrund der eigenen antikolonialen Bemühungen stellten sie sich auf die Seite, die Demokratie für sie repräsentierte. Mit der Ankunft jüdischer Flüchtlinge auf dem indischen Subkontinent stellte sich der indischen Nationalbewegung die Frage, ob und gegebenenfalls wie man diesen Verfolgten des Nationalsozialismus helfen könne. Zur Nachzeichnung dieser Debatten, sollen in diesem Essay zuerst die Rahmenbedingungen, Möglichkeiten und Grenzen der jüdischen Flucht nach Indien vorgestellt werden. Anschließend wird die Auseinandersetzung um die Bereitstellung humanitärer Hilfe für jüdische Flüchtlinge innerhalb der indischen Unabhängigkeitsbewegung vor dem Hintergrund von Antikolonialismus und Nationalismus herausgearbeitet. Das Essay geht somit der Frage nach den Motiven und der konkreten Umsetzung eines antikolonial ausgerichteten und getragenen Humanitarismus nach. Es wird dabei gezeigt, dass Ideen und Praktiken humanitärer Hilfe in der indischen Nationalbewegung nur im politischen Kontext imperialer und internationaler Verflechtungen verstanden werden können.

¹ Mein Dank gilt Jana Tschurenev, Florian Detjens, Jacob Eder, Joanna Simonow und Riccardo Kipar für ihre fachkundigen Kommentare zu diesem Essay.

EINLEITUNG

Und dann schlug mir, in der unbeschreiblich glühenden Hitze, in dem weißen brennenden Sonnenglast der ‚hot season‘, zum ersten Mal der Geruch Indiens entgegen: gemischt aus Weihrauch, glimmender Holzkohle, Kuhdünger, dem scharfen irritierenden Duft von Curry und schmorendem Hammelbraten, Schweiß und einem zwar nicht abstoßenden, aber ganz fremden Körpergeruch. [...] Die Straßen waren vorerst furchtbar. Alles war Lärm, Tumult, Krach, Aufregung und dunkle Menschen (Haas 1957: 204).

So beschreibt Willy Haas in seinen 1957 erschienenen Memoiren *Die literarische Welt: Erinnerungen* seine ersten Eindrücke, als er 1939 auf der Flucht vor den Nationalsozialisten im indischen Bombay, dem heutigen Mumbai, eintraf. Dieser ersten, doch typisch exotisierenden Darstellung des fremden Indiens folgen in Haas' Memoiren längere Passagen einer intensiven Auseinandersetzung mit den religiösen, kulturellen und sozialen Gegebenheiten in Indien, das bis 1947 Haas' Zufluchtsort blieb. Haas, deutscher Publizist, Filmkritiker und Drehbuchautor, war einer von hunderten mitteleuropäischen Juden und Jüdinnen, die zwischen 1933 und 1940 in Südasien Zuflucht suchten. Viele der Verzweifelten, die sich bemühten Europa zu verlassen, konnten ihr Leben nicht retten. Und nicht immer, anders als im Fall von Haas, war Indien das bevorzugte oder geplante Ziel der Flucht.

Dieser Essay thematisiert die Geschichte humanitärer Hilfe für jüdische NS-Flüchtlinge nach Indien zwischen 1933 und 1940 im Sinne einer Verflechtungsgeschichte. Der verflechtungsgeschichtliche Ansatz ermöglicht die Aufspürung von Zusammenhängen zwischen vermeintlich isolierten regionalen gesellschaftlichen, kulturellen und politischen Entwicklungen, die diese dann in einem neuen Licht erscheinen lassen (Becker 2004). Hier soll dementsprechend gezeigt werden, wie man Bezüge zwischen einem klassischen und wichtigen Thema der deutschen Geschichtsschreibung – Nationalsozialismus und Holocaust – und einem ebenso prominenten Thema der südasiatischen Historiografie, dem der antikolonialen Bewegung, herstellen kann. Dies erlaubt es, zur bisher nur punktuell erforschten globalen Geschichte von humanitärer Hilfe sowie zu einem erweiterten Verständnis von Antikolonialismus beitragen zu können.

Die Geschichte des Humanitarismus untersucht die Ideen, Parameter und Praktiken des Helfens in verschiedenen historischen Kontexten. Humanitarismus ist dabei, nach Michael Barnett, auf Menschen außerhalb der eigenen Gemeinschaft, oftmals in der Ferne lebend, ausgerichtet und durch einen starken moralischen Impetus gekennzeichnet (Barnett 2011: 9f.). Diese Definition birgt zwei Problemfelder, auf die hier kurz zur Verortung des Forschungsinteresses eingegangen wird. Während in der historischen Forschung davon ausgegangen wird, dass Praktiken des Helfens und der Wohltätigkeit zu allen Zeiten und in allen Regionen der Welt anzutreffen sind, wird die Entstehung und Verbreitung des Humanitarismus (im oben beschriebenen Sinne) oft als europäisches bzw. ‚westliches‘ Phänomen verstanden. Es fehlen Studien zur humanitären Arbeit nicht-europäischer Organisationen, die parallele, verflochtene und eigenständige Entwicklungslinien aufzeigen. Es fehlt nach wie vor ein Perspektivenwechsel, der den globalen Süden als auch als Ausgangs- und nicht nur als Endpunkt von Hilfe begreift (Framke & Glasman 2015: 10). Neuere Arbeiten haben außerdem gezeigt, dass Humanitarismus (in seiner europäischen Ausprägung) nicht nur aufgrund einer Revolution des Mitgefühls entstanden ist, sondern dass seine Ausformung eng mit politischen, wirtschaftlichen und/oder sozialen Motiven einherging (Laqua 2014). Im Sinne einer kritischen Humanitarismusforschung ist es demnach wichtig, diese Motivlagen auch für außereuropäische Kontexte zu untersuchen und im Falle Indiens die spezifisch politischen Dimensionen durch die Verbindung einer verflechtungs- und einer regionalwissenschaftliche Perspektive herauszuarbeiten.

Dies soll hier geschehen, indem zunächst kurz die Rahmenbedingungen, Möglichkeiten und Grenzen der Flucht nach Indien vorgestellt werden. Anschließend wird die Auseinandersetzung um die Bereitstellung humanitärer Hilfe für jüdische Flüchtlinge innerhalb der indischen Unabhängigkeitsbewegung vor dem Hintergrund von Antikolonialismus und Nationalismus herausgearbeitet. Das Essay geht somit der Frage nach den Motiven und der konkreten Umsetzung eines antikolonial ausgerichteten und getragenen Humanitarismus nach. Es wird dabei gezeigt, dass Ideen und Praktiken humanitärer Hilfe in der indischen Nationalbewegung nur im politischen Kontext imperialer und internationaler Verflechtungen verstanden werden können.

RAHMENBEDINGUNGEN, MÖGLICHKEITEN UND GRENZEN DER JÜDISCHEN FLUCHT NACH INDIEN

Die antisemitische Politik des NS-Regimes und die daraus resultierende Bedrohung für Leib und Leben führten in den 1930er Jahren zu einer massenhaften Flucht aus Mitteleuropa, vorrangig in benachbarte europäische Staaten, aber auch nach Palästina, Nord- und Südamerika sowie nach China (Marrus 1999; Ristaino 2001; Laqueur 2004; Grossmann 2012; Bei 2013). Gleichzeitig verblieben aber immer noch viele Juden und Jüdinnen im NS-Herrschaftsbereich, deren Emigrationsmöglichkeiten sich in der zweiten Hälfte der 1930er Jahre wegen vielfältiger Schikanen, aber auch wegen der restriktiven Einreisebestimmungen anderer Staaten minimierten (Marrus 1999).

Die Geschichtswissenschaft hat erst in den letzten zwei Jahrzehnten begonnen, sich punktuell mit der jüdischen Auswanderung nach Indien in der Zwischenkriegszeit zu beschäftigen (Voigt 1991; Bhatti & Voigt 1999; Franz 2015; Grossmann 2016). Obgleich Südasien keineswegs das vorrangige Fluchtziel für jüdische Immigranten darstellte, eröffnet der Blick auf das koloniale Indien neue Perspektiven für die Erforschung jüdischer Fluchterfahrungen. Große Teile des indischen Subkontinents gehörten als Kronkolonie in den 1930er Jahren zum Britischen Weltreich. Gleichzeitig befanden sich hier aber über 560 Fürstenstaaten, die innenpolitisch unabhängig und nur indirekt in außenpolitischen Fragen unter britischer Kontrolle standen. Sowohl Britisch-Indien als auch die Fürstenstaaten nahmen in den 1930er Jahren jüdische Geflüchtete auf (Voigt 1991: 84-89; Framke 2013: 166-171; Franz 2015). Allerdings geht es in diesen Ausführungen um die unter direkter Kolonialverwaltung stehenden Gebiete, da die indische Nationalbewegung vorrangig in diesen wirkte.

Jüdische Flüchtlinge, die aufgrund des nationalsozialistischen Terrors Europa verließen, siedelten sich ab 1933 in Indien an. Die Einreisebestimmungen waren in den ersten Jahren durchaus großzügig und unbürokratisch. Vor dem Hintergrund der sich verschärfenden Flüchtlingskrise in Mitteleuropa und der rapide steigenden Zahl von Visaanträgen wurden sie aber im Verlauf des Jahres 1938 immer restriktiver. Nun brauchten Träger eines deutschen oder österreichischen Passes auch für die Einreise in die britischen Kolonien ein Visum. Um indischen Boden betreten zu können, mussten sie darüber hinaus als

politisch unbedenklich gelten und ein Affidavit vorweisen können. Diese private Bürgschaft musste von einer in Indien lebenden Person für die uneingeschränkte Versorgung des Bewerbers für eine unbegrenzte Zeit erbracht werden (Oesterheld 1999:25-44; Franz 2015: 63-66).

Wie schwierig es war, diese Auflagen zu erfüllen, kann man den Lebenserinnerungen Willy Haas' entnehmen. Haas, der verschiedene Wege erkundete, die Tschechoslowakei zu verlassen, schreibt:

Nun müsste ich freilich erzählen, wie ich nach Indien kam. Ich kann es nicht. Die Sache sieht sehr danach aus, als ob überirdische Mächte hineingespielt hätten, und darüber spricht man in diesen höchst weltlichen Memoiren nicht gern. Genug: ich hatte mein halbes Leben davon geträumt nach Indien zu gehen. Einige Monate nachdem Hitlers Truppen in Prag einmarschiert waren, hatte ich einen Anstellungsvertrag einer Bombayer Filmproduktion in Händen – mein Freund, der Musiker Kaufmann hatte ihn mir verschafft. Auf Grund dieses Vertrages gab mir nicht nur der Britische Generalkonsul in Prag das Einreisevisum nach Indien, sondern auch die Gestapo in Prag die Ausreiseerlaubnis, [...] (Haas 1957: 199).

Wie dem Zitat zu entnehmen ist, konnte Haas ohne Affidavit ausreisen. Dass er trotzdem in Indien einreisen durfte, verdankte er seinem Freund Walter Kaufmann. Dieser riet ihm bei seiner Ankunft in Bombay, sich gleich an die Jewish Relief Association zu wenden. Die Jewish Relief Association, eine humanitäre Organisation, war in zähen Verhandlungen zwischen Vertretern jüdischer Gemeinden in Großbritannien, der britischen und der britisch-indischen Regierung im Winter 1938/39 als Bürge anerkannt worden. Sie wurde von in Indien ansässigen europäischen Juden, jüdischen Geflüchteten und den indischen jüdischen Gemeinden getragen (Franz 2015: 153-158; Voigt 1991: 90). Die Association übernahm auch im Fall von Willy Haas die Bürgschaft, was ihn letztendlich die Einreise ermöglichte. Eidesstattliche Erklärungen für Geflüchtete wurden ebenfalls von anderen Organisationen und Einzelpersonen abgegeben, die auch materielle Hilfestellungen gaben und Arbeitsplätze, wie im Falle Haas, beschafften. Diese Bürgschaften basierten auf verschiedenen persönlichen und institutionellen Netzwerken im künstlerischen, journalistischen, wirtschaftlichen, wissenschaftlichen und religiös-spirituellen Bereich (Franz 2015: 66-99).

Die restriktiven Rahmenbedingungen führten dazu, dass nur eine verhältnismäßig kleine Anzahl jüdischer Flüchtlinge in der Zwischenkriegszeit nach Indien kam. Wie viele Einwanderer es genau waren, darüber finden sich verschiedene, kaum vergleichbare Aussagen. Dies liegt unter anderem daran, dass oftmals die exakten Erhebungszeiträume nicht genannt werden und keine Vergleichsparameter vorliegen, die Auskunft über den Zeitpunkt der Visabeantragung und das tatsächliche Einreisedatum geben (Sareen 1999: 57; Weil 1999: 71f.; Oesterheld 1999: 26). So findet sich beispielsweise in der indisch-jüdischen Zeitschrift *Jewish Advocate* 1942 die Information, dass über 1.000 jüdische Flüchtlinge durch die Bürgschaften der Jewish Relief Association in den 1930er Jahren bis zum Ausbruch des Krieges nach Indien gekommen seien (Roland 1998: 178). Wie viele durch Garantien von Einzelpersonen, Unternehmen oder anderen Organisationen einreisten und wie viele Geflüchtete noch bis Mitte 1940 nach Indien kamen, ist hier nicht ersichtlich. Die hier angesprochene Quellenproblematik weist auch auf Forschungsdesiderate hin: Eine Sozialgeschichte der jüdischen NS-Flüchtlinge in Indien ist noch zu schreiben.

Die Entscheidung nur eine begrenzte, strikt reglementierte Immigration jüdischer Flüchtlinge zu erlauben, hatte im Fall der britisch-indischen Regierung spezifische innenpolitische Gründe. So fürchtete die Kolonialregierung die sozialen Folgen einer massenweisen jüdischen Einwanderung in Gestalt von sogenannten „weißen Paupers“. Diese weißen Armen drohten, so die imperiale Logik, die rassische, zivilisatorische und moralische Überlegenheit der „Weißen“ gegenüber den Kolonialiserten in Frage zu stellen. Hinzukam vor dem Hintergrund der sich verschlechternden außenpolitischen Beziehungen mit Hitler-Deutschland ein zunehmendes Misstrauen gegenüber den Neuankömmlingen. Manch ein Kolonialbeamter argwöhnte, dass unter ihnen auch Spione bzw. Spioninnen der Nationalsozialisten ins Land kommen könnten. (Voigt 1991: 89-92; Franz 2015: 57). Darüber hinaus beschloss Delhi Rücksicht auf die Ansichten der All-Indischen Muslimliga und der durch sie vertretenden indischen Muslime zu nehmen, die der jüdischen Einwanderung nach Indien, aber auch nach Palästina oftmals ablehnend gegenüberstanden (Sareen 1999: 57 f.; Roland 1998: 190-200). Die Unterstützung der indischen Muslime stellte ein wichtiges Element in der kolonialen Herrschaftsordnung für die Briten dar (Gleichzeitig wurde das

durch Delhi gewählte Vorgehen auch von den Beziehungen zum Indischen Nationalkongress beeinflusst. So fürchtete die britisch-indische Regierung, dass die antikoloniale Bewegung die Flüchtlingsfrage zu politischen Zwecken gegen Großbritannien ausschlaten und im Sinne einer Demonstration moralischer Überlegenheit als Bürge für jüdische Geflüchtete fungieren könne (Voigt 1991: 90).

ANTIKOLONIALISMUS UND HUMANITÄRE SOLIDARITÄT: JÜDISCHE FLÜCHTLINGE UND DIE INDISCHE NATIONALBEWEGUNG

Waren die Befürchtungen der Kolonialregierung gerechtfertigt? Diese Frage bringt uns zum zweiten Teil des Essays, der die Auseinandersetzungen um die Bereitstellung humanitärer Hilfe für jüdische Emigranten innerhalb der Unabhängigkeitsbewegung thematisiert. Indische nationalistische Politiker, Intellektuelle und die der Nationalbewegung nahestehende englischsprachige Presse verfolgten interessiert die Vorgänge im nationalsozialistischen Deutschland. Während verschiedene wirtschafts-, bildungs-, und sozialpolitische Maßnahmen der Nationalsozialisten in einigen indischen Diskursen durchaus als Vorbild für ein postkoloniales Indien debattiert wurden, stießen der Rassismus und Antisemitismus des NS-Regimes im Verlauf der 1930er Jahre zunehmend auf Ablehnung (Framke 2013; Delfs 2008). Obgleich wiederholt eine Solidarisierung mit den mitteleuropäischen Juden erfolgte, stellten deren mögliche Einwanderung nach Indien und die Frage, welche Hilfe man leisten könne, kontrovers diskutierte Themen, auch innerhalb des Indischen Nationalkongresses, dar. Jawaharlal Nehru, einer der prominentesten Vertreter der Nationalbewegung und später erster Premierminister des unabhängigen Indiens, wurde zur treibenden Kraft in der Immigrantenfrage. Obgleich auch er eine unbegrenzte Einwanderung nach Indien mit Verweis auf die instabilen wirtschaftlichen und sozialen Bedingungen, wie bspw. die hohe Arbeitslosigkeit im Land ablehnte, bemühte er sich einzelnen jüdischen Flüchtlingen zu helfen. Nehru hatte sich frühzeitig und wiederholt mit Faschismus und Nationalsozialismus auseinandergesetzt und war zu einem überzeugten Antifaschisten geworden. Während zweier Europa-Aufenthalte 1935/36 und im Sommer 1938 hatte er einen Eindruck von der sich verschlechternden Lage der mitteleuropäischen Juden und Jüdinnen bekommen und war verschiedentlich um Beistand gebeten worden. Diesen versuchte Nehru in zweifacher Hinsicht zu geben. So

bemühte er sich, einerseits eine breite Unterstützung für eine zahlenmäßig begrenzte jüdische Einwanderung im Indischen Nationalkongress zu generieren. Andererseits versuchte er, Einzelpersonen durch die Vermittlung von Arbeitsplätzen zu einem Einreisevisum für Indien zu verhelfen (Framke 2013: 160-164).

Nehru wandte sich in diesem Zusammenhang zuerst an Mohandas Karamchand Gandhi, besser bekannt als Mahatma Gandhi, der ihm im August 1938 in einem Brief das Folgende schrieb:

Then about the Jews. I feel entirely like you. [...]. And I feel keenly for the persecuted Jews. As a concrete proposal I suggest you collecting the names of the most deserving ones and making it plain to them that they must be prepared to throw in their lot with us and accept our standard of living.²

Gandhi zeigte sich der Einwanderung einer begrenzten Anzahl jüdischer Flüchtlinge gegenüber aufgeschlossen. Allerdings betonte er auch, dass sich die europäischen Einwanderer den indischen Gegebenheiten anpassen und damit auch die antikoloniale Bewegung akzeptieren müssten. Diese von nationalistischer Seite wichtige Bedingung war ebenso wie eine potentielle Unterstützung durch die Nationalbewegung durchaus problematisch für die Geflüchteten. Schließlich war doch eine Voraussetzung für die Einreiseerlaubnis vonseiten der britisch-indischen Regierung ihre politische Unbedenklichkeit.

Nehru bemühte sich in den nächsten Monaten verstärkt, Arbeitsplätze für Einwanderer zu finden. Jüdische Immigranten mussten schon vor der Novellierung der Einreisebestimmungen durch die britisch-indische Regierung einen unbefristeten Arbeitsplatz in Indien vorweisen. Die Organisation einer solchen Arbeitsstelle in Indien von Europa aus war für die meisten jüdischen Verfolgten jedoch äußerst schwierig. Nehru schlug daher u. a. die Einstellung jüdischer Experten, wie Wissenschaftler, Professoren und Techniker, durch die vom Indischen Nationalkongress gestellten Provinzregierungen vor. Bei den Wahlen im Jahr 1937 hatte der Indische Nationalkongress seine Stärke als politische Kraft demonstriert und stellte nun in sieben der elf Provinzen Britisch-Indiens die Regierung. Nehru argumentierte, dass durch die Anstellung

² Nehru Memorial Museum and Library [NMML], Jawaharlal Nehru Papers [JNP], Correspondence, Bd. 25, Letter by Mohandas Karamchand Gandhi to Jawaharlal Nehru, 31.08.1938.

der gut ausgebildeten Einwanderer Indiens Entwicklung weiter vorangetrieben werden könne. Etliche Minister, z. B. in Bihar und den United Provinces reagierten positiv auf die Vorschläge und begannen, die Möglichkeit der Einstellung jüdischer Experten zu prüfen (Framke 2013: 160-164).

Diese Initiative hatte allerdings keinen Erfolg. Im Frühjahr 1939 lehnte das Congress Working Committee als einflussreichstes Arbeitsgremium der Nationalbewegung eine Unterstützung einzelner jüdischer Flüchtlinge ab.³ Diese Entscheidung war vor allem finanziellen Fragen geschuldet. Wichtiger jedoch war in diesem Zusammenhang die antikoloniale Ideologie. Der Indische Nationalkongress wollte sich keineswegs vorwerfen lassen, politisch und sozial anti-national zu agieren, da er für den Unabhängigkeitskampf die Unterstützung breiter Bevölkerungsschichten brauchte. Die geplante Einstellung der jüdischen Flüchtlinge stieß bei Angehörigen der indischen Mittelklasse, die eine verstärkte Konkurrenz um die vorhandenen Arbeitsplätze, z. B. im medizinischen Bereich, befürchteten auf lautstarken Widerstand. Des Weiteren wurde die Aufnahme von Juden als eine weitere Stärkung des europäischen Elements in Gesellschaft und Politik wahrgenommen und deshalb von vielen nationalistisch gestimmten Indern abgelehnt. Schließlich sorgte sich das Congress Working Committee um die Einbindung der indischen Muslime in die Unabhängigkeitsbewegung. Aus diesem Grund berücksichtigten sie in ihrer Strategie, ähnlich wie die britische Kolonialregierung, deren antijudaistische Haltung zur Einwanderungsfrage (Voigt 1991: 90-92; Framke 2013: 155-166; Gordon 1975: 221-226; Panter-Brick 2009).

FAZIT

Zusammenfassend lässt sich feststellen, dass es in der indischen Nationalbewegung zwar antifaschistische Haltungen und eine explizite Kritik an der nationalsozialistischen Judenverfolgung gab. In der spezifischen politischen Situation, in der sich der Indische Nationalkongress befand, schlug sich das jedoch nicht in eine institutionalisierte humanitäre Hilfe für die Betroffenen nieder. Damit zeigen die hier vorgestellten Debatten um humanitäre Hilfe

³ NMML, JNP, Correspondence, Bd. 9, Letter by Jawaharlal Nehru to Subhas Chandra Bose, 03.04.1939.

deutlich die politischen Möglichkeiten und Grenzen des Aktionsraumes einer antikolonialen Bewegung auf.

Verflechtungsgeschichtliche Ansätze bringen bislang getrennt behandelte Forschungsthemen zusammen und haben es hier ermöglicht, die Geschichte jüdischer Flucht vor dem Nationalsozialismus mit der Geschichte des Antikolonialismus zu verbinden. Die Erforschung des indischen Humanitarismus in der Kolonialzeit stellt humanitäre Hilfe von Menschen aus dem globalen Süden für Menschen unter anderem aus dem globalen Norden in den Mittelpunkt. Sie beabsichtigt somit die globalhistorische Erforschung des Humanitarismus zu erweitern. Um diese Geschichte schreiben zu können, ist es wichtig, gesellschaftliche und politische Entwicklungen in Südasien mit historischen Prozessen in Europa, aber auch in anderen Regionen zu verbinden. Die in diesem Essay vorgeschlagene Kombination von regional- und verflechtungsgeschichtlichen Perspektiven hat deutlich gemacht, dass die Durchführung antikolonialer humanitärer Initiativen nicht nur nachhaltig von verschiedenen innen- und außenpolitischen Parametern abhing, sondern ebenso vom Kontext imperialer (und internationaler) Verknüpfungen geprägt war.

Dieser Kontextrahmen, der maßgeblich die Haltung des Indischen Nationalkongresses in Fragen humanitärer Solidarisierung beeinflusste, blieb auch nach Ausbruch des Zweiten Weltkriegs bestimmend für die Haltung der Nationalbewegung. Nach der keineswegs abgestimmten Kriegserklärung Britisch-Indiens an Deutschland durch den Vizekönig im September 1939 lehnte der Indische Nationalkongress eine Unterstützung Großbritanniens – trotz manch deutlich artikulierter Kritik an Hitler-Deutschland – ab (Voigt 2004). Stattdessen initiierte er erneut eine Kampagne des zivilen Ungehorsams, die auf die Erlangung der Unabhängigkeit zielte. Dieses Vorgehen war für jüdische Flüchtlinge kaum nachvollziehbar und verweist auf die Grenzen von Solidarisierung und des gegenseitigen Verstehens. Und so soll abschließend noch einmal Willy Haas in seinen Memoiren dazu zu Wort kommen:

Gandhi hatte mit seiner kriegsfeindlichen Propaganda eingesetzt und manche meiner indischen Freunde hatten sich daran beteiligt. Sie sprachen eine Weile auf der Straße gegen den Krieg als ‚imperialistischen englischen Krieg‘, Passanten versammelten sich um sie, sie wurden verhaftet. [...] Einmal sprach ich mit meinem Boß

Bhavnani über diese antibritische Propaganda und den Boykott. ‚Sie wollen doch nicht wirklich einem Mann wie Hitler helfen?‘ fragte ich ihn. Er zuckte die Achseln. ‚Sie hassen Hitler sehr, nicht wahr?‘ sagte er. ‚Sie wissen es doch, Bhavnani!‘ ‚Nun sehen Sie: wir hassen die Engländer genau so sehr, wie Sie Hitler hassen.‘ Das war alles (Haas 1957: 263 f.).

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From Young Researchers' Mobility Experiences towards an Integral Academic Human Resources Knowledge Management Approach: Design-Research for Pakistani-German Higher Education Cooperation

Mustafa Ghulam

OUTLINE: INTERNATIONALIZATION FOR ACADEMIC EXCELLENCE AND THE NEED FOR DEVELOPMENT

Academization and Internationalization are goals for any country. Often, this intention is connected to the wish that those strategies might contribute to the development of the country itself. Therefore international young scholars' mobility is becoming vital to global excellence and development. For example, the Research Mobility Program (RMP), Pakistan's HEC Overseas Scholarship Program, has been sending young researchers abroad since 2006. In this area Germany is a highly relevant partner for the PhD and Postdoc phases. Cooperation with the DAAD is crucial. Higher Education Commission (HEC) and DAAD encourage personal and academic development of individuals relatively early in their research careers (Worldwide University Network 2014). By sending students and young academics abroad, national and international donor institutions hope to establish good and best practices, academic standards, international acceptance, international exchange in relevant thematic fields in the country, as well as support the employability and development of the whole professional sector of a country. In this framework of expectations, the effective use of resources has become a major priority for any higher education institution (Pounder, 1999; Harvey, 2005; Mok, 2005; Dollery et al, 2006). Pakistan is investing approximately 46.000-48.000 Euro in each doctoral student e.g. in Germany. Therefore it is interesting to value the outcomes of international stays of young researchers and future academics.

GOAL: COMPLEX SUPPORT AND DEVELOPMENT STRUCTURES IN INTERNATIONAL INTER-INSTITUTIONAL COOPERATION AS A SOURCE OF ACADEMIC OUTCOMES AND SUCCESS

The general trend towards securing success of young academics by developing and establishing support structures and inter-institutional cooperation is growing fast (Bittner/Reisch 1993; Czarniawska 1998; Emery 1995). As recent studies in this field show, support structures in academia are a relevant dimension for academic success (Ghulam 2012; 2014). Therefore, in Higher Education, more and more investments are made to establish support structures and academic consultancy and advice.

The experiences of young researchers, namely from Pakistan, show the cultural, institutional and conceptual gaps in preparation, stay, re-entry, strategy and placement in relevant thematic fields, individual career strategies and re-entry options. Clearly, there is a need for developing more complex and complexity-adequate individual, collective, institutional and inter-institutional support structures in International Higher Education, as they are partly and field-specifically already given in international and intercultural cooperation in the private and developmental sector (IFIM 2001; Anderson 1994; Bittner/Reisch 1994).

THEORETICAL AND METHODOLOGICAL FOUNDATIONS OF INTERNATIONAL ACADEMIC EXCHANGE

In the field of international and intercultural consultancy research carried out among young international academics, a concise integral organizational education perspective is needed (Weber 2014a, b). The research sets to integrate a) an adequate theory of intercultural and international cooperation (Hofstede 2005) and b) theoretical and methodological foundations for stakeholder and participation based approaches for multi-stakeholder processes (Weber 2009). Here, organizational innovation theory and development within the realm of Higher Education institutions become relevant, too.

Further, it is a reality that there are different levels of research in developed and developing countries (EMBO reports 2012). It is common that scholars from all developing countries go to different developed countries

for their research. Research cooperation is intended to build relationships between the higher educational institutes of developed and developing countries to fill the gap between the different research levels in both developed and developed countries. As a foundation for this large project, firstly research cooperation will be established between the higher educational institutes of Pakistan and Germany.

The research question, “How can we strengthen and develop the given potentials of internationalization between Pakistan and Germany?” will be analyzed. Based on the academic work of Professor Susanne M. Weber (2005; 2009; 2014) and the pilot study¹ and academic work of the Supervisor of this Project Dr. Mustafa Ghulam (2017) on the need for consultancy and support structures in Higher Education institutions (Ghulam 2012; 2014), the project proposal identifies needs and potentials for an intercultural Human Resources Management Approach in academia. For the success of this project, we are looking for sponsors.

From the German side the non-profit Association “Deutsche Gesellschaft für internationale Bildungsberatungs und Wissenschaftszusammenarbeit” (The German Society for International Academic Advisory and Research Cooperation) will play a main role as a cooperation partner, aside from the institutes, which are obviously suitable for this research cooperation. These include, from the Pakistani side, organizations like the Research & Development Division (R&D) of the Higher Education Commission (HEC) Islamabad Pakistan, ARID University Rawalpini, Quaida-e-Azam University Islamabad, LUMS Lahore, Agriculture University Faisalabad, GC University Faisalabad, and from the German side Heidelberg University, Philipps University of Marburg, Eberhard Karls University Tübingen, Free University Berlin, and Humboldt University Berlin. Further suitable and interested partners are being sought.

The research design comprises three levels and sample groups: 1) young Pakistani academics having returned from their international stay in Germany, 2) relevant institutional stakeholders located in Pakistan who are or may become additional resources for the preparatory and re-entry (to Pakistan) phase of young Scholars outgoings to Germany, 3) Pakistani, interna-

¹ Mustafa Ghulam has carried out interviews with different HEC Scholars in Austria and in Germany.

tional and German institutions relevant to or who are potentially a resource for integral management and support during the research stay in Germany.

EXPECTED OUTCOMES

It is to be expected that the use of innovative research strategies like design-based research and participatory formats, will create an immense impulse on the academic communities being involved. Further, it is expected, that a learning curve might reach out to research methodical and methodological approaches to be used for the future and a research approach, which is oriented towards the well-being and development of the country. Outcomes therefore are to be identified at the level of content — to analyze and develop a theoretical framework for intercultural and international young researchers' support structures and consultancy. Secondly, results at the empirical level will allow support in establishing the desired futures identified by the resource- and stakeholders. Thirdly, stimulations will be set for further cooperation, and methodological and methodical innovation will be an outcome at the level of the academics' research abilities and competences.

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