

Women's Property Rights and Access to Justice in India :

A Socio-Legal Ethnography

of Widowhood and Inheritance Practices in Maharashtra

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Abstract

In India, the *Hindu Succession Rights Act* of 1956 allows the widow, the daughters, alongside the sons of the deceased senior male, to claim an equal share in familial property. By giving inheritance rights to daughters and widows, and not exclusively to sons, this Act proposes a radically different organization of the ideal patrilineal household, commonly referred to as “the Hindu joint family”. The Act initiates a transformation of Hindu women’s status through their rights to property, which implies the transformation of women’s rights and duties in India.

Drawing on the analysis made during an extensive fieldwork period in a rural community and case studies in Pune tribunals, this thesis shows that women generally know that they have some rights to their father’s and husband’s property. However, for various reasons, they do not see any advantage in claiming their inheritance rights. Women often find it difficult to reconcile claiming rights with their duties as daughters (or daughters-in-law) and the social restrictions associated with widowhood. In addition, the complex relationships with the state bureaucracy often prevent them from their right to access property. In that context, before choosing a forum of justice, most women (and men) will first opt for conflict avoidance.

This socio-legal ethnography of women’s succession rights, in the state of Maharashtra, is an anthropological contribution to the study of the dynamics of social cohesion in an environment where legal pluralism is itself in transition.

Résumé

En Inde, le *Hindu Succession Rights Act* permet aux épouses, aux filles, de même qu'aux fils d'un homme décédé, de réclamer une part égale dans la propriété familiale. En accordant un droit d'héritage aux filles et aux veuves, et non pas exclusivement aux fils, cette loi de 1956 modifie l'organisation des plusieurs maisonnées Hindous qui visent à ressembler au modèle de la famille Hindoue élargie (Hindu joint family). Cette loi propose une transformation du statut des femmes en reformulant leur droit de propriété, ce qui implique une réorganisation des droits et devoirs de celles-ci.

À partir des données recueillies lors d'une recherche de terrain dans le village de Bheema et dans les tribunaux de Pune, la présente thèse démontre que les femmes savent qu'elles possèdent des droits de succession. Cependant, pour diverses raisons, elles ne voient pas d'avantages à les réclamer. Ces femmes trouvent qu'il est difficile de réconcilier leurs droits avec leurs devoirs en tant que filles (ou belles-filles) ou veuves. De plus, la complexité des rapports avec la bureaucratie étatique les empêche souvent d'avoir accès à leur droit à la propriété. Dans ce contexte, les femmes (et les hommes) cherchent d'abord à éviter les conflits, et cela avant même de magasiner des forums de justice.

Cette ethnographie socio-juridique des droits de succession des femmes au Maharashtra se propose comme une contribution aux études anthropologiques portant sur les dynamiques de cohésion sociales dans un environnement où le pluralisme juridique est en transition

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Karine Bates

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Introduction

In India, the *Hindu Succession Rights Act* (hereafter referred to as the HSA) of 1956 allows the wife and daughters and sons of a deceased senior male, to claim an equal share in familial property. Yet, the fact remains that widows do not claim their inheritance rights. By giving inheritance rights to the widows and daughters as well as the sons of a deceased senior male, the HSA proposes a radically different organization of the ideal patrilineal household, commonly referred to as “the Hindu joint family”. The goal of the Act was to empower Hindu women’s position within Indian society by giving them rights to property through inheritance. By doing so, the HSA also affects men’s access to natal property and modifies brother-sister relationships in unexpected ways.

Inequality of access to resources persists in India in spite of constitutional steps taken to end gender-based discrimination. Although the Indian Government professes to strive for women’s equality, very few legislative initiatives have been undertaken regarding Hindu women’s property rights. The major exception to this is the *Hindu Succession Act* (1956) which legislates for cases of intestate succession among Hindus, Buddhists, Jains, and Sikhs.¹ Since one of its goals was to stop gender-based discrimination, women receive rights to a share of the property of their deceased father or husband.

How is this law perceived and understood in a cultural context where the Hindu ideal wife, or *pativrata*, is defined as “the devoted wife whose entire existence is dedicated to her husband” (Leslie 1989: 1)? This ideal implies that a wife’s ‘only duty’

and 'main purpose in life' is to be of service to her husband (Kapadia 1968: 169). Which means if a woman is widowed, she is perceived as no longer having a purpose in life. The ideal of the devoted wife still influences to - some extent - women's lives, as will be demonstrated when we look at widows' experiences in Bheema, the village in Maharashtra, where I conducted my fieldwork.

The main question of this thesis is how does the current Indian cultural context affect widows' inheritance rights and access to property? Drawing on the analysis of data compiled during an extensive fieldwork period in the village of Bheema, complemented by ethno-legal research in Pune tribunals, this thesis shows that women generally know that they have some rights to their father's and husband's property. However, for various reasons, they do not see any advantage in claiming these rights. Women often find it difficult to reconcile the disjointed ideals of claiming their 'newly' acquired rights with their duties as daughters (or daughters-in-law) and the social restrictions associated with widowhood. In this context, before choosing a forum of justice, most women (and men) will first opt for conflict avoidance. This socio-legal ethnography of women's succession rights, in the state of Maharashtra, is an anthropological contribution to the dynamics of social cohesion in an environment where social and legal pluralism is itself in transition.

The following sections present how, through its theoretical approach, my ethnographic research on Maharashtrian widows' property rights and access to justice in India contributes to the understanding of gender, kinship and inheritance practices in a context of legal pluralism. Then, the legislative context of property rights in India will be briefly outlined in order to situation my research question.

a. Property Rights and Widowhood in a Context of Regional Variations

An important component shaping inequality is property rights, which was demonstrated by recent ethnographic and comparative studies that reveal the significance of property rights in shaping gender inequality. Sharma (1980), Chen & Drèze (1995), Gulati & Gulati (1993), and Agarwal (1994) underlined the need for women to obtain an official title to land and property and discuss the ways in which notions of 'family' and 'tradition' are used to deprive them of it. Yet Indian women's marginality in land ownership was confirmed by research on widows and poverty, despite legal reforms (Agarwal 1994; Chen and Drèze 1995; Gulati & Gulati 1993; Chen 2000).

The aforementioned authors inspired my research question by the fact that they identify the relationship between gender inequality in India, property issues and the surrounding socio-economic practices. Ursula Sharma's (1980) study of two villages in northwest India was the first to examine women's access to property women's access to property in the context of agricultural and domestic labor, marriage and dowry, and social relations with other women and men. However, after her seminal work, data on gender and property rights remained scattered among other ethnographic issues. Major recent exceptions include Bina Agarwal's (1994) book on women and property rights in India, Martha Chen's (1998 and 2000) two books on widows and recently, the first intensive local case study of women and property rights conducted by Srimati Basu in New Delhi (Basu 1999). These investigations clearly demonstrate that understanding women's access and rights to land, and other forms of property, is a key element in the study of women's status.

Anthropologist Srimati Basu's outline of property relations in three urban settings of Delhi offers a major contribution to the body of work on Indian women and property. The focus of her book is on ideological mechanisms through which systems of property transmission are perpetuated. The material and ideological structures through which the current distribution of property is maintained are examined to identify the myths and practices surrounding property transmission in India (Basu 1999: 38). Basu deals with dimensions of property that were significant for the women she interviewed: natal inheritance, affinal wealth, dowry, potential for education, employment. She confirms that most Hindu women are not given shares of natal family property or appear to refuse their own inheritances. I was particularly impressed by her encompassing analysis of property in Delhi. One of her main conclusions was that women prefer not to claim their share in their father's property because they do not wish to fight with their brothers. In the same vein, she shows that widows were not claiming their inheritance shares for fear that doing so would disrupt their relationship with their in-laws. I was intrigued to verify if – and to what extent – such fears were also present in Maharashtra, along with other socio-economic factors that might explain why HAS's regulations are generally not used.

Why studying widows' inheritance rights instead of focusing on daughters' succession rights to property? First, it is important to underline that these two types of women's succession rights are closely related. Yet, ethnographic literature has demonstrated that widows are particularly vulnerable within the patrilineal social context. Barbara Miller (1981) initiated the comparative regional study of female experience in rural India. She found that women tend to be vulnerable in certain phases of their life cycle, specifically in early childhood, the early stages of marriage, and widowhood. This

is supported by Bina Agarwal's (1994) comparative analysis of women and property rights in South Asia. Martha Chen's (2000) research shows that widows are placed in an even more precarious situation if they cannot claim property devolved from parents or ex-husbands. Scattered data confirm that, in rural Maharashtra, widows sometimes face problems in claiming rights to their deceased husbands' property (Dandekar 1986; Attwood 1995). In addition, all of the studies that I examined concur that widows are more vulnerable if they lack adult sons to support and protect their interests. Therefore, studying the question of property rights of widows helps to review the lived experiences of women during other vulnerable life-cycle stages as well as illuminating the particular vulnerabilities of widowhood.

In addition to leading to an overall understanding of womanhood in Maharashtra, my work on widowhood in this region is also a contribution to comparative regional study of access to property in western India. Though many widows face difficulties in Maharashtra, some are helped by their natal or affinal families. Furthermore, a growing number of women in Maharashtra are gaining economic independence via increased access to education and employment. Compared to women in North India, Maharashtrian women have greater economic and educational opportunities. Also, in a recent ethnographic study of dowry in Maharashtra, anthropologist Véronique Bénéï demonstrated that marriage and kinship patterns in this region borrow characteristics from both the North and the South (Bénéï 1996).

Agarwal has noted the difficulty in constructing a comparative regional analysis on women and property rights, given the general lack of ethnographic data on this topic (1994: 46-47). This situation in South Asian research mirrors the broader situation in

legal anthropology. Clearly, intensive local and comparative studies of gender and property rights are needed to explain significant variations in the ability women have to cope with widowhood and other life crises. Attwood's data on family histories in rural Maharashtra show that some widows attain more economic and social security than others (Attwood 1995). My research in Pune reveals variations due to differences in socio-economic status, education, employment, and other factors. There is also significant variation between regions, like the contrasts between North and South India that have been extensively discussed (e.g. Caldwell et al. 1988; Drèze and Sen 1997, 2002; Dyson and Moore 1983; Goody 1990; Jeffery et al. 1989, 1996, 1997; Maclachlan 1993; Miller 1981; Minturn 1993; Wadley 1994). Yet gender inequality in Western India has not been much explored by most social scientists.

Therefore, a study of this region is essential in order to test hypotheses about the factors that influence changes in women's lives. My MA thesis on dowry death cases in India showed that the much-noted contrasts between North and South India can be better understood through research on rural Maharashtra, where elements of both northern and southern kinship patterns are blended (Bates 1998). The transitional characteristics of Maharashtra will be explored in Chapter 2. At this point, it is important just to briefly situate the North-South contrast. In terms of education, juvenile sex ratios, and other statistical indicators, women's experiences of widowhood in Maharashtra are closer to those in most southern states. Yet, as many features of what might be termed the "northern household pattern" are also found in rural Maharashtra (though with significant differences), such as marriage distance and inheritance patterns. In addition, recent trends suggest a large shift from brideprice to dowry, following the northern pattern. Moreover,

the dynamics of social changes in this region do not fit established patterns of either the North or South.

b. The *Hindu Succession Act* of 1956: Proposing a New Social Order by Modifying Social Roles and Reorganizing Kinship

The study of women's property rights in India is particularly pertinent when we consider how many of the post-Independence legal reforms are the result of the cohabitation of various legal traditions. Like other national laws concerning the personal rights of the Hindu population,² the HSA is the result of a compromise between different legal traditions, including Hindu schools of law,³ various local and regional Hindu legal practices, British common law, and the Western philosophy underlying the concept of equality.

One of the most important ideologies of the Western philosophy of law is its particular conception of equality, a concept that has been implemented in different ways by the diverse national legal systems in the West. In India, this ideology was introduced and then transformed, in the philosophies of certain charismatic political leaders prior to the country's independence, namely Gandhi, Tagore, and to some extent Nehru, who all promoted the ideal of increased equality among the castes (Dandekar 1986: 23).

After Independence, rights to equality became an integral part of the fundamental rights of the Indian Constitution. Three articles in the Constitution specify the scope of the fundamental right to equality: Article 14 is concerned with equality before the law, Article 15 expresses the prohibition of discrimination based on religion, race, caste,

birthplace and sex, and Article 16 outlines the equality of opportunity in public employment (Béteille 1986: 123).

Although the principle of individual rights entrenched in the Constitution may be inspired by a Western legal tradition that associates equality with individualism, the concept of equality in India may be different.⁴ For example, the man who led the framing of the Constitution, Dr. B. R. Ambedkar, spoke strongly in support of the individual, but he also pleaded for and obtained the recognition of special rights to specific groups, such as the “Scheduled Tribes and Castes”. According to Ambedkar, “What was at issue was not simply equality as a right available to all individuals but also equality as a policy aimed at bringing about certain changes in the structure of society” (Béteille 1986: 126). This concept differs from the more individualistic view of the Western concept of equality.

The same makers of the Constitution refused to have one civil code by which all Indian women could enjoy equal rights to men because the code might then interfere with the religious rights of various communities, echoing what the British rulers had said when they refused to have one civil code for India. In the absence of a uniform civil code, women and men are under different legislation depending on their religion.

Few legislative initiatives have been taken regarding the property rights of Hindu women. The major exception to this is the *Hindu Succession Act* (1956), a national law which legislates for Hindus and others in cases of intestate succession and which provides women with succession rights.

However, this legislation only provides for a limited equality of succession rights for Hindu women (Agarwal 1994: 211-212, Agnes 1999: 82). The following case illustrates its possible applications. Take a Hindu family composed of a husband, his wife and their three children (two sons and one daughter). If the husband dies before the other family members, then his acquired, or self-accumulated property will be divided into four equal parts: one for the widow and one for each child, both male and female. But the ancestral property will not be divided equally among the female and male members of the family, because only the males have access to it. A detailed review of the Act is beyond the scope of this paper. What is important to acknowledge is that the national law had maintained the longstanding division between ancestral and acquired property prevailing in many Hindu communities. Hence, the HSA proposes different types of inheritance: a patrilineal succession for ancestral property and an equal succession for acquired property.

Ancestral property is formed in the following way. In Maharashtra, prior to Independence, the inheritance pattern before the HSA was patrilineal and the Mitakshara was the predominant school of law. Under Mitakshara, the property was divided among male heirs *per stirpes* (between branches) and not *per capita* (Attwood 1995).

This *per stirpes* division led to the creation of a coparcenary. This coparcenary was a community of interests and rights under the possession of the joint family. When a Hindu male died, the property he had inherited by birth from his father, paternal grandfather or paternal great-grandfather, would be inherited in terms of his agnatic descent, which is his sons, agnatic grandsons, and agnatic great-grandsons.

Under this coparcenary system, the widow only had a right to maintenance. This limited interest, called the widow's estate, meant that she had no power to dispose of the *corpus* of the property. In practice, the widow very much depended upon her sons to take care of her and ethnographies report numerous cases of abandoned widows. Post-Independence legislation tried to put an end to this; however, the HSA does not grant daughters and widows full property rights because they are not considered as part of the coparcenary as men are by birth.⁵ In other words, the HSA reiterates the Hindu ideal of equal redistribution among sons.

The Indian Constitution allows each state to modify personal laws.⁶ In 1994, the Government of Maharashtra took further steps to enhance women's access to property. Following reports from the National Commission for Women, the Government of Maharashtra elaborated its 'Policy for Women', whose explicit goal:

Is to ensure an improvement in the physical, mental and emotional quality of life of the women of the State. This goal will be attained through ensuring equality for women in every sphere of life, but specially in political, economical, social, emotional and cultural areas. (...) In order to achieve these goals, the Government recognizes the need to evaluate existing traditions and ideas on societal roles and relationships existing between men and women, and accepts the responsibility to assist organizations and individuals to alter them in keeping with the needs and realities of today's society (GoM 1994: 5).

In Section 8 on *Women and Law* of this policy, the Maharashtra State Government recognizes that: "The opportunity to obtain redressal of grievance through recourse to the law is the fundamental right of every citizen. For most women, however, this opportunity has remained largely on paper" (Maharashtra Government 1994: 15). In line with the policy, the HSA was amended to give women access to coparcenary rights. Maharashtra, like other southern states that is Kerala, Karnataka, Andhra Pradesh, and Tamil Nadu, has adopted more progressive laws that allow women to obtain a share in both the acquired

and the ancestral property of the father or husband. Furthermore, the Maharashtra Agricultural Lands Act clearly recognizes that wives have a right to the land, contrary to northern India states where land is excluded from women's succession rights.

In practice, despite progressive initiatives by the State of Maharashtra, the HSA is generally not used by anyone, whether female or male. The limited success of the HSA can be explained by a complex interplay of factors. Inspired by the ideology of 'equality' as framed in Western philosophy and by a desire to respect some Hindu legal schools (mainly the Mitakshara) the HSA was the result of combining two legal systems that are partially at odds with one another. Furthermore, this Act was a legislative initiative that had to be implemented in a rapidly changing young nation whose centuries-old history had been characterized by various phases of cultural and religious invasions and colonization. In addition, local and regional practices have often modified the impact written laws have had on different Hindu legal schools of thoughts. It is in this context of legal pluralism that the policy-makers of independent India elaborated laws for the new state, hence establishing a new social order concerning access to property.

c. Presentation of the Contents

Property rights are so crucial to one's place in society that the HSA has the potential to modify many aspects of a woman's life. It is so because the Act proposes to transform the patrilineal 'Hindu joint family' by giving inheritance rights to daughters and widows. This joint family, that is both patrilineal and patrilocal, consists of two or more married couples, which means that senior parents live with their sons as well as the wives and

children of their sons.⁷ The present thesis provides an empirical analysis of the impacts of this legislation on widows and the outcomes of the social changes it proposes.

The personal laws that were enacted over the 1950s aimed at transforming gender relationships. The study of the various socio-economic factors influencing women's lives in Bheema will show that such legislative initiatives can not by themselves modify gender inequality because their success depends, among other factors, on the reactions of tribunals along with their capacity and/or desire to elaborate a new jurisprudence. In addition, innovative legal reforms depend on people's knowledge of the law and their desire to use it instead of other forms of conflict resolution.

To analyse these factors, the this offers a discussion organized in the following way. First of all, Chapter 1 introduces the basic theoretical component of my analysis of various forms of layers of pluralism, including the idea of conflict avoidance. Then, in Chapter 2, the leading transitional position of the State of Maharashtra is presented, along with a discussion of the main socio-economic characteristics of the village of Bheema. The following chapter on methodology discusses various aspects of the development of a socio-legal ethnography in the Indian context by providing an overview of my data collection methods. In order to grasp the cultural context surrounding succession rights in Bheema, Chapter 4 presents a data analysis of the lives of daughters, wives and widows in this village. The understanding of marriage practices and the various facets of widowhood leads, in Chapter 5, to a deeper analysis of access to property and inheritance patterns as found in Bheema. Finally, Chapter 6 elaborates on the relationship between property rights, access to economic resources and education.

Chapter 1 The Study of Property Rights and Gender Through Legal Anthropology

1.1 Changing Anthropological Approaches to Property Rights

In India, access to property is not equal between men and women, nor is it equal among men or among women. As well, in Maharashtra, gaining access to property through legal reform may lead to the transgression of cultural norms such as the patrilineal inheritance patterns. If HSA is used, one of the effect is that resource allocation as well as gender relationships are reorganized. To investigate the respective places of women and men in communities and households, it is therefore necessary to examine their access to and control over property.

Renée Hirschon (1984), along with Strathern and Whitehead, stated that analyses of property should not be circumscribed by narrow definitions of capitalism and commodity, but should consider specific ideas of kinship and ideologies. In addition, anthropologists should integrate into their research a broader notion of property (Hann 1998).

Indeed, acquiring property is not just a question of obtaining a title: it also means getting a new place within a specific space of social interactions. Also, ownership is not only an official title, it is an “umbrella concept” (Von Benda Beckmann and Spiertz 1996) which includes various types of rights, mainly the right to use a resource and the decision-making rights to regulate and control its use (Von Benda Beckmann and Spiertz 1997). Hence, in general, in order to obtain and maintain property rights, the claimant

would have to demonstrate a powerful personality that will be recognized by the community, as well as by the court. Relationships between property, person and identity have begun to be a central issue of some anthropological research (Collier et al. 1995; Messik 1998; Moore 1993; Sarat 1997). I suggest that fieldwork focused on the elaboration of legal ethnography is one step in reviving the study of property from the point of view of the people who interact with its various forms.

While various anthropologists have clearly demonstrated how property rights are sites of social interactions (Le Roy 1982; Madjarian 1991; Mauss 1967; Verdier 1969), few have put property at the center of their inquiry until very recently (Hann 1998: 29).⁸ Development research have focused on resource management and common property issues and have provided explanations on the interactions between culture, natural resources, and various forms of property rights (Agarwal 1994; Berry 1993; Bromley 1989; Hardin 1968; Ostrom 1990; Radin 1993; Roseman 1998; Weiner 1999). More recently, a growing interest in property rights is found among legal anthropologists who have explored resource management in the context of legal pluralism (Abramson and Theodossopoulos 2000; Von Benda-Beckmann and Spiertz 1996, 1997; Bruns and Meinzen-Dick 2000; Culhane 1998; Mehta et al. 2000; Meinzen-Dick and Pradhan 2002; Pradhan and von Benda-Beckmann 2000; Schlager and Ostrom 1992; Spiertz 2000; Spiertz and Wiber 1996).

The work mentioned above confirms that studying property rights is an entry point to study legal pluralism, especially in the current context of globalization where the transnational dimension of national laws and other forms of conflict resolutions is acknowledged (Von Benda-Beckman 1984; Engle Merry 1992). Therefore, to understand

the meanings of property, it is also important to analyze legal pluralism existing in a society along with the diverse layers of legal knowledge and power that it implies.

1.2 Layers of Pluralism

1.2.1 The Legal 'System'

In order to have a complete picture of the implications of pluralism, it is important to keep in mind that state law itself is not monolithic. In fact, and contrary to the principles promoted by the modern state, the legal system is itself an example of legal pluralism (Griffiths 1986: 3). As pointed out by Dara Culhane in her book on British Columbia First Nations in Canada court litigation, “certainly, law is not monolithic. This is demonstrated by appeal courts overturning lower court rulings, and by the publication of majority and dissenting opinions by panels of judges who fail to reach consensus among themselves on key points” (Culhane 1998: 73).⁹

In addition to the structure of courts, which give space for interpretation and adaptation of national laws to various social realities and changes, the sources of law are multiple.

In the British legal tradition, for example, legally-binding rules have sources in common law, statute law, equity law, religious law, and according to some scholars, the law of case precedence through the decisions of judges (see Yardley 1975). These sources have been augmented in recent years by the powers delegated to government departments, officials, public bodies, and quasi-legal organizations which enable them to enact by-laws or rules which are binding on certain classes of people. It has also long been recognized that many of these bodies of law often come into conflict with each other in their behavior in the social sphere (Yardley 1975: 17-18) (Spiertz and Wiber 1996: 2).

Being part of the *common law* tradition, this is also pertinent to the Indian national judiciary. In the same vein, one of the layers of pluralism is found in the legislative ‘cultures’ of India which may vary from one state to the other. In addition, national personal laws, including inheritance rights of widows and their children, vary according to religious community and can be further amended by the state. Somehow, we can say that the state may also promote pluralism (Galanter 1981: 21).

Legal pluralism is not a recent reality of the Indian judicial system. Long before contemporary globalization, there were contacts between various forms of conflict resolution and legal systems. Such contacts imply that legal pluralism experienced in Bheema, as well as throughout India, is the result of a long transnational process.

When we acknowledge all the layers of influence and pluralism composing what is often referred to as the ‘legal apparatus’, the researcher may wonder whether it is pertinent to call this a ‘system’ at all. “The word system implies several parts which are linked together functionally and structurally so that they form a coherent whole” (Spiertz and Wiber 1996: 2). What is usually conceived as the legal system according to the legal paradigm does not correspond to the reality of social relationships characterized by diversity. The variety of forums of justice and legal cultures forms the legal environment. But to what extent should social norms be included within this environment and how do they shape the legal cultures?

1.2.2 Law or Social Norm? The Apparent Dichotomy

One of the layers of legal pluralism in India resides in what anthropologist Bernard Cohn determines to be the relations between local norms and the legislative culture of the

Indian nation (Cohn 1965: 115). Indeed, Cohn underlines that “in the present as in the past for most Indians there are at least two analytically distinct sets of social norms and arenas in which norms are sanctioned” (Cohn 1965: 82). According to him, those two sets of social norms consists firstly in written laws, legal reports, Classical Hindu texts (*Dharmashastra*), and secondly the local norms. In her study of Hindu widows, Chen describes the problems faced by widows when they want to claim their succession rights. Chen’s work presents the complex relationship between state law and the social norms that prescribe the appropriate manner in which Hindu widows should behave (Chen 2000). A review of opinions on ‘norms’ or ‘laws’ is necessary to explain the social and economic practices that will be analyzed later.

Few anthropologists are still concerned with finding as simple definition of ‘law’. Rather, the focus has shifted in order to explore the content of legal pluralism in a given area. Legal pluralism¹⁰ is in itself an answer to the quest for ‘a’ definition of law. Gurvitch proposed a radical view of legal pluralism because he recognized the possibility of legal norms outside the state (Belley 1986: 17). He denounced the positivist idea of state law because it did not recognize the non-written ‘law’ which is, he claimed, the law that is really applied (Gurvitch 1940: 6). According to him, a multitude of groups produces legal systems that are more or less autonomous vis-à-vis the state. Consequently, the state is only one group among many that generates law. Gurvitch presents a different view than Weber who recognized legal pluralism only within the state and denied other legal orders the status of ‘law’ (Weber 1922). According to Pospisil, who was influenced by Gurvitch, the existence of legal systems goes beyond state organization. All groups and their subgroups may be considered to have legal systems.

For example, American families have a type of legal system administered by the husband or the wife, or both. Decisions taken by a family may be contrary to state law (Pospisil 1971: 112).¹¹

Contrary to Pospisil's sociological observations, pluralism, for John Griffiths, is the opponent of the state. Consequently, for Griffiths, the only pluralism worth studying is the pluralism forbidden by the state (Rouland 1988: 88). According to Rouland, Griffiths creates a separation between law and the state. This division goes further than all other theories on legal pluralism, which in general go no further than relativizing the role of the state vis-à-vis society (Rouland 1988: 90).

Less radical perspectives were proposed to approach legal pluralism. In her seminal work *Law as Process* (1978), Sally Falk Moore defined the plurality of order as a group of semi-autonomous social fields. In the same vein, in more recent studies, the term 'legal system' is taken to include not only courts and judges but also other forms of normative orders not necessarily supported by the state such as factories, universities and security forces. Geert van den Steenhoven proposed that legal anthropologists should study 'folk-law' (*le droit des gens*), a concept that refers to the idea of the rights that some groups attribute to themselves regardless of the approval of the state (Van den Steenhoven 1959; 1962). Chiba, a Japanese jurist, suggested the study of state law (official law) as opposed to peoples' law (unofficial law) (Chiba 1986). Each category could include different levels of law. By being defined according to context, these categories would encompass the complex stratification of legal systems in different societies.¹²

The goal of the present study is not to elaborate a theory on what should be labeled a 'law' or a 'norm'. Nor is it an objective to determine when and why a social norm becomes a part of a 'legal system'. The main reasons for what is the position of my thesis are the following:

- (1) My research is mainly exploratory. Hence, to propose clear theoretical definitions of laws, rules, norms, especially in the Indian context, would ignore the need for basic ethnographic research.
- (2) Legal anthropology since the end of the 1960s is interested in the processes and relationships shaping disputes, the notions of rights (and duties), and the interaction with what can be labelled as mechanisms of conflict resolution and concept of social 'order' (and 'disorder').
- (3) Finally, research in legal pluralism demonstrate the need for more empirical research in order to grasp subtle and fragile boundaries between laws and norms, just and unjust, between ideal and practices of social order and disorder.

Overall, I would say that anthropologists should not approach fieldwork with fixed definitions of legal principles. Any theoretical definition should be a guide and not an end in itself. The anthropologist must be able to grasp the cultural categories used by the people she/he is studying and to interpret the content of these categories. And to grasp the legal dynamic taking place in specific area, I found that it is necessary to study disputes over property as well as non-conflictual cases. The dynamics between law and norms should emerge from the empirical data. In other words, anthropologists must allow the cultural context of the studied area to speak for itself.

1.2.3 Studying Dispute along with Absence of Conflict

During the European colonial period, anthropologists, highly influenced by the functionalist-structuralist approach, focused on the question of cohesion and maintenance of order.¹³ They assumed, like Durkheim, that the symbol of cohesion is law. The main question they sought to answer was this: how is it possible for a society to have social cohesion without state law? The question forced an examination of two key elements in the analysis of law: the notion of cohesion and the importance of state law. This 'rule-oriented paradigm' represented by Pospisil (1971), E.A. Hoebel (1954; 1967), Ian Hamnett (1977), and others, led the anthropologists to focus on clearly institutionalized forms of legal behaviour (Just 1992: 374). Methodologically, this approach focused on the examination of case studies and mechanisms such as imposition of sanctions (such as Radcliffe Brown 1933, 1940, 1952).

Empirical research conducted in the 1970s revealed that law does not necessarily tend to achieve equilibrium (Starr and Collier 1989: 5). For Sally Falk Moore, law did not consist of a set of fixed rules and institutions. Instead, law was a space of social interactions: 'law as process' (Moore, S. F. 1978: 54). The consequence of this new orientation adopted by many anthropologists was to remove 'law' as the subject of study and to replace it by the concept of 'dispute'. This new orientation implied that it was less essential to define the concept of law. The study of dispute allowed legal anthropologists to abandon the task of trying to define law and custom. Not only was the previous approach considered ethnocentric but also limited in scope.

Dispute processes became a central element of the anthropology of law only in the 1970's. Major processualists, such as Nader (1965, 1969), Bohannan (1957, 1969), Schlegel (1970), and Starr (1978), shifted from a judge-oriented account and approached 'indigenous rules' not as determinative but as 'the object of negotiation' (Comaroff and Roberts 1991: 13-14).

Laura Nader was a leader in this field and suggested that legal processes be the key element examined (Nader 1969). At the beginning of her work in legal anthropology, she was influenced by Gluckman's structural-functional analyses. Gluckman assumes that patterns of conflict resolution in close-knit societies are entirely different from those of loose-knit societies (1955a-b, 1965a-b). Nader built on this model and elaborated it into an analysis of the trajectory of conflict managing strategies. Her approach seems to have provided a powerful and effective way of thinking about the operation of law within social groups (Nader and Todd 1978). The density and interconnections of social relationships surrounding disputing parties continue to be considered a critically important measure of the way law intervened in everyday life. Consequently, her study emphasized the fact that it is essential to analyze the social context of a dispute and the influence of context on the legal process (Nader 1965, 1975). By using such a perspective, anthropologists are able to consider a number of important connections between law and other aspects of culture, such as law and economics, religion or language.¹⁴

Processualist approach also put more emphasis on individual choice and the alternatives to courts, anthropologists would be able to contextualize the choices of

various individuals to broader social changes. Therefore, the dispute process was the first step towards a study of the role of the individual in the whole process of dispute.

The introduction of the concept of dispute processes as a new subject of study in the anthropology of law in the 1970s was quite innovative and, as we have seen, permitted the creation of new parameters of investigation in this sub-discipline. Yet, it is necessary to underline some of the limitations of this approach.

Although the concept of a 'dispute' was more inclusive than the notion of law, anthropologists were still focusing on the procedures of disputes and less on the sources of social conflict. Within the dispute process approach, the concept of a dispute was, in practice, linked with a bureaucratic view of the social relationships involved in a conflict. To some extent, a conservative view of the object of study was maintained, a direction similar to many studies of law (Snyder 1981: 146). In addition, Comaroff and Robert affirm that processualists depended too much on a utilitarian view of disputing, and were often insensitive to cultural, epistemological or moral imperatives (Just 1992: 374). On the other hand, dispute process implies the idea of conflict resolution. Peter Just believes that:

An insistence on seeing conflict only (or even primarily) in terms of resolution may have led us to exclude from our purview conflicts that may never become eligible for resolution, either because they are too diffused -embedded in larger contestations - or because the institutions of conflict resolution systematically exclude them (Just 1992: 384).

To focus on resolution of conflict or dispute may indeed lead to the exclusion of conflicts that never came to the easily identifiable forums of conflict resolution. Also, one should not assume that conflict, and not consensus, is the main aspect of any legal order.

Based on my observations I suggest that non-dispute situations should also be studied, as well as conflict instances that were not resolved. There are Hindu widows who have no difficulty getting their share of the husband's property. How does this happen? The answer to such question lies in the socio-economic factors determining non-conflictual cases. This is as important as conducting case study analysis by following the whole 'process' of a dispute between a widow and her in-laws. As well, it is important to look at the interpretation of non-state social 'order' such as marriage arrangements, post-marital residence practices, and the occurrence of dowry or bridewealth.

1.2.4 On Social Order and Cohesion: Searching for Harmony, Avoiding Law or Avoiding Conflict?

State law, such as the HSA, can unexpectedly create disruption in a perceived social equilibrium. The desire of some individuals to act according to a new model of order may create potential for temporary disorder and spaces of marginality. This partly explains why they will opt for conflict avoidance strategies.

This desire to avoid conflict is also part of the legal process, an aspect either neglected by legal ethnographers or to often relegated in the broad category of social norms. Within a family or a community, social order or social cohesion is important. The disruption of power relationships and household organization may jeopardize the economic security of the family and even its survival. It may also create security problems for individuals of the family and violent tensions between members of an extended family. In a context of legal pluralism, where different versions of social

cohesion co-exist, individuals have to measure the benefits they can get from each model by analysing their practical effects.

Avoidance of conflict is different from the strategy of law-avoidance. This last “concept does not mean that people in these societies seek to violate laws or seek to overthrow governments” (Kidder 2002: 87).¹⁵ Laura Nader refers to the idea of ‘avoidance of conflict’ as ‘harmony ideology’. In her study of land dispute strategies in Swaziland, the anthropologist L. Laurel Rose points out that harmony can be offensive or defensive (Rose 1992: 80). “From the offensive perspective, harmony advances the interests of the stronger party in a dyadic relationship, whereas from the defensive perspective, harmony protects the interests of the weaker party in a dyadic relationship” (Rose 1992: 80-81).

In order to maintain their autonomy, Nader concluded that the Zapotecs of Mexico used a defensive harmony strategy towards the colonists by presenting an image of social cohesion devoid of conflict or of irresolvable conflict. On the other hand, harmony ideology was used by the colonizers in an offensive way to suppress, pacify and civilize people (Nader 1990:39).

The defensive perspective also emerges in intra-group relations, such as in developing, stratified societies, when traditional elites defend their interests against the expanding interests of new elites, and when commoners defend their interests against the prerogatives of traditional and new elites (Rose 1992: 81).

When some forms of law-avoidance strategy or harmony ideology are present in a society, the legal ethnographer has to be careful with his observations because it will appear that there are no disputes or conflicts within the society. People may want to avoid

law, but may not desire to prevent conflict. Disputes may be latent due to a particular combination of contingencies increasing the chance of a conflict occurrence.

Both harmony and conflict can have 'good' or 'bad' consequences, depending on one's perspective (disputant, third party, outside observer). Nor is it objectively true that consensus has a greater survival value or that conflict inevitably poses a direct threat to group unity (Rose 1992: 80).

There may also be a conscious or unconscious desire or need to avoid conflict. The idea of 'avoidance of conflict' refers to something deeper than the explicit discourses and practices of law-avoidance or harmony ideology. Conflict avoidance strategies find their roots in socialization processes as well as within the contingencies related to the political-economy of survival. In the Indian context, the socialization process also include the need to respect one's *dharma*, that is one's purpose and duties in life. In other words, each member of a household knows his or her respective duties throughout life-cycle. Castes' *dharma* also shape social relationships within the community.

A situation of 'avoidance of conflict' does not imply real harmony. Subtle power struggles and hierarchical assumptions have to be taken into account. Hence, the avoidance of law and conflict is not necessarily a sign of resistance and may be motivated by vulnerability more than by agency.

1.3 Conclusions. Choice and Justice or the Process of Struggling against Vulnerability

In order to understand the existence of a plurality of legal orders, legal anthropologists have looked at different aspects of this issue, mostly since the 1960s.¹⁶ By

looking at people's views on Indian forms of conflict resolution in Bheema, along with their discourses over concepts of justice and strategies of conflict avoidance, legal anthropologists can have a better understanding of the socio-economic factors influencing their choice of methods for obtaining justice.

The disputants use different normative repertoires in different contexts or forums depending on which law or interpretation of law they believe is most likely to support their claims, a process known as forum shopping (Von Benda-Beckman 1984). Which law is accepted and enforced depends on power and social relationships between the different claimants (Meinzen-Dick and Pradhan 2002: 5).

Forum shopping occurs inside and outside the state court system. And one of the social factors influencing someone's choice is that their social security network should not be jeopardized by their aim to seek justice. Here, the idea of social security goes beyond the idea of welfare. "An all-encompassing definition, as adopted in this study is one where social security is 'regarded as a social means to prevent deprivation and vulnerability to deprivation' ((Kitchlu 1993: 194)" as cited in Achutan 2003: 384).

Social security, which includes state interventions as well as economic and social support provided by the family and community (Achutan 2003), can lead to a familial and personal catastrophe when it collapses. The potential occurrence of a disaster is clearly perceived by the people, often more clearly than the benefits or security they can obtain from the variety of forums of justice available. The concept of vulnerability in the present study is borrowed from work in anthropology of disaster and is defined as the following:

By vulnerability we mean the characteristics of a person or group in terms of their capacity to anticipate, cope with, resist, and recover from the impact of a natural hazard. It involves a combination of factors that determine the degree to which someone's life and livelihood is put at risk by a discrete and identifiable event in nature or in society (Blaikie 1994: 9, as cited in Oliver-Smith 2002: 28).

This definition shows that a condition of vulnerability is situated at the intersection of society, culture and nature. And this perspective on vulnerability applies to natural or environmental disaster, as well as conflict over property and land issues. Such a concept of vulnerability sheds additional light on the idea that a person's and a family's capacity to choose is also situated at the intersection of various personal and social characteristics. This idea of vulnerability situates a person within a continuum that goes from victimhood to agency.

If vulnerability is a process (Oliver-Smith 2002: 23), so is agency. When the conditions of vulnerability are such that a person can experience very little agency over the situation, is it appropriate to simply conclude that she is victim of patriarchy? And when a person is within a space where she can act with a lot of agency, is it necessarily an act of resistance? A positive answer to the first question undermines the multifaceted aspect of power struggles and the place of individuals in such processes. On the other hand, a positive answer to the second question over-empowers the individual in a somewhat Western philosophical way, which conceptualizes individuality in a different way than most Indians do. To put too much emphasis on the individual is no better than opting for a deterministic perspective.

When examining women's legal rights, it is important to clarify that a national legal system is not necessarily available to men alone and that women are not simply victims of local and national 'patriarchal' traditions, but that they are also potential generators of inequality and oppression. Examples of such oppression are present in India, where there are instances of mothers-in-laws who ill-treat their son's wives. Another example is found

in the fact that during violent conflicts in South Asia, women are not only the victims of war.

Beyond the passivity and powerlessness of victimhood, conflict has seen South Asian women come out and mobilise resistance, confront the security forces, the administration and the courts. Women have formed Mothers Fronts and coalitions for peace, women have become guerrillas and soldiers and women have emerged as agents of social transformation and conflict resolution (Manchanda 2001: 15).

Ethnographies also present examples of how women manipulate the state legal system. In her study of marriage contract negotiations in low-income Egyptian communities, anthropologist Homa Hoodfar presents situations in which women manipulate state laws that do not provide them with security, especially economic one. She demonstrates how low-income Egyptian women, through practice and negotiation, circumvent the limitations of state law (Hoodfar 1996). Through the negotiation of a good marriage contract, they ensure a stable future and reduce the possibility of divorce. Hoodfar's work, as well as Wynn's study on marriage contracts in Saudi Arabia, are indirect examples of the agency of women being able to overcome the detrimental effects of oppressive laws (Wynn 1996).

The above-mentioned examples demonstrate that despite the fact that women have often suffered under what is often qualified as patriarchal legal systems, they have often have had alternatives to laws, local practices or customs. It is therefore essential to study the way in which women perceive their duties and rights. In order to achieve a holistic understanding of the way that women interpret their rights and use it, it is also necessary to study men's understanding of law. In that sense, Blair Rutherford suggests that it is heuristically and politically useful to understand how gendered interests are shaped by

jural identities that have emerged from within the interaction of state and society¹⁷ (Rutherford 1997).

Issues of gender and legal pluralism are complex and multidimensional, and thus require varied research strategies. Legal reforms proposed by state law may not always ensure order, but as we will see, men's and women's decisions to claim or not to claim property will be highly influenced by their desire to maintain appropriate forms of social cohesion within their own daily activities spaces. Within spaces of conflict-avoidance, women, along with men, can balance their constellation of rights and duties and renegotiate the definition of justice.

Chapter 2 Organizing Life in Rural Maharashtra: Situating Bheema¹⁸

2.1 Introduction

The state of Maharashtra, like the southern states of Kerala, Karnataka, Andhra Pradesh, and Tamil Nadu, has adopted more progressive laws aiming at providing women with equal inheritance rights. Legal reforms related to property rights in Maharashtra tend to follow a southern pattern¹⁹ of progressive legal and social movements. Yet, with northern patterns of patrilineal inheritance, patrilocal residence, and increasing dowry practices, how are these progressive laws perceived and understood by its population?

Maharashtra is a compelling location to study for its regional variations because, on the one hand, Maharashtra has a leading position within the Indian context in terms of

economic development, urbanization, and social reforms. On the other hand, it has a transitional position between North and South in terms of literacy rates, fertility rates, sex ratio, and kinship organization.

Map 1: India



Source: Census of India 2001.

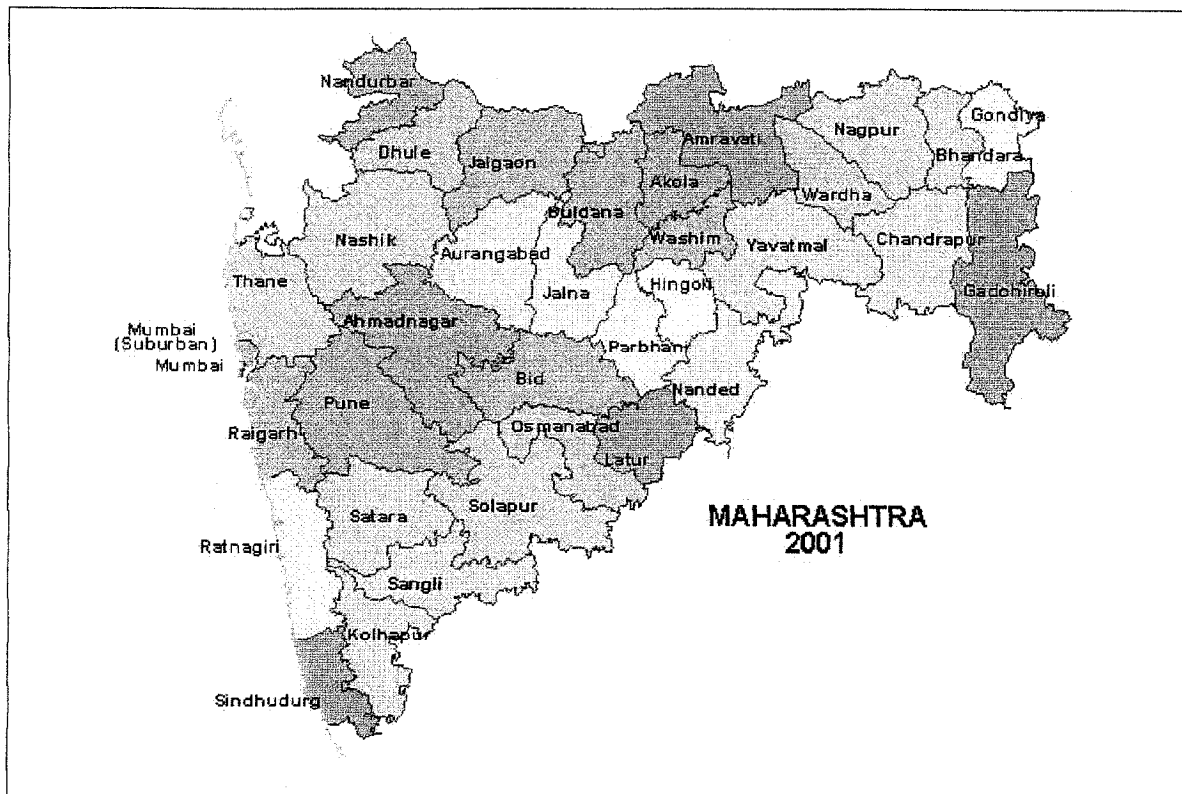
This chapter will present the leading transitional position of Maharashtra and contextualize the village of Bheema where widows' access to property rights was studied. The first part of the present chapter explores, with some historical background, the economic and social characteristics of Maharashtra in order to contextualize the

contemporary widow's access to property. The second part will introduce the social and economic organization of Bheema and will discuss how this village fits into the transitional position of Maharashtra. The chapter will demonstrate how the social reforms and economic changes directly impact the daily lives of Bheema's population today.

2.2 Maharashtra: A Leading Transitional State

Situated on the western coast of India, Maharashtra was established as a state of the Indian Union May 1st, 1960.²⁰ Maharashtra's population forms 9.4% of India's population. Its 96, 752, 247 inhabitants makes it the second largest state in India in terms of population after Uttar Pradesh (UP); Bihar being the third.²¹

Map 2: Maharashtra and its Districts



Source: Census of India 2001.

This first section of Chapter 2 discusses the socio-economic transitions that shaped Maharashtra – mostly since the British colonization - and how these changes placed Maharashtra in a leading transitional position between North and South India. To start, the main economic development of this state will be presented. Then I will briefly discuss the social reforms movement that took place in Maharashtra as of the mid-19th century, and I will introduce the main Maharashtrian social reformers that fought against the inequalities generated by the castes system and the gender relationships prevalent at that time. Special attention will be paid to Phule and Karve whose initiatives significantly modified widows' lives in Maharashtra. Third, I will discuss the impact of those economic and social changes on present day demographic variables. Finally, the transitional character of the Maharashtrian kinship organization will be explored.

2.2.1 Maharashtra's Economic Development

Maharashtra occupies a leading position in terms of industrialization in the country since the 19th century. It has maintained this status in large part due to the diversification of its industries along with a constant adaptation to the changing needs of the nation (Sirsikar 1995: 69) and the general development process. The diversification of industry in post-Independent India has also contributed to the continuous urbanization process (Kosambi 1988: 27), especially in the Mumbai-Pune corridor.

2.2.1.a Industrialization and Urbanization Processes

The roots of the industrial development of Maharashtra is mainly attributable to the establishment of cotton mills in Mumbai²² in the late 19th century, which became the modern textile centre of India (Kosambi 1988: 27). The railway connections between Pune and Nasik facilitated the development of the growing textile industries as well as

the development of other economic centres such as Nashik and Pune (Karve 1968: 159). Furthermore, the hydroelectric power coming from the dams along the eastern side of the coastal Sahyadri range encouraged industrialization and urbanization (Karve 1968: 159).²³

Maharashtra is divided into four main regions: the western Deccan plateau, the western coastal strip, or the Konkan; Marathwada; and Vidarbha (Sirsikar 1995: 43). Each of the four main regions presents economic and social particularities, however, because my fieldwork research took place in Pune District situated within the western Deccan, special attention will be focused on this region of Maharashtra. Intervening hills and rivers divide the Deccan Plateau. The two main ranges are the Sahyadri running North-South and the Satpuda that runs almost at a right angle to the Sahyadri in the North. Western Deccan, formally the Deccan division of the Mumbai Presidency, is composed of nine districts: Nashik, Dhule, Jalgaon, Ahmednagar, Satara, Sangli, Kolhapur, Sholapur, Pune. The area around Nashik is fertile and agriculturally prosperous. There are large and well-irrigated sugarcane and wheat cultivations, as well as sugar factories. Both the Nashik and Jalgaon districts have become important industrial areas because of the transport corridor from Mumbai. However, there are few major industries in Ahmednagar, with the exception of the sugar industry. The Sangli and Kolhapur districts are not as economically vital as Mumbai or Pune, but they have important cotton textile manufactures.²⁴ Sholapur also has an significant textile and handloom industry.

Nowadays, the major industrial zone of Maharashtra and India has extended through the industrial-urban corridor from Greater Mumbai through Thana, Ulhasnagar,

Panvel, and Khopoli to Pune. It forms the largest industrial concentration in India, and Mumbai is the industrial, as well as the financial capital of India (Sirsikar 1995: 67, 69). Outside Mumbai, Pune is the most economically developed region of Maharashtra. Canal irrigation has raised its agricultural productivity, sugarcane being the most lucrative crop allowing the establishment of successful factories. The city of Pune and its surroundings are now highly industrialized, mainly due to its proximity to Mumbai and the efficient transportation network that links the two cities.²⁵ As I was conducting my fieldwork, people had begun to refer to Pune as being the 'little Mumbai'. This idea refers both to the rapid economic building development that occurs in an accelerated way since 1998.

Non-agricultural economic activities represent 45% of the jobs in Maharashtra. They are mostly occupied by men, with a percentage of 57% of male workers being hired in this form of employment over 23% of female workers. In Kerala, 77% of the workers have jobs not related to agriculture, which is much higher than in Maharashtra, although this southern state is not considered to be industrialized per se. Instead, the high percentage of non-agricultural jobs reflects the fact that Kerala, like Goa, have been able to diversify their economy. Also, "a high percentage of non-agricultural workers is a sign of prosperity, as non-agricultural work is normally more paying than agricultural work" (Atlas 2004: 121).

The state of Maharashtra ranks second after Tamil Nadu in terms of level of urbanization.²⁶ Yet, the majority of Maharashtrians - that is 57% percent of the population - live in rural areas (compared to an all India rate of 72%). That is even more so in Pune district where 62% of the population is rural compared to the Indian.

2.2.1.b On the Importance of Agriculture

In spite of the leading industrial role of Maharashtra, and of the vital role that Pune district plays in it, the state's economic activities remain dependant upon agriculture. Of course, there are other states of India which depend much more on agriculture, such as UP where 66% of its workers are either cultivators or agricultural labourers. In fact, according to the 2001 Indian Census, 55% of UP's workers hold employment that falls into the cultivation²⁷ and agricultural labour²⁸ categories. What is particularly interesting is that in Maharashtra, 50% of people with agricultural-related jobs are women, in spite of the important industrial facet of this state. The women form 44% of the cultivators and represent the majority of agricultural labourers (56%).

Land issues are therefore particularly pertinent for women in Maharashtra. Particularly when we compare the employment distribution in Kerala and UP with Maharashtra. In the later state, the total female work participation rate is 36% in Maharashtra and 32% for India. It is striking that female labour participation is 24% both in Kerala and in UP when we consider that Kerala is a state renown for being progressive in terms of gender relationships, and that UP's reputation is that it maintains socio-economic patterns detrimental to women. Furthermore, in Kerala, only 33% of the cultivators are women, a rate 11 points lower than for Maharashtra. Equality is found among the agricultural labourers group where men and women each represent 50% of the group. In UP, the only 19% of the cultivators are women while 39% of the agricultural labourer jobs are occupied by women. These numbers, which are much lower than the Maharashtrian rates, indicate the low female working participation rate.

Now that the main characteristics of the economic development and employment patterns of Maharashtra have been described, it is pertinent to outline what are the particularities of agricultural practices in this state.

2.2.1.c Agricultural Practices

With 58% of net sown area, Maharashtra has a higher percentage of land of sown agricultural land than the Indian average which is 46%. The percentage of net irrigated area, 16%, is much lower than the national average of 40%. Maharashtra rate net sown area is comparable to Kerala (57%) and UP (59%). Yet, its cropping patterns is different from those two latter states.

Table 1: Comparative Agricultural Practices

	Maharashtra	Kerala	Uttar Pradesh	India
<i>Percentage of net irrigated area to net sown area</i>	16.61	16.6	72.17	40.01
<i>Net Sown Area</i>	57.52	57.63	59.02	46.15
<i>Area under food-grains as a percent of gross cropped area</i>				
Foodgrains	60.28	14.25	77.92	65.44
Cereals	44.62	13.53	67.58	53.36
Pulses	15.66	0.72	10.34	69.98
Rice	6.76	13.31	22.1	23.32
Wheat	4.24	0	34.95	14.28
Coarse Cereals	33.61	0.22	10.53	15.76
<i>Edible Oilseeds</i>	6.91	0.47	5.52	12.61
<i>Sugarcane</i>	2.39	0.22	7.46	2.19
<i>Spices and Condiments</i>	0.55	11.95	0.13	1.22
<i>Non food grains</i>	39.72	85.75	22.08	34.56

Source : Atlas 2004 : 248-249.

Indian cropping patterns can be summarized as follow: rice is the major crop in the southern states of Tamil Nadu and Andhra Pradesh, as well as in the east and the northeast states (Atlas 2004: 29). In the rest of North India, wheat cultivation is predominating. In Maharashtra, along with other states, the model is then different from the overall northern or southern patterns. “A considerable portion of the gross cropped area in Rajasthan, Karnataka, Maharashtra, Himachal pradesh, Jammu and Kashmir and Sikkim is devoted to coarse cereals. Pulses are important crops in Madhya Pradesh, Rajasthan, Maharashtra, Orissa and Karnataka” (Atlas 2004: 29). In addition to this, Maharashtra have a high rate 18% of its gross cropped area under legumes cultivation.²⁹

2.2.1.d Conclusions

In order to contextualize the agricultural practices and the economic changes that take place in contemporary Maharashtra, it is necessary to address the issue of caste. The next section presents the *baluta* system, followed by a brief history of the caste organization, followed by a presentation of the social reform movement and its main figures.

2.2.2 Caste Transformations

2.2.2.a The *baluta* system

In rural Maharashtra, most villages still reflect the spatial distribution of castes with clusters of houses belonging to the main castes of each village, in spite of the recent changes. This type of organization reflects the past *baluta* system a village services organization that rapidly declined after the 1950s.

Up to the 1950s, time at which the land reforms of the Independent India took place and considerably modified village organization, the rural life was organized around the *baluta* system, a services systems regulated by the whole village (Attwood 1992: 30).³⁰ In addition to the local elites such as the Brahman and the Maratha, “Most villages in Maharashtra had a collection of village servants and artisans known as the *bare balutedar*, or “twelve holders of *baluta* rights.” (Their number was not always twelve.)” (Attwood 1992: 30).

In terms of caste organization, the highest in the hierarchy of castes are the literate Brahmans (their common ancestral occupations were as priests, clerks and accountants). Then the ‘middle’ status Marathas (farmers), and their allied farming castes (Dhangars, Malis) (Attwood 1992: 30). Below are the low-middle status *balutedars* of various artisans castes such as the Kumbhar (potters), the Sonar (who traditionally have worked as goldmiths), or the Nhavi (barbers). At the bottom of the scale are the lower status *balutedars*, Mahars and the Mang, the former “untouchables”, who used to be village servants and ropemakers. The following table, based on the situation in Bheema, illustrate this situation.

Table 2: Common Ancestral Occupation of Castes

Hierarchical Order	Castes	Common Ancestral Occupation
High	<i>Brahman</i>	Priest, accountant, astrologer
	<i>Gurav</i>	Shaivite priest
Maratha	<i>Maratha</i>	Agricultural cultivation
Other peasants	<i>Mali</i>	Agricultural cultivation (literally gardener)
Mid-Low	<i>Dhobi</i>	Washerman
	<i>Gosavi</i>	Religious mendicant (flower seller)
	<i>Kumbhar</i>	Potter
	<i>Nhavi</i>	Barber
	<i>Sonar</i>	Goldsmith
	<i>Sutar</i>	Carpenter
	<i>Muslim</i>	Various services (crafts & agri work)
Low	<i>Chambhar</i>	Leather work (shoemakers)
	<i>Mahar / Neo-Bhudd</i>	Agricultural labour - Village servant
	<i>Mang</i>	Ropemaker
	<i>Ghisaadees</i>	Blacksmith - Nomad
	<i>Phase Paradhi</i>	Beggar

Source: My survey of 150 households in Bheema, 2001.

In general, but not always, the occupations were devolved through hereditary principles and a caste had almost entire monopoly over an occupations. However, a certain mobility was possible within the occupations of the similar status. For example, in case of a shortage of Sutars, a Dhobi, a Nhavi or a Khumbar could temporarily work as carpenter. Another example of mobility is found in the fact that “there was probably not enough community work to provide subsistence for all low-caste families. Mahars and

Mangs must have been employed as agricultural laborers by individual farmers and paid with harvest shares.” (Attwood 1992: 30)

In exchange to their services, the *balutedars* received harvest payments by the farmers, once or twice a year. Another form of rewards for their services was the access to revenue free land or *inam* (Valunekar 1966: 25). Those common lands were spread at different places in the village and consisted either in forests, pastures or other types of lands for multiple usages (Agarwal 1994: 21). Those lands were subjected to groups rights comparable to *usufruct* rights (Agarwal 1994: 21).

2.2.2.b A Brief History of Castes

In Maharashtra, 40% to 50% of the rural population belongs to the Maratha caste. The Maratha influence in various fields of social life can be traced far back in the history of this region. Past migrations caused by famines, wars, and a general search for better economic opportunities (Gordon 1993; Kulkarni 1967) explain why regular population movements took place in Maharashtra during the 18th and 19th centuries. The strength of the Maratha caste is reflected in the longstanding, flexible boundaries that have allowed the integration of castes from various regions and of various standpoints of wealth, power and social status. In this context, Brahmans are not as influential in this region of India compared to the North of the country.

Following is a brief history of the interactions between various religious groups and castes in Maharashtra. Among other things, it will explain why Brahmans do have a less

prominent place in Maharashtra than in other areas of India and why Marathas are predominant.

Although the state of Maharashtra was created in 1960, the Marathi-speaking community has a history that dates back several centuries. This region's past is marked by various notable dynasties including the Satavahanas (200 B.C. – 200 A.D.), the Vakatakas (250-550 A.D.), the Chakulyas of Badami (600-800 A.D.) and the Rashtrakuta kings (800-1000 A.D.) The final group of rulers,³¹ the Yadavs Dynasty, controlled the entire region of Maharashtra from the end of the 12th century until the 14th century.

The Yadav Dynasty tolerated the growing Muslim population that slowly established its influence in the region until 1296 A.D. During that period, Muslims gradually acquired power in Maharashtra and shattered the political and economic strength of the Yadavs. The region remained under the power of its Muslim conquerors for about three centuries. Over the course of this period, the Maratha *rajas* maintained territories under the Muslim kings by paying them a portion of their income (Karve 1968: 58) and, in spite of the tense political situation of this period, the Maharashtrian Hindu culture survived (Sirsikar 1995: 33).

A new period in Maharashtrian history began with Shivaji (1627-1680). Under the leadership of Shivaji, the resistance of the Maratha people prevented the Moghuls from having complete control over Maharashtra (Fukazawa 1991: 51). In 1674, Shivaji founded the Maratha Kingdom, an independent principality (Gordon 1993). Shivaji did not belong to a Kshatriya caste and because he was not from an aristocratic ('twice-born') family (his grandfather was a cultivating village headman) he had to confront many

obstacles before his eventual coronation. Indeed, Shivaji's legitimacy was contested by the local Brahmans. In order to legitimize his crown, Shivaji hired Brahmans from Benares to officiate his coronation. The latter 'found' a genealogy demonstrating that Shivaji was a descendent of some Rajputs rulers of Rajasthan (Attwood 1992: 39).

There has been, as of late, a popular trend in Maharashtra to represent Shivaji as a 'proto-nationalist' leader. However, Shivaji's goal was not so much to lead 'the Marathas', but rather to offer social mobility to the Maratha soldiers and Brahmin administrators (Gordon 1993: 80). In contemporary Pune, as well as in Bheema and the surrounding villages, people feel a sense of pride regarding Shivaji. His famous battles are celebrated and his heritage is worshiped, along with that of his followers.

Similarly, the Peshwa-rulers that succeeded Shivaji 'dynasty' are perceived as being heroes. Balaji Vishwanath, a minister of Shahu (Shivaji's grandson), won the favour of Shahu and became the first Peshwa (or Prime Minister) of Pune. Balaji Vishwanath made this position a hereditary one, which established the Peshwas as the *de facto* rulers of the region. During the Peshwa rule, the Maratha power reached its zenith and spread over a large area³² (Sirsikar 1995: 34), and the city of Pune was its capital (Karve 1968: 59). The last Peshwa, Bajirao II, was defeated by the British in 1818.

When the Maratha power was destroyed that same year, there was no major reaction on the part of the common people. In fact, throughout India, only a small number of rebellions took place during the British takeover, which was quite smooth from the end of the 17th century until the Revolt of 1857.³³ In order to understand why, we have to look at the British strategies of colonization. By doing so, it is possible to say that acceptance

can be partially explained by the fact that the British consolidated their power gradually, by creating colonial provinces after they conquered new territory. What is known to be the Company rule was an indirect rule.³⁴ Hence, such colonization process reduced a simultaneous increase in hostilities throughout the entire country. After 1857, however, British colonial power was left visibly shaken, in spite of the general victory by the British. Maharashtra, as well as Bengal and Madras, were on the forefront of the freedom struggle after 1857 (Sirsikar 1995: 35), a year that also marked the end of the Company Rule and the beginning of the Crown Rule.

In 1857, when the second phase of British colonialism started, the Crown Rule (or colonial Raj) became directly responsible to the Queen of England. During Crown Rule, many changes took place. The most significant of these changes included the development of industries and the 'solidification' of a more controlling government, as well as a great expansion of educational institutions. Many Indians pursued education with the goal of being employed by colonial administration and industries. The problem was that upward mobility for new university graduates was limited due to the fact that only the lower and middle ranks of public service were open to Indians. It is within this context that, as we will see in the next section, important Maharashtrian social reformers appeared to give more power to Indians, irrespective of their castes.

As we will see in the second part of the chapter, the industrialization combined to social reforms have contributed to the almost complete disappearance of the villages services organization have transformed interactions taking place between the members of a rural community such as Bheema and the overall access to property and resources. The diminishing prevalence of the *baluta* system reflects the overall changes in the caste

system in Maharashtra, transformations that occurred due to the actions of important social reformers.

2.2.3 On Social Movements: Castes and Women's Issues

Here is a brief overview of the social movements that led ex-untouchables and other of society's marginalized groups, such as widows, to improve their social status in many Maharashtrian communities. The following historical outline will provide the necessary background to the understanding of women's social roles in contemporary Maharashtra, widows' life experiences, as well as access to property.

2.2.3.a The Castes in Question

In Maharashtra, Dr. Ambedkar was the most famous leader to arise from an untouchable caste (Mahar). Ambedkar led the Mahars down the path of education as well as individual and social emancipation. For Ambedkar, Gandhi's defence of the Hindu social order was a defence of Brahmanism. Gandhi had no desire to abolish the caste system but instead endeavoured to prove the equality of all castes. Ambedkar opposed the Civil Disobedience movement of the 1930s precisely because it did not propose a profound radical change for the 'oppressed castes'. He fought with Gandhi and the Congress leaders because, according to him, they were prioritizing political freedom over issues of social justice (Zelliot 1970). Ambedkar's movement also contested the Maratha control of the Congress party during the 1930s. Indeed, both the pan-Indian Brahman and the Maharashtrian Maratha political and economic hegemony were strongly contested by Ambedkar. After Independence, he accepted the invitation to join Nehru's cabinet and became Minister of Law. Under this position, Dr. Ambedkar was responsible for drafting

India's constitution. His movement ultimately resulted in the conversion of most Mahars to Buddhism in 1957.

Ambedkar's movement reflects the prevailing popular discontent against the Brahmins (Sirsikar 1995: 61), and so did Jotirao's Phule fight against Brahmanism. As Professor G.P. Deshpande mentioned in his introductory comments of the selected writings of Jotirao Phule: "It was clear to Phule that Brahmanism was a religious, or more accurately *dharmik*, order which perpetuated, rationalized, and made sacrosanct the dominance of the Brahmins in this dichotomous conception" (Deshpande 2002: 6).³⁵

Phule's dichotomous conception of society implied that there are two asymmetric groups: the Brahmin and the Shudratishudra.³⁶ The later group include all non-Brahmanic groups to whom Phule belongs as a Mali. "Phule was not interested in tinkering with this or that aspect of the Brahmanical structure to make it a little more humane. He argued for its complete rejection and destruction" (Deshpande 2002: 6). In order to pursue this objective, he founded the Satya Shodhak Samaj (Truth-Seeking Society) in 1873 (Phadke 1985: 15). The objective of Satya Shodhak Samaj society was to assert the intrinsic worth of a human being, irrespective of his birth within a particular caste. This society created a movement for the education of the non-Brahmin masses in Maharashtra and it profoundly influenced the socio-political life of this region.

A less radical social reformer is found in Chhatrapati Shahu Maharaj of Kolhapur, who launched a campaign to eradicate untouchability. He was one of the few princes to encourage social reforms in British India. Among other things, he supported the establishment of student hostels for untouchables (Phadke 1985: 61). Many reformers

criticized him because his hostels were organized on a caste basis. Yet, Chhatrapati Shahu Maharaj allowed untouchables to practice as lawyers³⁷ which led to their eventually replacing the Kulkarnis (hereditary village accountants in charge of land and tax records who generally belonged to the Brahman caste) by officers belonging to non-Brahman castes (Phadke 1985: 66).

Another significant figure of that time was Bhaurao Paigonda Patil. In addition to managing a hostel at Satara where students were admitted regardless of caste and belief, he made great efforts to promote and provide education to all, again, regardless of their caste and religious belief (Phadke 1985: 70). For Bhaurao Paigonda Patil, education was a key element in the reduction of poverty and ignorance of the masses in the rural areas.

These four significant figures have marked the history of Maharashtra, rendering the state a continuous source of social change. The constant socio-political shifts in Maharashtra have also instigated change throughout India. The actions of the aforementioned reformers provoked social movements that were also concerned by the enhancement of women's lives. Conjunctively, the social ostracism prevailing for widows was at the centre of the preoccupations of some of the reformers.

2.2.3.b The Issue of Widowhood

According to the Hindu ideology prevailing at the end of the 19th in Maharashtra, a woman, after the death of her husband, was perceived by the society as someone who brings bad luck to people surrounding her. That was so because of the belief that a young widow is the cause of her husband's death. This belief was mostly persistent among upper castes. Consequently, especially among Brahmans and Marathas, few people coming

forward to help a widow, even within her own family. Those who were sensitive to widows' troubles and who wished to alter their situation of isolation also became victims of this ostracism.

Phule summarizes the situation of a woman after the death of her husband in the following terms: "She is stripped of her ornaments; she is forcibly shaved by her near relatives, she is not well fed, she is not properly clothed, she is not allowed to join pleasure parties, marriages or religious ceremonies" (Deshpande 2002: 195).

He further denounced the fact that, although a widower can remarry, the widow is not allowed to do so. Hence, in general, widows were ostracized by society, especially in higher castes who always tended to follow the Shastric prescriptions more closely. In addition, a widow was expected to renounce to her sexual life and hence, renounce to remarriage. Overall, the life of a widow had to be discreet, even ascetic.

"In those days marrying a widow meant being cut off from society, especially in the case of persons who had their relatives in the moffussil and who wanted to work in the interests of the people there" (Karve 1936: 47). It is in these terms that Dhondo Keshav Karve describes the difficulties he faced when he decided to marry a widow on the 11th of March 1893. His marriage took place 37 years after the enactment of the *Widow Marriage Act*, and 24 years after the first widow marriage took place in Bombay. Karve remembers this special event, as it created a vivid impression on him:

I was only eleven when the first widow marriage in Bombay was celebrated with great publicity and pomp in 1869 (...). This first widow remarriage produced great commotion in the whole of Maharashtra. In order to decide whether widow marriage was sanctioned by the Shastras, a debate was arranged between the Orthodox and the Reform parties (...). (Karve 1936: 43)

The final decision of this debate was against the widow marriage. Scandal surrounded this decision.

It was alleged that the fifth nominee of the reform party was really in favour of widow marriage, as far as his opinion was concerned, but voted against owing to undue influence that was brought to bear upon him. There was also some unfortunate litigation in connection with this matter. All these things had been reported in the press in detail along with editorial comments (Karve 1936: 44).

Karve's wedding also provoked great commotion in Murud, his natal village situated on the western Coast of India, about 90 miles outside of Mumbai, in the Ratnagari District. There, Karve was once a well-respected Brahman, who had initiated funding activities and associations for the village Hindu Temple, and who had worked with people living in poverty within the region. Yet when he decided to visit his natal village shortly after his marriage with a widow, the reaction of the villagers was the following:

The news of my presence in Murud spread among the Brahmin population of Murud like wild fire. Everywhere there commenced a talk as to what steps should be taken to avoid my contagion. Leaders in such matters decided to have a Gavki (meeting of adult Brahmins of the village) the next evening. We were very careful not to wound the feelings of Orthodox people either by words or by deeds. My wife cooked our food and we did not enter the house. This mild attitude of ours had however no effect on the feelings of my fellow villagers (Karve 1936: 50).

During this public meeting, the following resolutions were taken: "(1) No one should sit on the same carpet with me. (2) No one should attend a meeting at which I was present. (3) My brother should be excommunicated if I entered his compound again" (Karve 1936: 51). His personal experience reflects the predicament that surrounded widows of the period. Karve's desire to demarginalize widows led him to create in Pune a

widow marriage association in 1893. The goal was to educate the public on the question of widow marriage and to create a group of sympathizers to the improvements of widows' status.

Karve went a step further when he created, in 1896, the Hindu Widow's Home Association. This refuge³⁸ for widows was inspired by his vision of education:

The best way to advance the cause was, I thought, to educate widows. Education would make them self-supporting and would enable them to think for themselves. Parents and guardians of widows look more to self-interest rather than to the interest of their wards and avoid humiliation and molestation from society. Widows, when educated, would understand their own interests and if able to muster sufficient courage, would be ready for a practical step (Karve 1936: 59).

Overall, Dhondo Keshav Karve endeavoured to devote his life to the cause of women's education (Phadke 1985: 42). After many hurdles, he opened a widows' educational home in 1896 (Anath Balikashram). In 1907, he founded a centre for educating unmarried girls. His desire to open a university for women faced considerable resistance. Gandhi asked him not to render the study of English language compulsory and Tilak feared that women, like men, would become sceptics if they received higher education, leading to a destruction of the happy family, which was held as the ideal at the time (Phadke 1985: 47). In spite of such hurdles, the S.N.D.T. Women's University finally opened in 1935. It was the first women's university in India (Liddle and Joshi 1986: 20). After the university's opening, Karve continued to develop schools in rural Maharashtra. In the 1940s, Karve went on to promote equality of all citizens and the abolition of the caste-system. Today, in Pune and Mumbai, the S.N.D.T. University and

the Karve Institute remain central institutions directly participating in the sustainable development of women.

Another person to have greatly contributed to the establishment of education for all social groups, including women, is Justice Mahadeo Govind Ranade. Justice Mahadeo Govind Ranade contributed to the liberation of the Indian population by awakening the new English-educated class to their social responsibilities (Sirsikar 1995: 136-137). In 1851 and 1852 he opened three girls' schools and three mixed schools for the lower castes (especially the Mahars and Mangs) (Phadke 1985: 13).

2.2.3.c Conclusions

Social reformers such as Dhondo Keshav Karve, Justice Mahadeo Govind Ranade, Shahu Maharaj, Jotirao Govindrao Phule, Bhauro Paigonda Patil, and Dr. B.R. Ambedkar inspired, and provoked major changes in the caste system in India through their actions which had one major common point: education. In fact, they all worked for the spread for education in rural and urban Maharashtra. For those social reformers, the primary objective of education was to change the mentalities in order to reduce injustices among castes, a vision that Ambedkar took as far as fighting for the abolition of caste. It was his vision that was entrenched within the Indian Constitution. Many social reformers also proved education to be an essential tool to ensure transformation of social perceptions concerning women's and widows place in society. In addition, each of these activists also took specific measures to render education accessible to women. This was particularly true of Phule, who promoted, among women's social development widows' remarriage, and of Karve, who dedicated his life to the demarginalization of widows and women's empowerment through education.

The next section aims at presenting the consequences of the education of all strata of the Maharashtrian society on a core gender issue, widowhood.

2.2.4 Situating Widowhood in Contemporary Maharashtra

According to the National Family Health Survey of 1998-1999, widows form 10.6% of the total adult female population of Maharashtra while the male population is made up of only 1.8% of widowers.³⁹ These numbers indicate that widowhood is not an exceptional status for women and indeed that it is much more common for women to be widows than for men to be widowers. The lower rate for widowers can be explained, on the one hand, by the fact that women almost always marry older men, and, on the other hand, by the fact a man can easily remarry after the death of his wife, whereas widows often cannot or do not remarry.

According to Chen's comparative study between North and South, widows in the North are more vulnerable than those in India's southern states. The source of this difference is found in the ancient and conservative Hindu ideology that still generally prevails in North India. This ideology suggests few life alternatives to women after the death of their husbands (Chen 2000). One of the related models is that of the ascetic widow. Under this model, a widow is expected, among other things, to renounce her sexual life (Chen 2000: 94). A widow should remain discreet by wearing white saris and renouncing her jewels. Although a widow has more freedom than most women, a Hindu widow should not 'roam' throughout the streets without having a good reason to be outside of her house.

The societal constraints are made upon widows' sexuality and extend to the constraints that surround a widows' social mobility as well as in the prohibition of the remarriage of widows (Chen 2000: 55). Despite the ban prescribed by Hindu ideology, remarriage is legal and is practised in all regions of India though not necessarily in all Hindu communities. For example, remarriages have always been accepted in western Bengali tribal communities (Sarkar & Banerjee 1998: 215) as well as for the Bagada of Tamil Nadu (Thamizoli 1997: 60). Also, Dandekar (cited in Drèze 1990: 24) has found that in his sample of the West of India in 1954-55, 26% of widows remarried. Meanwhile, none remarried if her widowhood had begun after the age of 43 while 87% of widows under the age of 30 did choose to remarry.

However, while remarriage is practised in some areas of India and among some communities, it is not common (Chen & Drèze 1995). It is the combination of factors such as caste, class (or economic status) and patriarchal ideology that influence the 'organization' of a widow's sexuality. As Kolenda demonstrates, a widow from a Shudra (low) caste can remarry if she is still of age to bear children, or she may remain celibate if she declares to her community that this is her wish (Kolenda 1987: 329). But within the higher Hindu castes of Nepal, India and Sri Lanka, remarriage is less accepted. It is also like that among the Brahmans and Marathas of Maharashtra.

One form of widow remarriage mostly prevalent in the North is the *levirate* marriage, which is the marriage of a widow with the younger brother of deceased husband (Chowdhry 1998: 97). This form of marriage can be seen as allowing the property of the deceased husband to remain within the possession and control of his brother (and, by extension, his widow and children). Otherwise, widows will hesitate to

remarry for fear that they will lose their husband's land or for fear that their new husband will mistreat their children (Drèze 1990). If such fears exist in Maharashtra, the *levirate* marriage has not been considered a potential alternative for a widow as well as for her deceased husband's brother.

Overall, most widows do not remarry in Maharashtra in spite of the strong social movements that encourage widows to do so. All the same, as we will observe in Bheema, widows are not subject to the kinds of social ostracism found in 19th century Maharashtra and neither are they subject to the type that perpetuates in North India at this time.

The practice of *suttee*, or the immolation of the widow upon her husband's funeral pyre, is an extreme practice symbolizing the ideal asceticism and renunciation associated with widowhood. *Suttee* was especially practiced in northern India, and was glorified in Rajasthan (Chen 2000: 62). Although prohibited, some instances of *suttee* still occur in North India, and those situations cause great outcries in the press.

Yet, *suttee* might be considered an exceptional practice in all contemporary Hindu communities (Chen 2000: 55). Indeed, the ideal of the ascetic widow manifests itself in less dramatic symbols of sexual restriction found in customs such as widows having their heads shaved and wearing white saris instead of colourful ones such as the married women are allowed to do.

As we will note throughout the thesis, widows' social isolation and society's control over widows' lives are not factors that are always present to the same extent in contemporary rural Maharashtra, where social changes have been rapid since India's Independence. Yet widowhood implies a significant change in social identity. It is not

possible to give a straight answer as to whether or not a woman's life becomes more difficult after widowhood. As will be analyzed in Chapter 4, the impact of the loss of a senior male on family members depends on the various interrelated variables such as the age of the widow, her post-marital residence, the distance between *maher* (natal home of a married woman) and *sasar* (husband's family home), pre-widowhood relationships with the widow's husband and his family, and post-marital relations with the siblings staying in *maher* (usually the woman's brothers). Because those variables reflect the overall transitional position of Maharashtra between North and South, it explains why widowhood is not experienced in such dramatic way in Maharashtra compared to North. On the other hand, Maharashtrian widows are not as well supported by their families and communities than in the South.

In this context, as it will also be demonstrated in Chapter 4, a woman's sense of identity remains largely defined by her marriage and by the network of friends and family attached to her husband. Indeed, in spite of the increased social mobility of widows in Maharashtra that reflect changes in the overall situation of women, Chapter 5 will show that widows still do not claim their inheritance rights.

2.2.5 Situating Women: Social and Demographic Variables

Now, back to contemporary Maharashtra. The study of various social and demographic variables will introduce how factors such as literacy rate, fertility rate and sex ratio are positively influencing women's - and this includes widows' - life experiences and indeed how they directly empower them. In addition, from this analysis, the transitional position of contemporary Maharashtra is evident concerning many variables, as the following table shows.

Table 3: Comparative Literacy Rates and Demographic Indicators

	Maharashtra	Kerala	Uttar Pradesh	India
Literacy Rate (%)				
Total	77	91	56	65
Male	86	94	69	75
Female	67	88	42	54
Life Expectancy (1993-97) (age):				
Male	64	70	58	60
Female	66	76	57	62
Mortality Rate (person per 1000):				
Total	7.2	6.3	9.5	8
Rural	8.2	6.4	10.1	8.7
Urban	5.6	6.1	7	6
Fertility Rate (infant per woman):	2.6	1.7	4.4	3.2
Estimated Maternal Mortality Rate (1987-96) (death per 100 000 lived births):	380	N/A	737	479
Infant Mortality Rate (death per 1000 births):				
Total	42	11	76	60
Rural	48	12	79	66
Urban	32	10	55	38
Sex Ratio (female per 1000 male):				
Total population	922	1058	898	933
Population 0-6 years old	913	960	916	927
Proportion of villages with medical facilities, 1981 (%):	18	96	10	14
Number of hospital beds per million persons (1991-98):	1538	3463	601	926

Sources: Census of India 1981, 1991 and 2001.

2.2.5.a Literacy Rates and Demography

In Maharashtra, the literacy rate is of 67% for females compared to a male rate of 86%.⁴⁰ In terms of literacy rates, Maharashtra is above the national average for both

males and females. For India as a whole, 54% of females aged seven and older are literate; the rate is 75% for males. Also, Maharashtra's rates fall between Kerala's (88% for female and 94% for male) and Uttar Pradesh's (44% for female and 71% for male).

Murthi, Guio and Drèze's statistical analysis of Indian district-level data have shown that female literacy has a direct and positive impact on child survival (Sen et al. 1997: 197). Hence, there is a correlation between higher female education and the reduction fertility rate (the number of children each woman will have) and the reduction of child mortality. Also, along with female labour force participation, higher female literacy rates reduce the disadvantage of female in child survival. This becomes clear when we look at fertility rates and social preferences for male children.

Maharashtra's position is a transitional one in terms of literacy rates and also in terms of other demographic factors such as fertility rates. Between 1996 and 1998, the total fertility rate for India as a whole was 3.3 children per woman. In Maharashtra, this rate was 2.7 over the same period. Maharashtra's fertility rate resides between Kerala's 1.8 and Uttar Pradesh's 4.8 (Drèze and Sen 2002).

The total fertility rate in India has constantly declined over the last decades, but not in a uniform way throughout the country (Atlas 2004: 17). The Government of Maharashtra has not initiated awareness programs on family planning techniques although some states - for instance - Tamil Nadu, Kerala and Andhra Pradesh (Atlas 2004: 1) have enforced such programs. More precisely, "in Kerala among the various factors such as historical background, form of Government, matrilineal society and

migration, the single most important factor in explaining the demographic transition is female literacy” (Atlas 2004: 17).

Along with education, significant social variables measuring the development of a society include life expectancies as well as mortality rates. These two demographic factors indicate the welfare of a population - more so than economic growth - and the general level of development and modernization. If we turn to the mortality rates of the entirety of India’s population, there is a marked difference between rural and urban rates. In both settings, Maharashtra is close to the national average. Concerning life expectancy, if UP is close to the Indian average, Maharashtra is a little above the national average, with a male life expectancy of 64 years old and one of 66 years old for females. Yet life expectancy is not as high in Maharashtra as it is in Kerala where males have an average lifespan of 70 years and females’ average life expectancy is of 76 years old.

Kerala is also exemplary in terms of infant mortality rate, which is of 11 deaths of children under the age of one per 1 000 of live births. Far above the national average of 60 deaths for the same amount of births, Kerala is the Indian state with the lowest mortality rate. In UP the number of deaths of children per 1000 live births reaches 76, while in Maharashtra it is of 42. What is interesting is the fact that both in UP and in India as whole, there is a large discrepancy between the infant mortality rate in rural and urban areas. In Maharashtra, the difference is less marked, while in Kerala the rates are almost the same. This may be explained by the fact that 96% of villages have medical facilities - that means almost six times more than the percentage of health care installations of the whole country. In Maharashtra, only 18% of the villages have medical facilities, which is only 4% more than the Indian average. Maharashtra’s overall healthcare situation is

better than UP's, with two and a half times more hospital beds than in UP. There are one and a half more hospital beds per million in Maharashtra than the national average.

Education combined with healthcare facilities are interrelated factors explaining the relative position of the examined demographic factors in each state. The next section examines a remaining aspect related to the welfare of women in Indian society, the sex ratio.

2.2.5.b Sex Ratio

Maharashtra's female sex ratio is 922 women for 1000 men. As for life expectancy and mortality rates, Maharashtra's sex ratio statistics are close to India's national average. And, once again, Maharashtra falls in between UP's sex ratio of 898 and Kerala's sex ratio of 1058. This sex ratio rate indicates a favourable position for females, because there are more females than males. It may also indicate that in Kerala, detrimental biases towards women are less present than in the northern zone. As the numbers indicate, Maharashtra sex ratio closer to the northern patterns such as those found in UP, and is a little lower than the national average. What is notable is that although the national sex ratio for the population aged between 0 and 6 years old is almost the same, in Kerala the number of girls of that age group is 118 times less than the whole population's sex ratio. That is an indication of a future northernization of the sex ratio pattern in Kerala, while in UP, the difference is in favour of women.

It is with these social indicators in mind, combined with the historical development of social interactions and economic development of Maharashtra, that we will introduce village life in Bheema.

2.3 Bheema's Village Organization⁴¹

Bheema lies on the banks of the Bheema River. It is located in Shirur Taluka, Pune district, approximately 30 kilometres from Pune city.⁴² It is here that via my research in the village of Bheema I explored widow's lives and their access to property.

The goal of the present section is to contextualize the village where I conducted my ethnographic research, starting with a survey covering 150 out of 853 households. As in the first part of Chapter 2, I used the statistics of the 2001 Indian census to complement the results of my survey when data was missing, as indeed was the case for Bheema's castes distribution and respective occupations.⁴³ Qualitative data will highlight the major social changes that have occurred in Bheema since the 1950s.

The fieldwork conducted in Bheema is particularly pertinent when we acknowledge that a very large proportion of Bheema's population falls under the jurisdiction of the Hindu personal laws. In Bheema, 87.4% of the population is Hindu⁴⁴ and 8.7% of the population is Buddhist.⁴⁵ Only 2.6% are Muslim and 1.3% are Christian. The latter two groups are not covered under HSA in case of intestate succession, but Hindus and Buddhists are. My statistics clearly determine that most people in Bheema fall under the jurisdiction of the HSA with 96% of the inhabitants having the right to potentially claim their inheritance shares according to the HSA legal provision. These numbers also underline that, in this predominantly Hindu community, an important proportion of the households are organized around Hindu practices and beliefs. In order to contextualize legal awareness and access to justice in Bheema, a brief description of the access to judicial facilities for the villagers follows.

2.3.1 Castes Interactions in Bheema

Nowadays, each village has one or two dominant lineages, which generally are more numerous in terms of percentage of population and possess most of the land. By and large, these lineages belong to the Maratha caste, which has occupied this dominant position for centuries. In Bheema, the Maratha caste is dominant not only in terms of numbers, but also in terms of its economic and political influence. This is clear in Bheema, where 39% of the population belongs to the Maratha caste. Several factors make it apparent that the Marathas are leaders within the community. The competition over political and economic power is also situated within the Maratha castes. The three most influential Maratha families in Bheema are the Argade, Shivale and Bandare families. Nowadays, they continue to influence the village and the surrounding region, especially due to the fact that are large land owners and that they are historically very much involved in the local politics. In fact, no caste surpasses the Marathas in number and power. Contrary to northern Indian villages, the presence and influence of the Brahman caste is slight in Bheema, and the same situation is found in the neighbouring villages. The male head of the only family belonging to the Brahman caste is in charge of one of the temples of the village.

Table 4: Castes Distribution in Bheema

Caste	Number of Households	Percentage
Maratha	59	39.3
Neo-Buddhist	13	8.7
Kumbhar	12	8.0
Mang	12	8.0
Chambhar	8	5.3
Sutar	8	5.3
Muslim	4	2.6
Nhavi	4	2.6
Christian	3	2.0
Gosavi	3	2.0
Mali	2	1.3
Nepali	2	1.3
Sonar	2	1.3
Brahman	1	0.7
Dhobi	1	0.7
Ghisaadees	1	0.7
Gurav	1	0.7
Marwadi (Gujarati)	1	0.7
Phase Paradhi	1	0.7
Unknown	9	6.0
Refuse to answer	3	2.0
TOTAL	150	99.90%

Sources: My survey of 150 households in Bheema, 2001.

The data presented in Table 4 are based of my village survey of 150 households. As it will be fully explained in Chapter 3, the numbers describe the situation in the village itself, including one hamlets. Hence, the Maratha population, who mainly live in the hamlets close to their fields, is more important than what is indicated in this table. As that table shows, the second-largest caste covered by my survey is the neo-Buddhist. Along with the Mangs and the Chambars, neo-Buddhists constitute the Scheduled castes group.

These castes were historically, socially, and economically underprivileged, because considered as the untouchables. The Constitution created special caste categories in order to install plans for their socio-economic upward mobility. Scheduled castes represent 22% of the population I surveyed in Bheema.

In Bheema, old spatial divisions organized around the caste system are reflected in the name of each part of the village: Gaonthan, Kumbhar Vasti, Buddha Vasti, Tambe Vasti. The ruins of the wall that used to separate the former 'Untouchables' from the rest of the village can still be seen. As in most Maharashtrian villages, the wall was demolished after Independence, when caste discrimination became illegal. People proudly told me how much progress had been made since the days when social interactions were deeply influenced by caste. Lakshmi, a Mang woman of forty-two years old, related her story:

Lakshmi: In previous time [when she was a child], I was going with my father to work [sweeping and making ropes]. So, after our work, Maratha-Brahman gave us food in 'useless' vessel [old pots and pans that were not re-used by people of upper-castes, but that may have been used for feeding animals]. I told to my father, "I don't want to eat in this." My father said, "We are Mangs and that is why we are eating in this." For water, they were dropping water directly in our hands. In previous time, before me [before my time] higher castes were not taking the same road than the Mangs and Mahars. We [Mangs] could not enter their house or touch their things. We were not allowed to go in their temple. But now, everything has changed. There is law. They can't say you are Mahars or Mangs so don't touch me. If they do so, the police or government will take action against them. Now, everyone is alright with us. They are coming to visit our house and Mangs and Mahars go to their Maratha and Brahman houses. Now, everything is alright.

Karine: What can explain those changes?

Lakshmi: Baba Saheb Ambedkar helped us a lot. Previously, Marathas and Brahmins would not touch us because we used cutting bullocks, cows, buffalos. These are very dirty things. It is okay they would not let us

[Mangs] come to them. Why would they let us come to their houses? It is very dirty [the work is very dirty].

While Lakshmi tells us her childhood story, she is interrupted by customers buying pens, cigarettes, candies, or paying phone call charges. Two or three afternoons a week, Lakshmi is in charge of the general store that belongs to her family. Her younger son, generally in charge of the small shop, has gone on a special one-day job assignment as a driver for a company in Pune. The bungalow her husband built and their business together are clear signs of the upward caste mobility existing in contemporary Maharashtra.

In addition to the presence of caste mobility, the economy in Bheema is increasingly diverse. For example, Bheema used to be famous for its pottery. While pottery work used to be the main activity of all Kumbhar households and their members, nowadays, only six households out of twelve can make a living from it. Out of 32 active Kumbhars, only half, specifically sixteen people - eleven men and five women - currently practice this activity as their principal source of income. One of the Kumbhar I interviewed recounts the village organization and the changes that took place since the 1950s.

While he was preparing special pots for Diwali⁴⁶, he described the *baluta* system in Bheema:

Kumbhar: In previous times, only in this village, there were twelve balutedars.⁴⁷ Those people still live here but this organization has ceased today. There were the Kumbhar making pots, Mangs making chapals, the Mang and Mahar who had the task to clean the village, the Gurav who were looking after the temple, and the Brahman who were the priests and taking care of the astrology. Also, the Nhavis were the barbers and the Sutars were the carpenters. The Marathas were giving grains in exchange of others' services. Now, only the Kumbhars, Brahmans, Guravs, Sutars, and Nhavis remain. See, for example, nowadays the

people by their shoes in the stores so there is very little work for the Mangs. Also, the Mahars and the Mangs don't clean the village anymore. Now, they are not working [for the Marathas]. Now, we are all equal.

Karine: Will there be Kumbhar work for your son?

Kumbhar: I am the last doing it. My son goes to school. The young do not want these jobs. They want better job, they want to make more money, like in a service job.

Both stories of Lakshmi and of Kumbhar expressed the major changes that occurred in Bheema's economy and caste organization. Their accounts illustrate the important social transformations that have taken place in Maharashtra since the 1950s. Yet these types of stories do not signal the end of the caste system. Indeed, the opposite is more evident when we consider some aspects of the Indian life, such as the continuity of intra-castes marriage practices, an issue that will be explored in detail in Chapter 4.

Power relationships transformations gradually take place within the Gram Panchayat. In spite of the election format, these bodies often continue to be dominated by the economically and socially powerful men of each village. In Karimpur, in the state of Uttar Pradesh, anthropologist Susan S. Wadley found that all headmen ever elected have been Brahman (Wadley 1994: 188). Yet at the time which I conducted my fieldwork in Bheema, the Sarpanch (head of the Gram Panchayat) was a woman, the wife of a very powerful Maratha landowner of Bheema.⁴⁸ A comprehensive study of the Gram Panchayat institution in Maharashtra concludes that the Panchayati Raj system is gradually modifying the pattern of rural leadership (Baviskar 2003). Furthermore, it has been claimed that, although the lower-status castes of the community are still underrepresented amongst elected council members (Baviskar 2003; Jain 1968: 283-311), the monopoly of leadership by certain high status groups has diminished somewhat. This

is also the case in Bheema as the discussion on contemporary caste interactions in Bheema reveals.

Changes in gender relationships are also taking place within the Gram Panchayat organizations. The 73rd and 74th Amendment to the Constitution, passed in 1992, plans for the reservation of one-third of the seats for women in Gram Panchayat. This adds to the reservation of seats for scheduled castes and scheduled tribes. In addition, according to this constitutional amendment, women have to form one-third of sarpanches. In a comprehensive study of women's participation in local governance in Maharashtra, B. S. Baviskar concludes that:

Indian women are now on the road to increasing empowerment following the 'silent revolution' ushered in by the 73rd and 74th Amendments. The initial hostility of men towards this process is on the decline. Now men have accepted the change and are trying to use women to their own advantage. When seats were reserved for women, in most cases, men persuaded women to contest elections to retain political power and status within the family. As the time goes by, women will acquire the skills, learn the rules of the game, and work according to their own agendas. (Baviskar 2005: 341)

Even in terms of religious practices, transformation has occurred in Bheema. There are three Hindu temples in Bheema. The most important is located on the village square and has been fully reconstructed since my departure. It is now an imposing building next to the schools and the Gram Panchayat. Neo-Buddhists also visit Hindu temples, as the converted Mahars' religious practices are a *mélange* of Buddhist and Hindu rituals. This is more so in Maharashtra where, as we have seen, it has been a trend for Mahars to convert to Buddhism, a movement initiated by Ambedkar. The transformations of the caste system are illustrated in the following example. The fourth Temple, located in the former ex-Untouchables Mahars section of the village as a mixed status. All Hindu castes now go to

pray at this temple formerly reserved to the Mahars and Mangs. Yet, Mahars – now forming the neo-Buddhist caste are using that place as a Buddhist shrine. The interactions between Hindus and Buddhists in Bheema and the adaptability of their respective religious symbols illustrate continuity and change in religious symbols.

Table 5 presents the traditional occupations of the various castes still in Bheema today. That is not to say that prior to the 1950s people were locked into their ‘traditional’ occupations, but they had to practice activities associated to their hereditary caste status. For example, a Chambar, associated with the work of leather, such as the making of *chapals* (sandals), would not help the higher caste of Sutar with their carpentry work, nor would they accompany the Untouchable caste of Mang in their tasks of sweeping and cleaning the village. As the life experiences of Bheema’s residents will illustrate, social and economic interactions among various castes have changed and discrimination against an individual or a group based on its caste is less current.

Table 5: Actual Practices of Ancestral Occupation

Castes	Number of active persons	Common Ancestral Occupation	Practicing Ancestral Occupation	Practicing Ancestral Occupation	Percent of active persons
			MALE	FEMALE	
<i>Brahman</i>	6	Priest, accountant	1	0	17
<i>Gurav</i>	2	Shaivite priest	0	0	0
<i>Maratha</i>	171	Agr. cultivation	19	26	26
<i>Mali</i>	6	Gardener	0	0	0
<i>Dhobi</i>	1	Washerman	0	1	100
<i>Gosavi</i>	7	Rel. mendicant	0	0	0
<i>Kumbhar</i>	32	Potter	11	5	50
<i>Nhavi</i>	13	Barber	3	0	23
<i>Sonar</i>	4	Goldsmith	0	0	0
<i>Sutar</i>	27	Carpenter	7	0	26
<i>Chambhar</i>	17	Leather work	2	0	12
<i>Neo-Buddhist</i>	52	Agr. Labour	1	5	12
<i>Mang</i>	38	Ropemaker	0	3	8
<i>Gesari</i>	7	Blacksmith	3	4	100
<i>Phase Paradhi</i>	2	Beggar	0	0	0

Sources: My fieldwork survey of 150 households in Bheema.

In Bheema, the *baluta* system has practically disappeared. Table 5 shows that few persons still practice their ancestral occupations. Over 16 active persons, the Kumbhars are among those that continue to practise their ancestral occupation the most. Other castes, such as the Gosavi have abandoned their ancestral activities and nowadays, far from begging, one of them owns a general store and another one, a pharmacy. Moreover, while one woman from the caste works at the dispensary, and her widowed mother make a living by selling home made food on the village place during the evening.

Displacement from old occupations to new ones for each caste is described in table 6. This table also serves to demonstrate the contemporary employment patterns among the 150 households members I surveyed in Bheema. To compile these numbers, I considered only the active population. Specifically, women aged between 18 and 60 years old, and men aged between 21 and 60 years old.⁴⁹ Life style is quite different whether the job is temporary (or contractual) or permanent. That is why I indicated it whenever their job was permanent.

Table 6 : Contemporary Employment Patterns

Castes	Number of active persons	Other Contemporary Activities	Other Contemporary Activities
		MALE	FEMALE
<i>Brahman</i>	6	Company work (2), tread agency (1)	Ghar Kam (3)
<i>Gurav</i>	2	Driver (1)	Ghar Kam (1)
<i>Maratha</i>	171	Owner of a shop (7), Company work (25), driver (11), Clerk in High School (2), own rickshaw or jeep (2), researcher (2), government worker (1), bank manager (1), army (1), tailor (1), agr. labourer (2), student (3), no-occupation (5), ? (3)	Primary school teacher (2), nurse (1), tailor (2), agricultural labourer (7), ghar kam (42), student (3), ? (3)
<i>Mali</i>	6	Driver (1), Company work (1), ? (1)	Ghar Kam (2), agr. labourer (1)
<i>Dhobi</i>	1	N/A	N/A
<i>Gosavi</i>	7	Clerk in High School (1), pharmacist (1), grocery shop owner (1)	Maintenance work at the dispensary (1), helping in husband's shop (1), student (1), ghar kam (1)
<i>Kumbhar</i>	32	Company work (2), driver (2), worker at an hospital in Pune (2), ? (1)	Maintenance work at the dispensary (1), agr. labourer (1), ghar kam (8), ? (1)
<i>Nhavi</i>	13	Comp Work (2), Lab. assistant (1), ? (1)	Ghar kam (4)
<i>Sonar</i>	4	Owner of a grocery store (1), Cathering service (1)	Ghar Kam (2)
<i>Sutar</i>	27	Teacher (1), Permanent company work (3), comp. Work (1), agricultural labourer (1), garage owner (1)	Ghar kam (8), agricultural labourer (3), permanent company job (1), cook in dispensary (1)
<i>Chambhar</i>	17	Company work (2), own ricksaw (1), agr. Labourer (2), no-occ (1)	agricultural labourer (1), ghar kam (8)
<i>Neo-Buddhist</i>	52	Director of primary school (1), teacher (1), computer work (1), engineer (1), driver (7), retired policement (1), owner of a transport business (1), comp work (3), work on their own farm (5), retired factory worker (1), no-occupation (2)	Teacher (2), clerck (1), work in their own field (6), agricultural labourer (5), ghar kam (13)
<i>Mang</i>	38	driver (6), permanent government worker (2), agr. lab. (5), High School Director (1), Shops owners (2), permanent Company work (2), no-occupation (2)	agricultural labourers (4), factory work (1), maintenance work - dispensary (1), cook - dispensary (1), ghar kam (9)
<i>Gesari</i>	7	N/A	N/A
<i>Phase Paradhi</i>	2	Permanent job at Gram Panchayat (1)	Ghar Kar (1)

Source: My fieldwork survey of 150 households in Bheema.

When I conducted my survey, many women answered that they had 'no occupation'. What they meant by this answer was that they did not hold a paying job and instead were occupied with household work (known as *ghar kam* in Marathi). *Ghar kam* involves major tasks and occupies most of women's time. Being in charge both of the household and the children, it is very hard for women to find enough time to hold a job. When they work as agricultural labourers, women generally only work part-time, during the hours when the children are at school, and ensure their household responsibilities are fulfilled afterward. Other employment possible for women are full-time and may range from clerical work, teaching, and maintenance work at the dispensary. When women have a full time job, their children, in most cases I observed, were all in school and there was another woman – such as a mother-in-law or a daughter-in-law - to take care of the housework, especially in joint family household. That Sunita's case, a Maratha women aged 35 years old. While her husband works in his general store and the children attend primary school, Sunita works on her sewing machine to stitch blouses, petticoats and saris. This arrangement brings an extra income to her family all the while permitting her to complete her housework.

Apart from work in the fields, there are few job opportunities in Bheema itself. Most of the company jobs are outside the village. There are three small brick companies in Bheema, as well as another company where car motors are manufactured. Such businesses rarely employ people from Bheema due to their lack of expertise or training required to work in such areas. Moreover, the fore-mentioned companies provide mainly part-time or temporary employment. There are a number of industries located approximately 10 kilometres outside of Bheema but, again, most people originating from

rural communities cannot benefit from jobs offered in these fields due to their lack of appropriate qualifications. Indeed, even most school teachers, both men and women, come from outside of Bheema. Overall, the schools and the dispensary hire around twenty people (men and women) from Bheema for tasks such as building maintenance and food preparation.

Over the last ten years, several families belonging to Buddhist and non-Maratha castes have become economically comfortable, acquiring land, and building new houses in the surrounding hamlets. Although their homes are generally constructed close to the village, this movement of caste is a sign of changing attitudes. Also, members of lower- and middle - status castes are now elected in the Gram Panchayat. As is the case, for instance, for Lakshmi's eldest son. The real influence of these lower caste members of the Gram Panchayat, compared to the Maratha members, is obscure. Yet, in Bheema, their presence certainly encouraged a sensitization to issues concerning the poor. Indeed, funds from the Gram Panchayat are now donated to poorer families so that they can pay for their children's education and/or training in specialized schools.⁵⁰

In light of such changes in the organisation of castes, the next section proposes to analyse what are these data saying about the contemporary economic activities in Bheema.

2.3.2 Economic Activities and Agricultural Practices

Not all parts of Pune district have benefited from the continuous industrialization of Maharashtra. According to the Indian Census of 2001, the economy of Bheema is tied to agriculture, with 76% of the working population involved in agriculture (67% as

cultivators and 9% as agricultural labourer). The data presented in table 7 broaden up the scope of my survey results.

Table 7: Categories of Main Workers in Bheema

BHEEMA	1991			2001		
		Percent per category	Percent of main workers		Percent per category	Percent of main workers
Total main workers	1702			2195		
Female	755	44%		927	42%	
Male	947	56%		1268	58%	
Industrial category of main workers						
CULTIVATORS	1025		60%	1467		67%
Female	486	47%		738	50%	
Male	539	53%		729	50%	
AGRICULTURAL LABOURERS	191		11%	198		9%
Female	163	85%		109	5%	
Male	28	15%		89	4%	
WORKER IN HOUSEHOLD INDUSTRY	5		0.30%	50		2%
Female	3	60%		34	68%	
Male	2	20%		16	32%	
OTHER WORKERS	481		28%	480		22%
Female	103	42%		64	13%	
Male	378	58%		416	87%	

Sources: Census of India 1991 and 2001

Aside from work related to agriculture, a variety of household businesses have emerged since 1991. Although they represent only 2% of the population's employment, it is important to note that these types of home-run businesses are growing in number. For example, four local women have started tailoring businesses. Like Sunita, these women are able to work from home, and their job provides the household with an appreciable

extra income. Most of these women received instruction in tailoring thanks to the occasional training programs set up by various social organizations that come to Bheema from Pune. This form of education creates valuable long-term economic alternatives and allows women to meet their household work obligations, as they do not have to leave the house during the day to work outside. My survey of 150 households in Bheema revealed that 49% of the households claimed to have land, while 7% refused to answer (see table 8 below).

Table 8: Number of Households with Land

	Number of Households	Percent
Land	73	48,7 %
No land	67	44,7%
Refuse to answer	10	6,6 %
TOTAL	150	100%

Sources: My fieldwork survey of 150 households in Bheema.

An approximate evaluation of the distribution of land through each caste of my survey is revealed in the table 9. The Marathas continue to have access to the largest land and the ex-Untouchables castes such as the Mang and Mahars do have access to property nowadays.

Table 9: Number of Households with Land per Caste and Size of the Land

Castes	Number of Households	Percent of the Households of the Village Survey	Number of Households with Land per Caste	Percent of Households with Land per Caste	Size of the Land
Maratha	59	39.3	40	68	1 to 100 acres
Neo-Bhuddist	13	8.7	9	69	1 to 15 acres
Kumbhar	12	8.0	3	25	1 to 15 acres
Mang	12	8.0	5	42	1 to 5 acres
Chambhar	8	5.3	0	0	N/A
Sutar	8	5.3	0	0	N/A
Muslim	4	2.6	2	50	1 to 5 acres
Nhavi	4	2.6	0	0	N/A
Christian	3	2.0	0	0	N/A
Gosavi	3	2.0	0	0	N/A
Mali	2	1.3	1	50	Unknown
Nepali	2	1.3	0	0	N/A
Sonar	2	1.3	0	0	N/A
Brahman	1	0.7	0	0	N/A
Dhobi	1	0.7	0	0	N/A
Gesari	1	0.7	0	0	N/A
Gurav	1	0.7	0	0	N/A
Marwadi (Gujarati)	1	0.7	0	0	N/A
Phase Paradhi	1	0.7	0	0	N/A
Unknown	9	6.0	N/A	N/A	N/A
Refuse to answer	3	2.0	N/A	N/A	N/A
TOTAL	150	99.90%			

Sources: My fieldwork survey of 150 households in Bheema.

In 2001, according to preliminary census results from the Gram Panchayat, 12 women owned of 24.94 hectares of irrigated land.⁵¹ These numbers mean that 12% of the 203 hectares of irrigated land belong to women, jointly or as sole owners.⁵² The largest plot of land owned by a woman was 4.6 hectares. The next largest was 4 hectares, followed by 2.8 and 2.4 hectares. The eight other owners each possessed two hectares or

less.⁵³ If irrigated, 2 hectares is quite a lot of land by village standards - certainly enough to support a widow and her young children.

However, it was not uncommon that the survey's respondents mentioned that the small size of their land rendered any cultivation difficult or impossible. As table 9 demonstrates, many of the land holdings are of 1 to 5 acres. In Bheema, many women and men possessing 1 or 2 hectares of land and living in the village (rather than on their land or in the hamlets) were not able to use their land for cultivation due to various problems. One such problem was that if the land was 2 or 3 kilometres from the house, it was far to go every day to cultivate. Nor was it possible to easily check on the crops and prevent acts of vandalism.⁵⁴ Another problem was that access to irrigation is harder for small landowners because it costs too much to install. According to the 1991 Census, 72% of Bheema's land remained unirrigated compared to 9.5% of irrigated land.⁵⁵

Shirur Taluka is a poor area and is renowned for being an arid zone unfavourable to agriculture. This taluka is situated in the semi-arid Deccan plateau region, area that used to be referred to as the 'famine belt'.⁵⁶

"Starting in the latter part of the 19th century, industrial transport and market systems, later combined with modern, large-scale systems of administration and irrigation, began providing better food security" (Attwood 2005: 4-5). In addition to these developments, Independent India has implemented successive relief policies and famine prevention programs. These combined efforts have led to a reduction of famines, although there are still important problems of food distribution throughout India (Drèze & Sen 2002: 196).

In Bheema, access to irrigation is harder for small landowners because it costs too much to install. In Maharashtra, most of the land is irrigated by well, not by canal. Only large lands close to Bheema River are properly irrigated.⁵⁷ Only one hamlet of this village is close to the river, providing the owners easy access to water and facilitating the possibility of irrigation. Yet few farmers in Bheema have this opportunity. Most are situated at least 2 to 3 kilometres from Bheema River. The irrigated fields, which represented 9.5% of the land in Bheema in 1991, have a higher productivity. As Bheema's farmers have mentioned, because of the irrigation system, there are two crops a year for everything they cultivate – including both grains and vegetables.

Bajri and *jowar*, two types of millet, are the principal crops cultivated in Bheema, mostly by large landowners. Sugar cane, peanuts, and different types of vegetables (such as onions, potatoes, and beans), are also cultivated.⁵⁸ The ploughing is still mostly done with bullocks. Tractors are the exception, with only three for the whole village.

Overall, economic activities in Bheema revolve around agriculture. Owning land is an important asset, especially if the plot of land is irrigated. In addition, education is also an asset. Men and women might find government employment or permanent job in either a company in Pune or elsewhere in Shirur Taluka. The issue of education in Bheema is presented in the next section.

2.3.3 On Social Transformations: Education, Demography and Health Care

In Bheema, there is a primary school, a middle school and a high school. According to the 2001 Census of India, in this village, 59% of the male population is literate compared to 41% of the female population. These numbers indicate that Bheema's

literacy rate is lower than both the average Maharashtra and Indian literacy rates. On the other hand, the female literacy rate is 6% higher than in 1991 while male literacy rate has dropped of 6% during the same period, which may be due to out-migration for employment. The gap between male and female literacy rates has reduced by 12% since 1991. This positive trend is shadowed by the reduced literacy rate of men.

Table 10: Population and Literacy Rates

BHEEMA	1991			2001		
		Percent per category	Percentage of the population		Percent per category	Percentage of the population
<i>Population (including Institutional and Houseless Population)</i>	3377			4776		
Female	1588	47%		2307	48%	
Male	1789	53%		2469	52%	
<i>Population age-group (0-6)</i>	572		17%	820		17%
Female	308	46%		404	49%	
Male	264	54%		416	51%	
<i>Literates</i>	1654		49%	2854		60%
Female	584	35%		1168	41%	
Male	1070	65%		1686	59%	

Sources: Census of India 1991 and 2001.

Female represent 48% of Bheema's population which indicates a fairly advantageous demographic position of women. Similarly, the age group of 0-6 has an almost equal number of female and male children.

2.4 Conclusion

On many levels, Maharashtra had a leading role in terms of economy, industrial development, and social reforms. In addition, its transitional social position renders this

state one that cannot be ignored in terms of comparative research. In terms of urbanization and industrialization, Maharashtra is particularly worthy of interest, because through these contexts the researcher can understand better how a legal system inspired by Western concepts of law is implemented in a non-Western location gradually adopts certain Western economic practices and their related values.

Available literature does not provide clear answers what are the particularities of the legal system in place Maharashtra? Therefore, the particularities of the Maharashtra legal system has to be explored within the Indian context via the analysis of diverse information concerning the social, political, economic and legal changes in Indian history along with comparative states data. This chapter outlined the context through which the legal system of Maharashtra should be analyzed and allowed the identification of some basic socio-economic factors in Bheema and in Maharashtra necessary to the understanding of the contemporary relationship of the people in Bheema –especially widows – with their property rights. The next chapter presents the methodology I used in order to gather information concerning Bheema’s people’s views on succession and access to inheritance rights.

Chapter 3 Methodology: The Development of a Sociol-Legal Ethnography

3.1 Introduction

In order to understand how Indian women interact with various perceptions of the social order and modes of conflict resolution, it is important to investigate key elements of their lives such as household dynamics, kinship systems, marriage rules, economic resources, inheritance patterns, gender socialization, caste organization and concepts of rights and duties. In addition, to explain access to property rights and the legal system, it is necessary to examine how the social and legal status of women in Maharashtra are changing. Ethnographic accounts provide concrete examples of the way in which women cope with crises during particularly vulnerable phases of their life-cycles, such as widowhood. The complex dynamics of these social and legal processes must be situated in the larger context of historical changes and regional variations.

The second section of this chapter describes the research techniques used during my intensive fieldwork in the village of Bheema. Section 3 briefly discusses ethical issues. Finally, I present particular aspects of the methods used in legal anthropology and how I applied them in the context of my project in Maharashtra.

This thesis draws on data collected through field research in Bheema,⁵⁹ a village in Pune district in Maharashtra, complemented by legal research on statutes, case law, and court procedures. My fourteen months of fieldwork in India were composed of two interrelated phases. The first, starting in March 2001, consisted of intensive ethnographic

research. During the second part, from September 2001 until May 2002, I undertook a legal analysis in addition to ethnographic research. During each phase, I combined ethnographic research techniques with methods generally used by legal anthropologists. These were complemented by various other of data collection, adapted and re-shaped in context.

I stayed in the village of Bheema for four months (March to July 2001), and conducted interviews with 35 women – of whom 14 were widows – and their families. Ten men also participated in my study, which enabled me to further explore nuances of gender issues, married life and inheritance practices. Accompanied by a research assistant, I visited these people regularly during my four months in Bheema and also during the following nine months when I was based in Pune. As well as conducting interviews, I collected life and family histories and some marriage and inheritance genealogies through informal discussions with the respondents. Participant observation provided a way to contextualize the information obtained through talking with respondents. The participants in the study belonged to different castes, classes and age groups and had different levels of education. The widows had lost their husbands to various causes, such as accidents, old age and disease.

The data collected through fieldwork were complemented by legal research, specifically, analyses of statutes, jurisprudence, legislative records, court procedures and cases. Because so few widows go to court to claim their inheritance rights and the *Hindu Succession Act* is seldom used, I found it useful to observe non-widowed women and men in Pune's District Court and Family Court. These court disputes were related to property issues directly in cases of alimony, land partition, pension claims and marriage

registration certificates, and indirectly in cases of separation and divorce. Furthermore, since access to justice is highly procedural, it was instructive to investigate case preparation between lawyers and clients. One lawyer opened her office to me and allowed me to observe her interactions with clients. There, I was able to learn about widows', non-widows', and men's interpretations and understandings of the law, their opinions on whether widows should claim their property rights and their general views on the condition of widows. It was useful to meet with these people to obtain further information concerning their relationship with the legal system, since only one of the widows interviewed in the village had actually gone to court to claim her inheritance rights. To facilitate comparison of the data collected through fieldwork in Bheema, I conducted additional interviews with 30 women (including 12 widows) from several other villages in Pune district. Those women were contacted through women's welfare organizations.

Overall, this methodology allowed me to explore the broader social context of widowhood, the reasons why widows do not claim their inheritance rights under the *Hindu Succession Act*, the factors that shape access to justice, and the mechanisms of alternative conflict resolution.

3.2 Fieldwork in the Village: Dialogue with Dynamic Life Experiences

3.2.1 Finding Assistance and Space

Researchers interested in taking an ethnographic approach to the study of legal phenomena should keep in mind the fact that ethnographic research is more than simply "hanging out" with legal actors; rather, the effective use of ethnographic techniques, like participant observation and interviewing, requires in most cases prior training and careful planning (...) (Strarr and Goodale 2002: 3).

My Ph.D. preliminary fieldwork in 1998,⁶⁰ allowed me to develop a network of anthropologists, social workers and specialists in sociology, economics, education and

law in Pune. Weeks before I arrived, these people started to look for an appropriate rural setting where I could conduct my fieldwork, and a research assistant who would agree to accompany me. Although they had many contacts in various villages, it was not easy to find either the place or the research assistant. However, these obstacles introduced me to underlying rules and values of the Indian society that had remained unspoken during my ten weeks in India in 1998. Given that this time I would stay longer in India, and considering the nature of my research project, their key concern was my safety and that of my future research assistant.

Since I was a young, unmarried, unengaged woman, people were keen that I stay in a safe place. They felt insecure about sending me to a village where they did not know of reliable key informants or a family where I could stay. In general, Indian people feel a great deal of responsibility towards guests; since I was far from my own family and country, they felt that nothing negative should happen to me and that my time in India should be pleasant.

This kind of attention nonetheless made me worry about the feasibility of my project. Some people from mainly urban backgrounds tried to convince me to do my research exclusively in the city of Pune, for reasons of safety as well as access to Western facilities and comforts. In general, most people were puzzled by my desire to stay in a village. Their hesitations and fears were also indicative of the relationship between class and caste, further complicated by the divide between urban and rural areas.

In organizing my research, I was fortunate to be surrounded by researchers who perfectly understood my ethnographic project while also being truly concerned for my

wellbeing. We finally found a 'safe' place for me to stay: Bheema village, thirty kilometres away from Pune in the Shirur Taluka of Pune District.⁶¹ Initially, I was looking for a village of 2000 inhabitants, in which I expected to find a population of about 50 widows. The Indian researchers who helped me to prepare my fieldwork told me that the village would have to be larger to number so many widows. It turned out that Bheema, according to the 2001 census, had 4000 inhabitants and approximately 700 households. There was therefore a good chance that I would be able to meet enough people, and particularly enough widows.

It was important to me that Bheema had had no organization or project directly aiming to educate women about their property rights. Most villages surrounding Pune apparently had some women's health or education programs. Social workers and professionals involved in these projects told me that they have little impact on village life and villagers' habits. Still, I wanted to make sure that the village did not have initiatives such as women's small savings schemes or legal clinics, as these would have a very particular impact on widows' experience and would therefore tie my results closely to the context of those projects.

A few months before I arrived in Pune, social workers from various organizations had stopped meetings in the evening in Shirur Taluka due to instances of looting. This increased concern for my safety. Hence, I stayed in the village dispensary, sharing my room on the second floor of the building with my research assistant, next door to two resident doctors. Young women who were training to be nurses lived on the first floor, next to the small hospital.⁶²

For the people supervising my research, this arrangement was ideal. It also greatly helped to convince the family of a young Maharashtrian woman to allow her to become my research assistant. Mira began to work with me one month after my arrival in Pune. She held a B.A. degree from Pune University and her English was very good. She was not married, which meant she was available to work with me full-time and to stay in the village for four months. This would have been impossible had she been married, because it would have prevented her from fulfilling the duties of a wife. Mira was living in a Pune middle-class area with her parents and grandparents, so their permission was essential. They trusted the person who referred her to me, but due to our living arrangements, they also felt that their (grand)daughter's safety was assured.

3.2.2 Early Days: Defining My Role and Clarifying Mutual Expectations

As soon as I arrived in the village I went to the gram panchayat (elected village council) to show respect to the village's democratic institutions and to tell them why I would be staying in Bheema. That morning, I hoped to meet the Sarpanch (the elected head of the Gram Panchayat), but she was away from the Gram Panchayat (make consistent with capitalization and italics throughout) so I had to wait until the following day. The director of the village school introduced me and my research assistant to the Gram Sevak (village officer). In his office, there were four men chatting with him, along with a couple who had come for a special request. Every matter was discussed openly. Of course, I had expected a rather more private meeting (although not a completely private one).

I presented my project as a study of village life and the changes in the status of women. My topic is somewhat delicate, so I had to be careful in the way I presented it to

people. While I was preparing for fieldwork, Indian anthropologists and social workers recommended that I should not mention my specific interest in property rights. The main reason they gave was that it is such a private question that people, especially men, might be skeptical about the real purpose of my visit. They might think I was going to reveal information to the government or that I was an activist wanting to teach women to be more independent. Besides, mentioning property rights straight away might prevent me from learning more gradually about the culture. In fact, the goal of my research was not only to obtain facts about property disputes, but also to study the environment in which they were evolving. I therefore presented my research to the community in a broad enough way to cover all sorts of issues, including, of course, property and conflict resolution. I also clearly indicated that I would mainly talk to women, so that men would not wonder why I talked to their wives.

The Gram Sevak and his colleagues appreciated that I introduced myself in Marathi, as it showed that I wanted to communicate with people in their own language, not English. This was reinforced by the presence of Mira, who was a Marathi speaker. My Marathi at that time was too limited to get involved in a complex discussion, but they were proud to know that I was learning.

The presentation of my project turned into a very interesting discussion on Bheema's history and social changes and the progress that women had made over recent decades. My interlocutors did not say much about Bheema's social organization. But they were curious to know what my religion was. They suspected – and I confirmed – that I was Christian. After a while, with a broad smile, the Gram Sevak told me that they had no objection to having me in the village. He thanked me for informing him and the village

authorities about my project. They said that if they had seen me roaming in the village with no explanation, they might have thought that I was there to convert people to Christianity. I started to laugh from sheer surprise: evangelism was so far from my goals that it was one suspicion I never expected to have to fend off! As we laughed together, I experienced one of the true traits of fieldwork: unpredictability. It was, in my mind, a pleasant moment because it seemed we understood each other and our respective roles. The Gram Sevak pointed out that he would now be able to tell people who I was, if they asked. From then on, I knew I would be observed by the population of Bheema and I was hoping to obtain the blessing of the village authorities would make it easier for them to accept me in the village.

It was only towards the end of my stay in Bheema that I took in the full significance of the smiles on the faces of the Gram Sevak and the other people in his office. Most importantly, the smiles symbolized the openness and generosity of Indian people towards foreigners who seek to understand their country. This became obvious during the survey I undertook of the village, during which only three out of 150 households kept their doors closed to me. As I will illustrate later, most people not only answered my questions, but were also very generous with their time. Partly, this was because they were curious about me: when I was near the end of my stay, several people, including the Gram Sevak, told me that when I arrived in Bheema people wanted to see how well I would adapt to village life. They doubted that I would be able to live in a place lacking the material comfort and modern facilities available in North America.

The next morning, I went to the Gram Panchayat to meet the Sarpanch. As promised, the Gram Sevak had informed her of my visit and my wish to meet her. Less

than thirty years old, she seemed a little bit shy for a public figure. She was very kind and wished me good luck with my project. Yet, I wondered (silently) whether she, like many of the region's female Sarpanches, actually had little say in the village's decisions.⁶³ Many Indian women I had met seemed to be stronger in character than her.

3.2.3 Participant Observation: Gender and National Identity Issues

Participant observation forms a part of the anthropological approach and differentiates anthropology from other social sciences. It consists of a prolonged stay, often in a village, during which the ethnographer observes the behaviour of the people under study by participating in their day-to-day lives. This research method allows the researcher to gather information about current cultural practices as practiced and also as presented in people. Consequently, it is possible for the researcher to compare data collected through interviews, life and family histories and marriage and inheritance genealogies with the daily behaviour of the people living in a community. In return, as the Caldwells state, the findings gathered through participant observation need also to be 'tested' by interviews and in-depth probing. Observed behaviors also open the door to the discovery of social phenomena that are not mentioned by people explicitly (Caldwells 1988). Overall, this method allowed me to obtain a more all-encompassing portrait of the subtleties of culture in Bheema.

Observation can be participant or passive (Pelto 1978: 68), depending on the situation. Fieldwork is a special period of time during which collected data can be verified through the use of various research techniques, in order to increase the anthropologist's objectivity (Pelto 1978:67) and attempt to reduce bias.

One of the biggest challenges in a complex society like India is to cross the frontiers separating the sexes (Whitehead 1986:8). Since my gender identity was somewhat counterbalanced by my national identity and other personal characteristics, I was able to explore the borders of gender and the allegedly separate spaces they mark out.

Gender identity is difficult to define, because what men or women do varies from one culture to the other, as well as within each culture. For example, as it was outlined in Chapter 2 and as it will be further explored in Chapter 4, due to its specific historical development and socioeconomic indicators, Maharashtra is considered to be more progressive in terms of women's status than northern Indian states. At first, Maharashtra seems to present an easier context for a female anthropologist to live in; throughout my stay in Bheema, I did not experience any kind of harassment. Yet, at the beginning, I had to redefine my gender identity and set my own parameters of what it meant to be a female anthropologist.

As I mentioned above, I rented a room in the premises of Bheema's dispensary, situated at the entrance of the village. At first sight I was not convinced that this place was as secure as it was supposed to be. In practice, this feeling was influenced by the fact that I was destabilized by the rapid cultural adaptation more than by real 'dangers'. I had a distinct impression of being watched, which turned out not to be the fruit of my imagination. But as the following example shows, my initial hunches were misinterpreted.

The first evening that Mira and I stayed in Bheema, we had to go out of the dispensary premises around 8:30 p.m. in order to get some food and various sundry items

for our bedroom. The next morning, the school's director told us that we should not go out after 6 p.m., partly for our own safety, but also to avoid gossip in the village. By warning us, he was trying to make our lives easier. It was not that people were unhappy to see us come to the village, but in order to be accepted, we had to respect its social order. It took some time to learn these rules, both for me and for my research assistant, who was also undergoing the cultural shock of village life. We realized that in Bheema, in contrast to Pune city, few women are present in public places even during daytime. Women come out of their houses at dawn to fetch water from the pumps, filling up enough jars for the household's daily needs, and then, in front or behind their house, they bathe the children and wash clothes and pots. By 9:30 a.m., there are no women visible in the village's lanes, unless they have to walk to a specific place to work in a field or to buy something. I also have to say that I was stunned by the overwhelming male presence; I did not expect to face such a situation only 30 kilometres from Pune. It was uncomfortable and could be almost intimidating. While walking through the village, Mira and I were whispered, keeping our eyes cast downwards. Also, like Bheema's women, we did not roam around but rather went straight from one house to another. In addition, to respect the gendered division of space and time, we decided to conduct our visits in the morning, from nine to one, and in the afternoon between four and six o'clock.⁶⁴

Margaret Mead summarized the gender problems that can be encountered during fieldwork in two ways: firstly, being a man or a woman limits our access to certain information; secondly, the anthropologist's gender influences the way we perceive others (Bernard 1995: 154). However, while gender can create obstacles, it also brings advantages.

Hence, although being a woman imposed some limitations on me, it also opened the door to my understanding of Bheema women's experience of womanhood. Of course, I could not easily reach spaces reserved to men, but this may not only be because I am a woman. Many male Indian researchers and social workers told me the numerous difficulties they faced in trying to communicate with men, which suggests that in India communication between a male researcher and men may not be as easy as between a female researcher and women.

Gender is an important variable influencing the ethnographer's perception of 'the field', but it is not the only one. Other personal characteristics, such as age, parenthood, occupation, level of academic training and nationality may also alter his or her interactions with people, the way he or she observes them and the type of data that can be collected (Bernard 1995: 155).

My gender identity was very much intertwined with my 'national' identity. I had first to distinguish myself from the average North American tourist⁶⁵: the fact that I had been 'adopted' by an Indian family gave some credit to the desire I expressed to 'really live' in India and discover the multiple aspects of its culture. But people were still very much interested in learning more about what they called the 'American' lifestyle: for them, I was an American. I explained that I was from Canada, not the United States, and that my mother tongue was French, not English, unlike most inhabitants of North America. Yet, my national identity was somewhat fixed throughout my journey in Bheema and I remained an 'American', as the following anecdote illustrates. On the morning of September 12, 2001, I arrived in Bheema by bus. During the journey from Pune, various people on the bus came to ask me if my family was safe and in good health,

and when I got off the bus, people still gathered around me asking if my family was all right. They were concerned about whether my family had been affected by the previous day's attacks in New York, and they were happy to learn that all my family was in the Montreal area, 700 kilometres away. Needless to say, such concern was immensely touching.

It is not possible (nor desirable) to eliminate all the personal and social characteristics of the researcher (Bernard 1995: 156). What is important is to strike a balance between the advantages and disadvantages of each research technique, while contextualizing one's observations and analyses through a capacity for reflexivity.

3.2.4 **The Village Survey**

Two days after arriving in Bheema, I began to conduct a survey. Over six days, I collected data from 150 households. During that time, I had a chance to introduce myself to people and explain my project. While conducting this survey, I was also able to talk informally with people about village life, the history of the area and the economic and social changes that had occurred in recent decades. It was also an opportunity for people to inquire about my culture.

The population is spread out over the village centre and across 17 hamlets which are mostly rather far from the village. Initially, I thought that it would be possible to conduct the survey with a team, but it was not to be, partly due to the lack of people available in the area who were sufficiently skilled to conduct the survey. To find and train qualified people would have been time-consuming and would have been an experience in itself. Before I arrived in Bheema I had also explored the possibility of hiring a group of

temporary research assistants to come from Pune on a daily basis to survey the village. The lack of interested people rendered that project impossible.

I quickly realized that it was better for Mira and myself to conduct the survey ourselves so that we could personally meet the people. The trainee nurses also had to conduct a survey of the village at that time, so I went on some visits with them, making it clear to the people that my project was not related to the hospital.

The considerable number of households combined with the recommendations of the village people not to go into far-off fields and hamlets led me to decide to visit only the households in the village and one of the hamlets closest to it. The village itself includes 125 households, of which only three refused to answer my questions. In the hamlet, I visited 25 out of 60 households.⁶⁶ I presented my project to the villagers in the same way as to the Gram Sevak and the Sarpanch, that is, as a study of village life and the changes in women's status. I asked each household the following questions:

- Name of the head of the household;
- Name of the other members of the household;
- Relationship of each member to the head of the household;
- Each household member's age, level of schooling, and job or occupation;
- Land owned, if any, by any members of the household.

People politely answered the questions, but I often felt that they were annoyed by them, although only very few (maybe 10 or 12) showed any direct unfriendliness. Later, I learned that people are tired of being asked these questions, as twice a year a group of trainee nurses conducts a similar survey and also visit houses to give health advice. Some people are understandably fed up with these intrusions, which may explain the indifference and suspicion I sometimes sensed. The people who welcomed me least

warmly (which does not mean they were rude) were the Marathas, who mainly lived in the centre of the village and the hamlet. They were either rich landowners and/or merchants and formed the dominant caste of Bheema and the whole region.

The survey was an excellent opportunity to meet people and find women who might help me. By the survey's end, 20 women had already spontaneously invited me to come back to their houses and had agreed to participate in my research. I counted on the fact that the women would refer me to other members of the community, in a 'snowball' manner – as indeed they did.

It was impossible to tell during the survey whether I would be able to interview men. As they were out of the house all day, I did not meet them often, and I felt that some were uncomfortable with me. Besides which, all except four or five of them seemed uninterested in my research.

There are specific reasons why I did not ask about caste during the survey. In contemporary India, to discriminate on the basis of caste is illegal. In that context, I felt it would have been insensitive to ask about it at the very beginning of my stay in Bheema. Also, I wanted to learn about the subtle dynamics of inter- and intra-caste relationships, and it might have broken too many taboos at once to raise such issues early on. Among themselves, Indians can quite easily recognize each other's caste. First, the family name is a good indicator, although one name can be used by different castes. The specific area, street or lane where someone lives in a village or city is another clue.

During the first few weeks of my research, people seemed to be saying that the caste system had vanished. I took this discourse at face value, rather than provoking the

subtler discussions of caste that would inevitably occur; besides, I wanted to see on which occasions the subject would become 'inevitable'.

Aware of the transformations that had occurred in the caste system over the last decades, I asked Indian social workers and researchers for advice on how to deal with the issue. They were cautious in their responses, but offered this recommendation, which I followed: as far as possible, begin the survey by visiting the area associated with the dominant caste of the village and avoid starting in the area which used to be associated with the lower castes and untouchables. By conducting the survey in this order, I would avoid unduly disrupting the underlying social order. This precaution showed respect for and awareness of the historical processes of power, as did informing the village authorities of my project.

Overall, the village survey allowed me to identify patterns and variation in village households, data which will be presented in Chapter 4. This quantitative information about Bheema's population, such as the level of education and the type of occupation, fills a gap in comparative regional development research by situating the focal issue of study within the larger context of Indian studies. It also allows easier contextualization of the topic in a theoretical and historical framework. Bernard emphasizes that "Quantification is important in anthropology, as it is in any science (...), but all quantification is not science, and all science is not quantified" (Bernard 1995:16). As mentioned by the anthropologist Golde, anthropologists have to be prudent in collecting quantitative data because of different cultural categories. Moreover, communities are often less homogeneous than they seem at first sight (Golde 1970: 223-224). What may

seem like an 'authentic', 'traditional' local site is in fact influenced by a complex transnational process involving global legal, social and economic transformations.

The demographers Caldwell et al. (1988) demonstrate that survey questions are important, but should be complemented by a long stay in the field site that allows deeper probing of cultural categories. The anthropologist D. W. Attwood (1992) has also underlined the necessity of combining quantitative and open-ended ethnographic qualitative methods. "Moreover, the degree to which a researcher employs qualitative or quantitative techniques is dictated in large part by the exigencies of the research project itself, the context of the research, and new questions that emerge in the course of research" (Starr and Goodale 2002: 2).

By combining quantitative methods with a long stay in the village, I gathered a more valid picture of socio-economic variations. This methodological approach is even more important in that my research is exploratory; no similar studies have been conducted in this region.

After completing my survey, I started visiting the households to which I had been invited back. I presented my project again and informed them that everything they said to me would remain confidential and anonymous. Interesting and lively discussions ensued and I realized that the women were particularly interested in marriage practices in my country. They were also happy to talk about how their family and my family were organized. It soon became clear that the core event of a woman's life is her wedding⁶⁷ and that marriage is central to any familial organization or re-organization. Since descriptions of life events were such a significant part of our discussions, I decided to write down specific information to form the marriage genealogies. People seemed happy to see me

taking notes, as they appeared to feel it confirmed that they were directly participating in my study.

3.2.5 Marriage and Inheritance Genealogies

Marriage genealogies present the transgenerational marriage practices of an extended family. They include such data as the year of each family member's wedding, the type of union (preferential or other) and the economic transactions relating to the engagement and marriage ceremonies. At the beginning, I gathered information mainly from the women, but eventually, when men started to participate in my research, I was able to ask for men's opinions and their version of each issue.

I asked village women the following questions in order to construct their marriage genealogies:

1. Where is your natal village?
2. What is the distance between your natal village and your in-laws' village (time by bus)?⁶⁸
3. Was your marriage an arranged or love marriage?
4. If it was not a love marriage, who arranged it?
5. How old were you and your husband when you got married?
6. In which village did the wedding ceremony take place?
7. Is your husband a member of your extended family on either the maternal or paternal side?
8. How many brothers and sisters do you have, and what is their birth order?
9. At what age and in what order did they marry?
10. If any of your siblings live in his or her spouse's village, how far is it from the natal village?
11. Is there any familial relationship between your siblings and their respective spouses?
12. [Questions 8, 9 and 10 are also asked for each of the children of the respondents, as well as for the children of the brothers and sisters of the respondents].
13. Do you think it is an advantage for a woman to marry someone from her natal village?
14. Do you think it is an advantage for a woman to marry within her extended family?

15. Do you think it is an advantage for a woman to live in her natal village with her husband?
16. (If the respondent's husband lives in his wife's natal village) Does your husband like living in your natal village?

The anthropologist Bénéï demonstrated this to be a useful tool in understanding changes in marriage practices and payments (Bénéï 1995, 1996). In Bheema, while discussing marriage, it was interesting to hear that people identify the issue of dowry as problematic – although they do not necessarily talk about their own case. When respondents raised the issue of dowry, I tried to ask as many questions as possible about how it works, how much money is involved, and so on. However, I did not feel it was appropriate to ask about their own case or family anecdotes. Mira and I decided to explore these issues later on during the fieldwork; economic transactions were therefore only added to the relational transactions of the marriage genealogies after a year had passed.

In time, I was also able to complete inheritance genealogies to complement the marriage genealogies, thereby obtaining a detailed view of access to property, especially (but not exclusively) access through succession. The inheritance genealogies provide useful information on the inheritance patterns of female and male members of an extended family, on instances of court cases or other kinds of conflict over inheritance, and on the forms of control exercised over property by widows and widowers. A transgenerational investigation of this kind provides useful information about patterns and variations in inheritance among family members. The two genealogical methods combined also clarify the relationship between marriage and inheritance practices.

The following questions served to construct the inheritance genealogies:

1. Did you or your siblings inherit anything from your deceased mother or father?
2. Did you or your siblings inherit anything from a deceased brother or sister?
3. If the answer to question one and/or two is yes, what was inherited?
4. What did your mother or father receive from his/her deceased spouse?
5. Did any conflicts over inheritance ensue?
6. If any family members received a share in any property, what level of control do they have over it?
7. Was any property divided up between brothers?
8. If yes, what did each family member think about that?
9. If your spouse or one of your children died, who would inherit his/her goods?
10. Who is the current official owner of this land and this house (and other significant property: motorcycle, business, rickshaw, etc.)?
11. Who owns the furniture, cooking vessels, jewelry, clothes, etc?
12. If there was a case of separation or abandonment of a wife in the family, how would the possessions be divided?

The issues raised by these questions are very sensitive, often linked to personal experiences that have been painfully internalized or repressed. In the context where the joint family ideology is ever present, familial conflict is emotionally loaded, and disclosing it implies the capacity to accept practical deviance from a social ideal. Therefore, for the respondents to open up on these issues, it was crucial that they trust Mira and me to keep their accounts fully confidential. A relationship of trust between the ethnographer, her assistant and the respondent can take quite a long time to build, especially when several members of the same family are participating in the research.

One of my underlying objectives in collecting family and inheritance genealogies was to portray kinship networks, if the distance between *maher* and *sasar* influence their practices and the development of their kinship network, and to identify how marriage and inheritance practices affect family members differently. Also, women talked about

various instances of conflict while they elaborated on their genealogies. These concerned disputes over household organization of daily tasks, property rights, or access to resources. Hence, the thirty genealogies also provided information on the persons who are involved in the dispute and the forums of conflict resolution available. Interviews and informal discussions helped deepening our understanding of these issues.

3.2.6 Interviews, Discussions and Key Informants

I used the village survey not only to collect specific socio-demographic information but also to introduce myself, to present my research project and gauge people's first reactions to it, and to chat informally with people on topics such as life in Canada. I could, in theory, have used the socio-demographic data from the survey to construct a representative sample of the people to be interviewed. But this was neither practical nor necessary: by ensuring that I talked to women from every part of the village and of various castes, ages and familial and socioeconomic circumstances, I was confident that I had gained a consistent, representative portrait of life experiences in Bheema by the end of the fieldwork.

During the survey, I identified 36 widows, of whom ten seemed immediately open to answering my questions and participating in my study. Two of these widows were under 30 years old and lived with their mothers. It was very difficult to talk them, as well as to unmarried teenage girls. Being almost constantly surrounded by their mothers or other family members, they seemed to feel shy about speaking with me. Recently married women reacted similarly. This can be explained by the fact that they are new to their marital family, who may well wonder what they could be telling a stranger. As mentioned

earlier, men also seemed reluctant to talk with me. I therefore developed different strategies to approach different respondents.

One of the strategies to become most important was to ask questions in such a way that the person would not feel pushed into talking about a possibly painful life event. During preliminary fieldwork, I had realized that to ask questions directly about the legal system and mechanisms of conflict resolution was not a good tactic, because these matters correspond directly to complex, difficult real-life problems. People are not necessarily interested in describing parts of their lives that they see as problematic and negative; they prefer to project and maintain a positive image of their culture (Brislin 1973: 14).⁶⁹

A more positive approach was necessary in order to uncover all aspects of the legal process, including non-conflictual events. To explore how I should approach delicate issues with people who were not necessarily confident, I raised what seemed like less compromising issues. For example, along with the questions used for collecting the marriage genealogies, I explored the topics of education and employment through questions such as:

1. Do you think that working outside the home changes the status of women inside their home?
2. If yes, what kinds of jobs improve a woman's status (e.g. working in the field, for a big company or in an office)?
3. Is education important?
4. Is it important for both girls and boys to be educated?

Anthropologists mostly use unstructured interviews, especially when they have a lot of time, such as during fieldwork (Bernard 1995: 208). This method also allows for more flexibility from both the researcher's and the respondent's perspective, since the exchange

aims to cover certain themes instead of answering fixed questions, as in structured interviews (Bernard 1995: 237) or covering a list of topics in a specific order, as in semi-structured interviews (Bernard 1995: 209). As Aull Davies rightly mentions:

Interviewing carried out by ethnographers whose principal research strategy is participant observation is often virtually unstructured, that is, very close to a 'naturally occurring' conversation. However, even in such unstructured interviews ethnographers have in mind topics they wish to explore and questions they would like to pose. Thus the ethnographer will tend to direct the conversation with the research in mind, without imposing much structure on the interaction (Aull Davies 1999: 94).

One advantage of this type of interview is that, although people may not directly answer the question, any answer is an indicator of how the question or the topic is perceived by the respondent. Their reactions may also reveal unexpected connections with the research problematic.

On the other hand, unstructured interviews are often considered to lead to situations that are difficult to control (Bernard 1995: 209). That is why I also used semi-structured interviews. This means that:

The researcher goes to the interview with some sort of interview schedule: it may be as structured as a set of written questions or it may be a very informal list, perhaps memorized, of topics. (...) At the very minimum, semi-structured interviewing requires attention to the interview context and the relationship between participants beyond simply what is said. For these reasons research based on this form of interviewing is also sometimes referred to as ethnographic interviewing (Aull Davies 1999: 95).

Key informants helped to confirm whether we were covering the pertinent issues or grasping their complexities sufficiently. As Peltó underlines, the use of key informants has been much criticized (Peltó 1978: 72-73). One argument against their use is the potential lack of objectivity due to the fact that the informant knows what the researcher

wants, especially if the fieldwork lasts a long time. Another criticism is that key informants are not necessarily representative because they have a better knowledge over some issues or they may articulate certain types of questions in a better way than others. A third problem is that key informants may not know their community much better than other people. For example, even leaders do not necessarily know their community very well. Towards many aspects of their own society, informants are often 'marginal' (cf. Rabinow 1977: 73-75).

Aware of these potential problems, I made sure that I could rely on my key informants. I considered my key informants to be the people I visited most often, usually because we felt comfortable talking with them on many topics knew they kept our discussions to themselves. However, after six months, I was able to say that all respondents had become key informants. They were all from Bheema, they were from different neighborhoods and networks and were therefore not necessarily connected. Hence, it was not likely that they would discuss the information they gave me with each other. The variety of their backgrounds led to both the identification of patterns and a holistic perspective on many issues.

Interviews thus allowed me to collect the information necessary for constructing marriage and inheritance genealogies and opened the way for in-depth probing of life and family histories.

3.2.7 Family and Life Histories

Family histories can provide both data for detailed case studies and contextual information on historical trends (Attwood 1992). The demographers Caldwell et al.

(1988: 46) recommend that family history data should be elicited by long in-depth discussions, which helped in collecting data on sensitive issues, such as dowry and inheritance practices in my case.

When I met people, not only were they curious about the project, they also wanted to know whether I was staying in Pune at the University of Pune (with which I was affiliated) or with an Indian family. They also wanted to know what my parents' professions were, whether I had any brothers and sisters and so forth. I had brought photos of my mother's and father's families, which provided them with a tangible sense of my life experiences and provoked interesting discussions.⁷⁰ As we shared information on daily routines in Bheema and 'America', we discovered each others' household organizations, the roles of various family members, the cost of living and suchlike.

Family histories are formed by constellations of inter-relations and life experiences. Life histories reveal people's interpretations of life events and can shed light upon issues such as the dynamics of access to justice. In her study of women's difficulties in using the legal system in Botswana, the anthropologist Anna Griffith relates how life histories enhanced her ethnographic understanding of the legal process. The narratives she presents through life histories

Portray village people's perceptions of law, the circumstances under which they do or do not have access to formal legal forums, and, in particular, the conditions under which individuals find themselves silenced or unable to negotiate with others in terms of day-to-day life. (Griffiths 2002: 161)

Through life histories, she was able to address how gender and power influence the legal process and to understand that there are various forms of power which "differ on the basis of gender, but also vary between members of the same sex and across generations"

(Griffiths 2002: 175). Similarly, life histories, along with family histories, helped me to explain the subtle play of power in Bheema. Observing various interpersonal relations also helped to clarify the complexities of conflict avoidance and conflict resolution.

3.2.8 On Ethics and Trust

Mutual trust is achieved through a dynamic process that is worked out over time. As part of this process, I respected the following formalities to clarify my position towards the respondents, and to conduct my research according to anthropological ethical parameters, as well as those laid out in the *Certificate of Ethical Acceptability for Research Involving Human Subjects* of the *Research and Ethics Board* of McGill University.⁷¹ I obtained research permission from the Government of India,⁷² I made sure that people gave me 'informed consent' to participate in my research, I ensured anonymity and confidentiality of data and I reported on the preliminary results of my study during two conferences in India.⁷³

In order to obtain the informed consent of participants, I presented them with a letter outlining my identity and university affiliation, the topic and objectives of my research and my commitment to confidentiality. The letter also clarified that each question could be answered on a voluntary basis – implying that they could refuse to answer or withdraw from the study at any point. This letter was available in Marathi and English. Most of the time, this letter was read out in Marathi to the participants because they were illiterate or had a low level of education. My commitment to confidentiality was reiterated throughout our meetings.

Consenting to participate in an anthropological study often indicates support for the researcher's overall project. It is therefore the responsibility of the researcher to keep participants informed about the work's progress. Over time, I realized that people appreciated knowing what I would do with the confidential information they had shared with me. As I was not using a tape recorder, I wrote about my meetings with people, with Mira's assistance, when we were back in our room (which served as both bedroom and a study room). When I was collecting marriage and inheritance genealogies I often wrote down dates, numbers and other details provided by the women because it would have been impossible to remember them otherwise. Before taking notes, I always asked the women's permission, reminding them that their anonymity and confidentiality would be preserved. I kept the notes from the interviews and other data in a safe place. The names of the participants never appeared in field notes and I wrote up especially sensitive information in a kind of code.

I minimized risks resulting from participation in my research by keeping participants' identity unknown and the data confidential, ensuring anonymity, and also telling them about the project's progress and getting their feedback. Protecting the anonymity of the people who participated in my research I have modified some information concerning their identities so they would not be recognized by the people of Bheema. I also changed the name of the village. More people are getting an education, learning English. The public nature of the thesis and the publications related to my research create the possibility of persons from the village having access to the study I have conducted there.

“Many individuals find participation in research a positive experience personally in that it gives them a chance to express their opinion or unburden themselves to a sympathetic outsider” (Aull Davies 1999: 48). Therefore, while in the village, I wondered how to create relations with community members without losing my identity as a researcher. To avoid giving women the impression that we were simply chatting, I often gave them feedback on my understanding of various issues and raised topics that I would like to explore further to deepen my understand of the changing status of women.

Overall, as my Marathi improved I found interactions with people more interesting and they could see how motivated I was to communicate properly with them. My efforts to learn Marathi increased their trust in my respect for their culture and their lives. This, along with the precautions we took to respect local authorities, the village organization, and gender roles and spaces, helped the community to realize that they could rely on us. One of the ethnographer’s biggest challenges is to be ‘chosen’ by the community. Trust and confidentiality should not only characterize the relationships between the ethnographer and the research participants, but also the relationship with the whole community or the setting where the research is taking place.

On August 15, 2001, the community showed me that they accepted my research. To celebrate Independence Day, all the schoolchildren participated in a wonderful and well-organized celebration in the village’s square. Under the supervision of their teachers, they presented traditional dances and songs. Trophies and scholarships were awarded to the best students. With no formal invitation, I decided to attend the ceremony, not expecting that the members of the Gram Panchayat and village elders would ask me to sit and watch it with them. Toward the end of the day’s events, a member of the Gram Panchayat gave

a speech on behalf of the villagers, thanking me for having chosen Bheema for my research. Then the Sarpanch gave me a rose and covered me with a shawl,⁷⁴ to the crowd's applause.

3.3 Fieldwork in Court: Observing Claimants, Lawyers and Judges

Anthropologists June Starr and Mark Goodale underline the fact that “[m]any legal contexts today continue to be dynamic or unstable in unpredictable ways” (Starr and Goodale 2002: 2). Therefore, as the context, the place, and the topic of my research, were dynamic attributes of study, they demanded a multi-sited approach. Indeed, I realized that there were some limitations to what I planned to achieve during my research in Bheema. Questions relating to property are very delicate, more than I expected. I knew that my subject was sensitive, but not to that extent. Also, there existed records of only one widow in the village who had gone to court to claim her succession rights. In order to deepen my understanding of women's relationships with the conflict resolution mechanisms and property rights of their country, I had to broaden the scope of my sampling especially with the goal of looking at the formal legal system.

Contextualizing disputes was possible because in Bheema I observed various forms of ‘avoidance of conflict forums’, informal means of problem-solving and law-avoidance strategies. In order to learn more about state law, I opted to explore the following research sites: district and family courts, lawyers' offices, court clerk offices, and welfare organizations. Through those networks, I met with persons from various villages. This multi-sited legal research, the second phase of my fieldwork, started in September 2001.

I completed my intensive fieldwork in Bheema at the end of August 2001. Afterward, I continued to make regular visits in the village.⁷⁵ Over the following nine months of fieldwork, I conducted additional interviews with 30 women (including 12 widows) from various rural areas surrounding Bheema and Pune. These additional interviews added breadth and levels of comparison to the data collected through fieldwork in Bheema. Social workers and village activists informed me that women's situations are comparable in all the villages that surround Pune. With these women, I was able to ask more direct questions regarding property, legal issues and legal cases (if they ever went to court). This accessibility to information was due to the fact that I was meeting with these professional women in less 'compromising' settings. While discussing with them in social organizations, in lawyer's offices or in the corridors of tribunals, it was easier for the women to open up to me because their families were not directly surrounding them. It was in such 'public' spaces that I had the chance to speak most 'privately' with these women. Moreover, by talking to women from villages other than Bheema it was possible to confirm and add elements to the picture of people's interactions with property issues, with the legal system and procedures, as well as how women cope with the 'state legal system'. The interviews in Bheema and elsewhere helped me to contextualize the jurisprudence.

I collected various types of cases to improve my understanding of the cultural context of jurisprudence. My experience in Court enabled me to grasp the subtleties of the social and economic factors observed in Bheema and how, once within the national legal system, they prevent legal reform from materializing. Specific court cases from Pune district and Family Court will be presented in future publications. Yet, Chapter 6 will

discuss aspects of procedural and judicial bureaucratic problems faced by people in Bheema. My findings in Pune courts enlightened my overall understanding of dispute resolutions and also, conflict avoidance strategies used by villagers.

In an ethnographic context, 'case' does not refer exclusively to court cases or jurisprudence. Case method or situational analysis consists in focusing on the actors involved in a dispute "and their patterns of decision-making in a variety of significant social situations" (Honigmann 1973: 275). This method contrasts with classic ethnographies constructed mainly around the accounts of a few key informants. Those ethnographies proposed views on the rules and patterns of social relationships that often lead to "assumptions about the homogeneity and equilibrium of the social systems studied" (Honigmann 1973: 275; see also van Velsen 1967). As Laura Nader points out:

All ethnographic fieldworkers collect cases, no matter what their focus of interest. The basic approach is simply to examine particulars prior to, or as part of, forming generalized conclusions. To date, the most systematic and conscious use of the case method has been by ethnographers working in the fields of law and medicine (Nader 1990: 135).

This method allows the anthropologist to discover the patterns of rules that apply to a particular legal situation, as well as the types of local decisions that would be taken in the same situation (Honigmann 1973: 275). Furthermore, when it is possible to obtain a large number of cases, the material may be used "for example, to ascertain dominant patterns (as in the analysis of statistically large samples), to discover the configurations of cases, or to illustrate particular points relevant to broader analyses (as with the analysis of single cases)" (Nader 1990: 135).⁷⁶

One lawyer accepted to open the door of her office by inviting me into her practice. There, I could observe the interactions between her and her clients (with their consent), and the meticulous preparation surrounding women's claims for rights. Along with two other lawyers in Pune, she clarified the legal jargon and the procedural intricacies of various types of claims. Because the *Hindu Succession Act* is seldom used, I followed cases that were directly, or indirectly, related to property. Hence, in her private office as well as in Pune's District Court and Family Court, I studied cases of alimony in instances of separation or divorce, land partition, pension and marriage registration certificates.

Many legal anthropologists have conducted research "in areas where it is difficult to collect large and consecutive samples of law cases" (Nader 1990: 135). Nader faced situations in her field where there were no records of the case outcome, age of the plaintiff and defendant, or information about most aspects of the case process (Nader 1990: 137). My fieldwork situation was similar. Fully documented cases were nearly impossible to find and rendered quantitative comparison impossible.

As well, it was impossible to have access to all parties of a dispute, contrary to the ideal of the case method. Ethical considerations were the main reasons for this situation.

Legal ethnographers are often, in the course of research, given access to legal knowledge of great consequence for people, and the use of ethnographic methods demands that the researcher carefully consider the impact of the production of knowledge on research participants (Starr and Goodale 2002: 2).

Simply to disclose to the opposite party that I was aware of a dispute would have amounted to a breach of confidentiality and anonymity of the informant. In addition, the person who would have agreed to explain to me the object of dispute would be, at the

very least, fairly uncomfortable to hear that I was meeting with their opponent and this too would have amounted to a breach of trust.

3.4 Conclusion: Linking Village to Court.

Like other research techniques, the case study method cannot be used alone (Gluckman 1961: 14). That is why, in addition to the information collected through the survey, I have accumulated data on family life, village life, the changing status of women, and conflict resolution within the family. In conjunction with various life stories in Bheema and observations in Pune Courts, it is possible to understand the whole dispute dynamic and to elaborate a legal ethnography. "In all ethnographies, therefore, there are a variety of voices in the text: some of them the voices of informants, others the different voices of the ethnographer, who may speak for example as interlocutor, social actor or analyst" (Aull Davies 1999: 221). Thus, it is through this polyvocality that it is possible to present various patterns of access to justice and property rights. In that sense, the polyvocality does not lead to a series of unrelated stories, contrary to Clifford's conclusion that an ethnography is a fiction in the sense of "something made or fashioned" (Clifford 1986a) and that anthropology is an "impossible attempt to fuse objective and subjective practices" (Clifford 1986b: 109). The various types of life experiences and cases collected does not only represent the interpretation of the ethnographer. In her criticism of the postmodernist critics, the anthropologist Charlotte Aull Davies states:

Certainly, critical consideration needs to be given, by writer and reader alike, to the textual or rhetorical devices that are employed and their suitability for the ethnographic purpose at hand. On the other hand we do not have to reject the ability of ethnographic research and its products to reveal much about the social world simply because these products are deliberately crafted (Aull Davies 1999: 214).

The combination of methods used during fieldwork in Bheema and Pune district's judicial system led to the collection of data concerning womanhood and inheritance practices. The next Chapter analyzes the various factors influencing women's lives in contemporary Bheema.

Chapter 4 Daughters, Wives and Widows of Bheema: Shaping Identities in a Transitional Region

4.1 Introduction

As several authors have noted, widowhood can lead to a family crisis that threatens their economic security and the survival of their young children (Agarwal 1994; Chen 1998, 2000; Chen and Drèze 1995). Various social factors influence the severity of the crisis, including age, education, employment, support by adult sons, support from the ex-husband's family, and support from the widow's natal family. How do Maharashtrian Hindu widows (and their children) cope with the loss of a senior male worker and property owner? How, and to what extent, do they take advantage of available legal reforms? Chen's recent book provides a cross-regional perspective on widowhood in seven Indian states (Chen 2000). However, Central and Western India are omitted, thus leaving a gap in the study of widows and property rights in the transitional zone between North and South. My research in the village of Bheema, Shirur Taluka, Maharashtra, will be a starting point in the elucidation of those questions in Western India.

In rural Maharashtra, the household is "a commensal unit, a unit of land use, and a *de facto* if not *de jure* unit of land ownership" (Carter 1974: 90). The goal of this chapter is to portray the household of various subjects in order to understand the creation of security networks. These might shed some light upon inheritance practices, access to property and strategies of conflict avoidance as well as forums of justice. In a context of rapid social and economic change, the study of daughters, wives and widows

demonstrates how characteristics associated with various life cycle events vary according to gender, generation and time. It also reveals how women of rural Maharashtra shape their identity and their daily lives in a transitional region and within households in transition.

4.2 Mourning on the Village Place

One morning in September, two weeks after the end of the Ganesh festival, Mira, my research assistant and I were coming back from a visit and met Arobai, a *Mang* widow. She was sitting under a tree in the middle of the village square. From there, she could see the school and hear the children get excited in their classroom as their lunch break approached. In half an hour it would be one o'clock, and the sun was strong overhead. The Gram Panchayat office was about to close for the day, as were the shops throughout the village. Normally, at this time of day, Arobai was already at home and out from the sun. But on this day, as we approached her, we could see that she was crying.

Karine: *Aji*,⁷⁷ You are sad today. What is happening? Why aren't you home at this time of the day?

Arobai: I do not want to go home. It is empty. My son has gone for work. He is on the road for two days and I am alone. The day after tomorrow it would be six months that my husband died.

Karine: You miss him very much, right?

Arobai: Yes. When my son is there, I have a reason to prepare a meal. But when he goes for work, I have no reason to eat, no reason to eat. [She was still crying very much]

She has only been a widow for six months, and she often cries from her recent loss. Arobai misses her husband and finds it difficult to face life's difficulties without him. On

the day that Mira and I met her, we were able to convince her to go back home. Once in her 'mud' house, she ate a cold *chapati* while sharing her *chaha*⁷⁸ with us. It was the only food she had in her house.

Over the last 15 years Arobai has been working for the Gram Panchayat as a sweeper. Her job consists in sweeping the Gram Panchayat's office as well as the village square. Still, with a salary of Rs 900, she can barely pay for her daily expenses. Her actual economic situation is very precarious partly because her son works part-time, occasional jobs and he generally earns just enough to feed himself. When he has some surplus, he disappears from Bheema with his friends from the village. Together, they roam around in Pune – sometimes for days – spending their money on passing pleasures. His volatile situation not only creates economic tensions with his mother, but it also considerably reduces his chances of getting married.

Another factor influencing Arobai's financial difficulties is that her deceased husband never saved any money. Like his son, he did not have any permanent employment and never had a significant enough salary for him to be able to put any money aside. Yet, he was able to buy the one-room mud house in which Arobai and her son continue to live. In spite of the fact that the title is not officially under their name⁷⁹, it provides Arobai with a secure financial asset.

What does this story tell us about Bheema and, in a larger perspective, about contemporary rural Maharashtra? If I had conducted my research 30 or 40 years ago, I would most probably not have had witnessed the scene described above. That is because Arobai's standing at the centre of the village place is in itself a symbol of the social

changes that took place over the last decades in Bheema. First, it shows continuity and changes in caste organization. Second, it also demonstrates that widows, and women in general, have gained social and economic mobility over the last decades.

In Bheema, none of the respondents I spoke with could remember hearing about cases of *suttee*, not even during their grandmothers' or great-grandmothers' time, although they knew that this practice used to be current in North India. Some women mentioned instances of widows having their heads shaved, but these cases occurred over 40 years ago and mostly to women of Maratha caste (Karve 1936: 48). The practice does not take place nowadays.

I did not observe any widows wearing white saris in Bheema or in any other rural areas of Pune district, contrary to what is found in most northern parts of India. On the other hand, widows' saris are often pale-coloured and of lesser quality than other women's saris. In Bheema, while widows' lives have to be simple and discreet, they do not fit the image of strict social exclusion. Overall, in Maharashtra, widows seem to be better off than in other regions. Widows now wear colourful bangles but other jewellery is rare. The *Mangalsutra*, a woman's bridal necklace, is removed after the death of her husband, and burned with her husband's body. Afterwards the widow will wear a simpler necklace, which is not made of gold. The *kumkum* (the red dot on a woman's forehead indicating her married status) is replaced by a black dot.

In Bheema, women told me that those who lost their husbands over than fifteen to twenty years ago tend to have suffered more restrictions and problems than those who were widowed more recently.⁸⁰ Respondents typically explained this by saying that social

expectations of widows were stricter fifteen years ago or more. Before that, social isolation was greater because the belief that widows were inauspicious was more widely held by family and community members, especially among the higher-status Maratha and Brahmin castes. Since then, however, the status of women in general has improved. For instance, it is no longer necessary for younger women to use the extremity of their sari, called the *palu*, as a shawl to cover their heads in the presence of their in-laws or other older people. Women's status has come a long way since the time when, in order to cross the village of Bheema, they were obliged to walk behind Gram Panchayat office without their sandals and with their *palu* covering their heads.

In spite of the increased mobility of widows, various factors such as patrilocal pattern of post-marital residence patterns and some norms associated to the arrangement of marriage may increase their vulnerability. This is what the following sections propose to explain.

4.3 The Household

The most important group in Bheema is the domestic group (household) or *kutumb*. The *kutumb* is based on agnatic descent: the male heads of nuclear families are agnatically related and are expected to co-operate under the jural authority of their genealogically senior member (Carter 1974: 90). This domestic group often lives together in a single dwelling, a *ghar* (house).

The traditional ideal is that every Hindu and his wife aspire to have a household composed of themselves, several sons, and their wives and children (Shah 1988: 35). The

daughter stays with the household until she is married and afterwards her periodic visits to the natal household are also part of this ideal (Shah 1988: 35). After marriage, she belongs to her in-laws family and, as we will see, the daughters do not want to cause problems to their parents and brothers even after this patrilocal move.

However, very few households achieve this goal for various reasons (Shah 1988: 36). The deviations from the norm are often caused by demographic accident and lack of opportunity (Attwood 1995: 4). First, the couple may be childless. Secondly, the couple may only have daughters. Thirdly, they may only have one son. Finally, even if the couple has many sons, they latter may separate. Indeed, the establishment of separate households by the sons is one of the major phases of dispersal of the Indian family (Shah 1988), although it does not always mean that they have given up joint control of family property (Shah 1974: 30). Even if there are separate households during the parents' lifetime, the sons and parents still constitute a single 'family'. Competition and inequality among brothers may provoke partition (Attwood 1995). "Members of a lineage are supposed to be equal, but villagers are acutely aware that the relationship is fraught with competition and potential hostility" (Carter 1974: 91-92). On the other hand, fraternal co-operation may also lead to greater production efficiency, leading to the expansion of assets (Attwood 1995: 12).

So, like property rights and legal interpretations of succession rights, the joint family has always been subject to regional variations. Various forms of households organization are to be presented through the analysis of marriage practices and siblings interactions in Chapter 4. And as the following table illustrates, 70% of the households

are nuclear and none are organized around the principle of the Hindu joint family, which would consist in three generations.

Table 11: Household organization in Bheema.

	Number of House	Percentage of House
Number of generation of married couple		
1 generation	98	65%
2 generations	34	23%
3 generations	0	0%
No married couple (Widows and unmarried children)	8	5%
Unknown	7	5%
Refuse to answer	3	2%
TOTAL	150	100%

During my survey in Bheema, I identified 32 widows and 5 widowers, which represent respectively 8.5% of the surveyed female population and 1.16% of the male part. The following table highlight in which type of household organization widows live in.

Table 12: Widows and their Households

	Number of Widows	Percent of Widows
Widows living with married children		
one couple	15	46.88%
two couples	3	9.38%
three couples	1	3.12%
Widows living with unmarried children		
one child	3	9.38%
two children	1	3.12%
three children and more	0	0%
Widows living alone	2	6.25%
Widow and widowed daughter and daughter's children	4	12.50%
Widow living with her widowed son and his children	1	3.12%
Two widowed sisters living with the unmarried children (they were married to the same man)	2	6.25%
TOTAL	32	100%

Widows of less than 40 years old	
Living with one child	0
Living with two of their children	2
Living with three children or more	0
Living alone (two married daughters living in their <i>Sasar</i>)	1
TOTAL	3

4.4 Kinship Organization

In Chapter 2, various social and economic variables, along with the geographical position of Maharashtra and its linguistic categorizations, are indications that this state is situated in a transitional position. Organization of the kinship terminology offers further evidence of this transitional position.

According to various authors, kinship patterns in Maharashtra are mostly related to North Indian culture, though the influence of southern cultures is significant in many respects (Karve 1968: 161-163; Carter 1974; Trautmann 1981). As Bénéï demonstrates, both Dravidian and Indo-Aryan kinship terminologies have influenced Marathi kinship (Bénéï 1996). These conclusions should be taken with reservation as there is still no clear evidence concerning the standardized nature of the Dravidian kinship system.

As Bénéï points out, there is a balancing of these two kinship systems from one generation to another, or even within the same generation (Bénéï 1997: 31). The following examples provide an explanation of her findings.

At ego's grandparents' generation, the terminology organization of kinship reflects a southern pattern. That is reflected in the fact that both the paternal and maternal grandparents have the same kinship designation: *ajoba* (grandfather) and *aji* (grandmother). This indicates that, as in the South (Trautmann 1981), and unlike the North (Jamous 1991), there is no distinction between takers and givers of women at the grandparents' generation.

The Marathi term for ego's mother is *ai* and the father is referred to as *vadil*. At the level of ego's parents' siblings, the siblings of ego's father and mother are all designated by different terms: *attyā* (*mawlan*) (father's sister), *culta* (*kaka*) (father's brother), *mawsi* (mother's sister), *mama* (mother's brother). The term *kaka* is also used as the standard term for the mother's sister's husband (as for FB), implying that he is considered like a consanguine to the father of ego, which is the same in the Dravidian semantic structure (Trautmann 1981). It reflects closeness between ego's father's and mother's family. In

addition, it implies that it is possible for two brothers (F and FB) to marry two sisters (M and MZ) – a feature that emphasizes the (southern) closeness of affinal families. Of course this possibility has become quite rare in current practice.

The husband of the father's sister is called *mama*, therefore considered like an affine to ego's father, like the mother's brother (also *mama*). This implies that it is possible to give wives in both directions at the same time between two families: M to F and FZ to MB. The implication is, again, that affines are close and also that they are equal – contrary to the stronger emphasis on hypergamy in the North, where the direction of wife giving could never be reversed between two families in the higher or propertied castes. And of course this possibility has also become quite rare in current practice.

In Marathi, relatives are called *natlag* or *natevaik*. *Natevaik* are of two kinds, *bhauki* (blood relatives - consanguineal) and *soyre* (relatives by marriage (*lagna*) - affinal). On the affines' level, ego (whether a male or a female) identifies the parents of his/her spouse as *sasare* (father-in-law) and *sasu* (mother-in-law). This distinction between ego's parents and the spouse's parents not only borrows from the Indo-Aryan terminology but also a word from this terminology (Trautmann 1981: 115).

In ego's generational age-group, ego's brother is a *bhau* and the sister is a *bahin*. Ego's cousin has a distinct designation depending on the parental relationship of the preceding generation. Therefore, the *culta*'s daughter and son are respectively called the *culatbhau* and the *culatbahin*. The *attyā*'s children are *atebhau* and *atebahin*; *mawsi*'s children are *mawasbhau* and *mawasbahin*, and the children of the *mama* are *mamebhau* and *mamebahin*. All parallel cousins and cross-cousins are considered brothers and

sisters, with special designations for each one. This is a characteristic of the North Indian kinship system (Bénéï 1997: 28). Yet in Maharashtra, unlike the northern pattern, matrilineal cross-cousin marriages are allowed.

Ego's own children will be identified in the following way: a daughter is referred to as *mulgi* and a son as *mulga*. The two following terms apply more broadly – they apply to ego's sister's children and ego's in-laws' children: *bhaca* (nephew) and *bhaci* (niece) are the terms used to identify ego's sister's children (and also ego's husband's sister's (HZ) children). In Bénéï's ethnography, many female informants (Telis, Marathas, Shimpis, Shégar Dhangars, etc.) have said that they consider their sister's children as their own and would call them *mulga-mulgi*, like their own children (even though they usually live in different villages) (Bénéï 1997).⁸¹

The organization of the kinship terminology in Maharashtra shows the transitional position of this State and indicates that marriage practices borrow characteristics from North and South. The Indo-Aryans of the North prohibit cross-cousin marriage, sister exchange, the perpetuation of affinity between two lineages and the perpetuation of affinity by the marriage of consanguines (Trautmann 1981: 24-25). In general, in the North, marriages between parallel cousins (of the same lineage) are prohibited by Hindus, but are permitted, and preferred, by Muslims (Sharma 1980: 7).⁸² Also, in many non-Muslim communities of Nepal, Sri Lanka, or in the North-East or in the South of India, marriage between cousins (but not parallel) is permitted.

On the contrary, Dravidian marriage is characterized by the exchange of 'sisters', if only through cycles of indirect exchange (Trautmann 1981: 24). In southern India, Hindu

tradition not only permits but prefers marriages between uncle and niece. Both matrilineal and patrilineal cross-cousin marriages are allowed in the South (Bénéï 1995: 269).

4.5 From *Maher* to *Sasar*: From the Natal Household to the Husband's Village

4.5.1 On the Importance of Marriage

When I began my fieldwork, I knew that marriage was a turning point for women, men and their respective families. Yet, throughout the fourteen months of my fieldwork, I witnessed diverse aspects of the intricate concerns that surround marriage in rural Maharashtra, from parents' anxiety to find a suitable partner for their daughter or son, to the stress surrounding the adaptation of the *kutumb* to the arrival of a new daughter-in-law, *sun* in Marathi, and her own anxieties.

The women I encountered often broached the subject of marriage with me, even when I did not ask about it. Yet married women and men, as well as widows, were discreet about their relationships with their partners. On the other hand, if they had unmarried children, they were comfortable sharing with me how preoccupied they were to find a good prospect for their son or daughter before the next marriage season.⁸³ I was often asked to explain the prevalence of love marriages in the Western world. Men and women wondered how it is that our marriages do not last if we marry someone we love. I was asked what are the advantages of choosing our spouse if we divorce 'so easily'? Some already had their own explanations: foreigners care so little about their families that they egoistically destroy them without taking into account the needs of their children and parents. This view of Western familial organization – or disorganization – underlines what Indians consider to be their main value: the family.

Within this context, marriage is a turning point in both women and men's lives. Yet, for Hindu women, the particular importance of being married is found in a belief system which stems from classical Hindu sacred texts and mythology specifying that marriage is the only acceptable condition for women. Such a notion is reinforced in Indian society by the absence of an acceptable celibate role model for women (while for celibate men there is the model of the ascetic male). However, in reality few men follow such a model and celibacy is not considered a valid option for either men or women. Upon the death of a man's wife, a widower of any caste background is allowed to remarry however, if he decides not to do so, he will not be socially ostracized because of his 'unmarried' status.

When a woman is widowed, she has the legal right to remarry but the past and current practice is that widows will seldom use this right, for various reasons that will be explored in the next chapter. Although practice of *suttee* in Bheema, and in the nearby areas, was not recalled by the respondents, even in Maharashtra women were expected to remain faithful to their husband after his death. Hence, widows' remarriage is not considered to be a socially acceptable option for widows of any generation.

Patrilocal post-marital residence reinforces the predicaments of a widow, who has to rely on her husband's family members and not her own. Arranged marriages, preferential marriages, the distance and type of post-marriage residence modify the conditions of a woman's existence. Each of these factors will influence the life of a bride within her in-laws' family. Even when women experience difficulties of adjustment, including mis-treatment (psychological or physical) by their in-laws, marriage continues to provide women with their main safety network in contemporary India.

4.5.1.a Age at Marriage

In Bheema, most women are married before the legal age, contrary to the *Child Marriage Restraint Act* of 1978. Similarly, the anthropologist Véronique Bénéï notes that most girls are married before the legal age of marriage while most males get married at about 21 or 22 years old in the village of Keraone, situated, like Bheema, in Shirur Taluka. Article 4 (c) of the *Special Marriage Act* (1954)⁸⁴ stipulates that, at the time of the marriage, the following conditions should be fulfilled: “the male has completed the age of twenty-one years and the female the age of eighteen years.” While the age of majority is 18 years (completed) for both males and females.⁸⁵

In Bheema, through the data collected for the 30 marriage genealogies, I was able to identify a slight increase overtime in girls’ age at marriage, compared to a slight decrease in age at marriage for men. As it will be further discussed, these changes in marriage age, coupled with a decrease in age difference between spouses, have concrete impacts on contemporary marital relationships, households dynamics and widowhood.

Respecting the legal age of marriage for girls is often difficult for parents. Mothers confide that they ‘had to’ marry their daughters before the legal age because ‘people in the villages found that my daughter looked very mature.’ When looking very ‘mature’,⁸⁶ the girl is more attractive in the eyes of both men (possible suitors) and parents, along with other members of the community. The fear, shared by community members, that runs alongside an observation that a girl is ‘attractive’ is that she will lose her virginity before she is suitably married. Girls are expected to behave with a great amount of discretion. At any time, the neighbours might suspect her of having ‘an affair’ if she

laughs with, or simply speaks to, a young man regularly. Such gossip can ruin a girl's reputation and thus compromise her parents' ability to find her a husband.

And indeed the effects of gossip can be violent. A few months after I arrived in Bheema, a young girl burned herself to death after being subjected to a rumour. The official version of her motive to commit suicide was that she could not bear the gossip surrounding her. People in the village were saying that she had an 'affair' with three boys in Bheema. Villagers started to be suspicious of her behaviour because she was often seen laughing with the boys in question. Knowing that she could not find a husband because of the bad reputation linked to her and, consequently, to her family, she felt that she had no other choice than suicide. Indeed, she felt this way even though she had just completed her 12th grade (high school) and was planning to continue her education. Her death was never investigated by police officers.

If education does not prevent suicides such as the one mentioned above, it has nonetheless been proven to have a positive impact on the increase in age of marriage for women and men. In their research in Karnataka, Caldwell, Reddy and Caldwell (1988) provide three reasons to explain this trend of women's increasing age at the time of marriage. The first reason is that girls are more educated now than in previous decades and therefore more often choose to marry after they have completed their education. The second reason is that boys are also more educated than in the past and they are less accepting of a very young bride, as her youth will be equated with immaturity (Caldwell, et al. 1988: 89).

So, despite an increase in the age of marriage, many women (and sometimes men) marry before the legal age. How is this possible? According to national law, a marriage must be registered, yet illegal marriages occur often and the authorities turn a blind eye to the situation. Indeed, in India, marriages are almost never registered, so it is very hard to prove officially that one is, in fact, married. In addition, while polygamy is illegal, because his first marriage is not registered, the second one cannot be proved to be illegal.

If a couple has married outside the realm of an arranged marriage, they are more likely not to have contact with their parents and to live far from their natal village in order to avoid being caught in a violent feud with their families, who will wish to regain their good reputation. Indeed, a family will be ashamed of the elopement of a child who had a love marriage. It considerably affects the reputation of the whole family, as the parents will be seen as being bad parents. If they have other children, it will be much harder to marry them because of the bad reputation of the family. Due to the lack of contact with her *maher*, the woman in a love marriage will not have the possibility to leave proofs of her wedding (certificate or photos, etc.) in the safe hands of her parents, as she would probably have done in the case of an arranged marriage.

4.5.1.b Types of Marriage

Arranged marriages are the norm in Bheema, while love marriages are exceptional.⁸⁷ The mothers with teenage girls whom I interviewed were preoccupied with the worry that their daughters will fall in love with a young man. Arranged marriages are often precipitated because the girl (or the boy) is in love with someone and threatens to elope.

In most cases, women accept having their parents arrange their marriage. And the meaning of arranged marriage has changed over decades. Women married 35-40 years ago might not have met their husband before their wedding, or they might have met him once, and then only briefly. Now, the situation is different for young brides and grooms. Not only they have seen their spouse-to-be many times before marriage (accompanied by chaperones), but they have also had a chance to veto the proposed marriage. This implies that now arranged marriages are not completely imposed upon the young couple.

When a girl turns 15 or 16 years old, her parents will start, if not actively searching for a future husband, at least becoming aware of potential prospects. The same will happen when the boy is 19 or 20. In Bheema, if parents are anxious to marry their daughter as soon as she turns 18 (or a little earlier), they are also worried about their sons. Jobs for men (especially younger men) in Bheema are scarce and men often do not have the experience or proper training to obtain a job in Pune city. Without employment – and financial security – the possibility of finding a wife is quite low. Young men are under a lot of pressure to obtain work and, as much as possible, to hold their job, not only to make some money but also to show that they in their role of potential husbands are hard workers and able to carry responsibilities.

Karine: Have you found a wife for your son?

Kavita: We have started searching. He has just turned 20, so next year he has to get married.

Karine: Why exactly next year?

Kavita: It is not good to keep our children unmarried. We all have to get married! The sooner the better! But my son is not having a permanent job. He applied in companies and at government offices. But there are no jobs.

Karine: What is his level of education?

Kavita: 8th degree.

Karine: Do you think he will find a job?

Kavita: Now he works part-time in a company. But any day he can lose his job. No family will accept to marry their daughter with a man who can not feed his family. He has to work hard. But my son and his friends do not have full- time jobs. During their spare time, they take bad habits and they roam around.

Karine: Are you worried about that?

Kavita: It is a lot of tension for me and my husband.

Kavita searched for a suitable Chambar girl for her son without success. She often discussed the tension she felt from this situation with me over the course of the year I conducted fieldwork in Bheema. When I left, her son had not yet found either employment, or a wife. His older sister had been married for five years and he was his parents' only other child.

If a young woman must show discretion, politeness and the ability to cook, keep house, and raise children, a young man also endeavours to display positive attributes. His reputation must be good: he should not be a womanizer or have 'bad habits', such as indulging in drinking binges. Over the year I was in Bheema, I witnessed many young men between 18 and 23 years old - from families where the father did not have a drinking problem - who began to experience trouble with alcohol addiction. Facing a range of economic uncertainties, these young men are under a lot of stress. Yet the young men's over-consumption of alcohol often created a vicious cycle. Life stresses would bring them to drink. But the home-made alcohol they imbibed, often manufactured from fermented

crops, led to such serious alcohol poisoning that at times the men were unable to go to work even when they were able to obtain it, and consequently were fired.

To find a suitable match for a young girl is difficult for her family, and it can also be quite complicated for the boy's family. This was the case for Lalou, a young Gosavi man aged 21 years old. His parents were eager to get him married, but he could not find a girl he wanted to marry. Under the pressure of his family, he finally decided to consult an agency to help him find a bride. He met one girl after another. However, Lalou became discouraged because he was unable to find a girl he that liked enough to marry. For instance, if he met with a girl that he found attractive, she mightn't have a high enough level of education. Or else she might be attractive, but from too poor an economic background to consider marrying. His friends and brothers continually teased him by saying that Lalou wanted a Bollywood star with a university degree! His friends considered him too demanding, especially because he only held a 10th degree diploma. Lalou was desperate to find a good wife, and he found the search period very difficult. On an emotional level, he also felt badly for the girls he would meet once, and then reject as potential wives. "I feel bad for those girls. Some are good girls, but not for me. I feel like I am doing shopping. But they are not objects." Ultimately I was to discover that Lalou got married a few weeks after I came back to Canada. The last time that I spoke with his mother over the telephone, she was getting along well with her new *sun* (daughter-in-law). And she is relieved that her son is married and that he is now the father of a young baby. After meeting more than 100 young women over a period of 6 months, it seems Lalou finally found his match.

Girls and boys' reputations are collected and reported through a complex network involving close families. The *mawsi* (MZ) will be actively involved in arranging a marriage, and the *attyā* (FZ) can also be involved. Gradually, after months, if the search has been unfruitful, the network grows larger up to the point that neighbours will also participate.

Perceived as unreliable, love marriages are generally not considered the ideal, even by the younger generation. Contemporary youths rely very much on their parents to tell them which partners will suit them best and would be the most adequate to raise their family with. It should be clear here that in rural Maharashtra, the goal of marriage is to have children, reach the ideal of a joint family and perpetuate the father's name. It is not to fulfil individual needs, but rather to respect one's *dharma*. *Dharma* is related to one's purpose in life and its duties.

In Bheema, I encountered few love marriages, and yet they were possible due to the final approval of the mates' parents because each partner were respecting the conditions described below: caste endogamy and good reputation. In only one case, the parents and the community did not approve of the marriage, but came to accept it with time. Not only was it a love marriage, it was an inter-caste marriage between a Brahman woman of a neighbouring village marrying an ex-untouchable man from Bheema. They had met while they were both attending the same College in Pune. Ten years ago, their marriage provoked a real commotion within the village because of the taboos surrounding inter-caste marriage. Nowadays, the woman lives peacefully with her in-laws and the situation is not openly problematic in the village. Yet an inter-caste marriage would still cause social upset if it were to occur again.

4.5.1.c Caste Endogamy and Preferential Marriages

Bheema villagers were very explicit concerning the caste endogamy rule. In Maharashtra, the marriage has to respect caste endogamy and *devak* (clan) exogamy (Bénéï 1997: 33). The *devak* is the symbolic object of a clan, which symbolizes it as an exogamous entity. In most castes of Maharashtra the marriage should take place outside the *devak* (Bénéï 1997: 271). In Bheema, some *devak* are symbolized by mango leaves, axes, or sandalwood trees. Some women referred to *devak* as their main god. If a boy and a girl have the same *devak* they are considered to be almost brothers and sisters. That is the same thing for the surname – if it is shared by a man and a woman, the couple cannot marry.

Interestingly, when we were discussing the organization of marriage, the issues of *devak* exogamy and the surname exogamy were not raised. I had to ask questions to follow up on previous readings concerning the issue. As it was, older generations were more informed about *devak* than younger people were.

In the past, the preferred marriage in Maharashtra was a marriage with a matrilineal cross-cousin (Bénéï 1996; Carter 1974; Enthoven 1922a, 1922b; Karve 1961, 1968; Orenstein 1965). That is, a young man would wed the daughter of his maternal uncle (*mama*). This arrangement existed in all Hindu castes, including the Brahman caste (Bénéï 1996; Enthoven 1922a & b; Orenstein 1965).⁸⁸

In Bheema, I found three such cases. Those three couples were married over the last eight years, or less. One of these couples are Gosavi and they had been married four years at the time I was in Bheema. They did not yet have children. Sangita had had three

miscarriages, the last one obliging her to go the dispensary in order to obtain specialized treatment. Like many women, she was rendered weak by anemia and she did not have the strength to carry a baby to term. Only a few days before Sangita suffered her miscarriage, Mira and I chatted with Sangita about her pregnancy.

Sangita: I feel very weak, very tired. I am sick every morning and the rest of the day I feel bad.

Karine: Do you have help from your *sasu* and her daughter?

Sangita: Yes. They let me rest when I need it. My *sasu* is very kind. She is my father's sister you know.

Karine: Her brother is your father?

Sangita: Yes. It is awkward, no?

Karine: You feel that?

Sangita: Yes. You see, my husband is my cousin. I have known him all my life as my cousin. And suddenly he is my husband.

Karine: Could you give your opinion about the marriage?

Sangita: Yes. My father asked if I agreed with that. But how can I say no to my father? He did so much for me and my elder sister and my younger brother. I could not refuse. I like my husband, but I feel shy about the situation.

In Maharashtra, the preferential marriages were not obligatory as they are not always feasible. In Keraone village, between 1948 and 1992, no more than 11% of marriages conformed to the ideal of a preferential marriage (Bénéï 1997: 33).⁸⁹ In Bheema, I met a few instances of these preferential maternal cross-cousin marriages among older couples. In practice, such a marriage is not always feasible, mainly due to the fact that there is not necessarily an available maternal cross-cousin to marry a potential

groom. The preference for a maternal cross-cousin is therefore much more a part of past Maharashtrian ideals than it is of any observed reality today (Bénéï 1995: 268). In a study conducted in Karnataka (Conklin 1973: 59), 75% of Hindu females within the community acknowledged that they were unable to marry a cross-cousin because there was no such living relative available, and 20% of Hindu males could not marry under the guidelines of a preferential marriage because there were no women of similar age available.

While marriages within the extended family network are found in Maharashtra and South India (Srinivas 1984: 8-10), many factors demonstrate the diminishing popularity of such marriages. The Caldwells offer three reasons for this decreasing trend (Caldwell, et al. 1988: 87). The first reason is the rising cost of a dowry. People are not comfortable asking for a high price from close affines. The second reason is that it is easier to find a partner who will match the level of education of one's daughter or son, as well as the wealth of one's family outside the extended family network. Finally, with the arrival of modern scientific thought and theory, people are beginning to believe that children born from close family ties might be more prone to sickness.

Marriages between cross-cousins are considered advantageous for women because the bride will be living with her aunt and uncle (MacLachlan 1983: 45). However, when I was discussing the possibility of cross-cousin marriage with women in Bheema, they were not particularly enthusiastic about it. More precisely, they generally did not consider that marrying close affines provides as many advantages as has been presented in ethnographic literature. Their opinions do not mean that the reported advantages are completely absent. Rather, the reactions of women I interviewed towards this type of preferential marriage confirms the diminishing popularity of such marriages.

Also, women and widows who were married according to the preferential marriage did not feel that their positions were more advantageous in their in-laws' *kutumb* compared to women married outside their extended family. One of the women felt that they were less protected if married to close affines because, as she said: "How can you complain against your family? If they do not treat you well, your *ai-vadil* will feel bad to complain to your *sasu-sasare*." As Kavita, puts it:

Kavita: We got our daughter married to my husband's sister's son. We did it because she asked us to. She wanted to marry her younger son. We agreed because we wanted to keep good relations with her. But it became worse. So never get your daughter married within the family.

Karine: I do not really see why.

Kavita: It spoils the relation between brother and sister. If you are married outside family, you can tell everything to your in-laws and they can also say everything to you.

In the context of the present research, what is interesting in such comments is that overall, whether they are married according to the preferential marriage or within the extended family, women do not feel that there are less conflicts within the *sasar* or that there will be a better network of forms of justice in cases of conflicts.

4.5.1.d Post-Marriage Residence

Patrilocal post-marriage residence is especially prevalent in north India, but is also the norm in Maharashtra as well as in southern India.⁹⁰ In the South, there is a tendency to marry in or close to the bride's village. In Bheema, the rule is that after her marriage, a woman leaves her *maher* (the household of her father and mother) and join her husband's house, the *sasar*.

In Bheema, the vast majority of marriages respect the patrilocal residency. For women, that is the 'Indian way'. People never mentioned that sometimes the husband comes to live in his wife's natal village. Unexpectedly, out of the thirty marriage genealogies I collected in Bheema, I identified six *ghar jawai* (literally "house son-in-law"), men that lived in their wife's *maher*. These instances were found in the Maratha caste with two such marriages, two cases were Mang, and two Kumbar.

In any case, uxori-local residence (residence with the wife's kin) is uncommon and considered undesirable. It does happen in order to adjust to various life and economic circumstances (Attwood 1992: 35). This was therefore a delicate issue to raise when discussing with women because it is a marginal residence pattern. Once I became close enough to the women of the uxori-local households, we were able to discuss the reasons why they were in such an exceptional position. The answer was similar in all cases: because their husbands worked in Bheema or closer to Bheema than their natal village. This answer was doubtful at first because job opportunities in Bheema are scarce. Most men living in their wives's *maher* were working as agricultural labourers, or as temporary workers in companies situated many kilometres' distance from Bheema. However, as Shirur Taluka is considered economically poor, it is possible that in their natal villages, men were facing even more financial problems than in Bheema. It is important to note that these men were among the younger brothers in their families. Hence, the land in their natal village, which may range from a few to dozens of acres, is under the control of their elder brothers. Conflicts over land management and partition of land are an important reason why younger brothers often leave their father's household. By living away from their land, the brothers may lose control over their potential property rights as they were

all from families with many brothers who would inherit only small bits of land after its partition. Their wives all had brothers who did not necessarily propose any occupational activities. Only in one case the Kumbar *ghar javai* helped his wife's parents and brothers-in-law, but he and his wife live separately from her family.

It was intriguing for me to hear women say that living in their *maher* with their husband after marriage was not facilitating their lives. Although they do not have to live with their in-laws, uxori-local residence in Bheema is not considered to create a space of avoidance of conflicts with their husbands. Instances of wife-beating are part of daily life in most households. Do brothers, living side by side with their sister, come to her rescue when she is being beaten by her husband? Does a brother interfere to reduce conflicts among spouses? Not according to the women I have met in Bheema, such as the Kumbar Sangena, who told us that she has experienced violence in the past.

Karine: Did your brother or father do something?

Sangena: No. They did not talk to my husband. They do not want to interfere.

Karine: Is it always like that?

Sangena: One night, they heard me and my husband arguing very loudly. They are four houses from here. They did not come. They know that my husband is sometimes violent. But what can they do?

Another example is that of Soulouchana, a Mang, who lives in her *maher*'s village with her husband and three children. Although she lives only a fifteen-minute walk from her parents, she only visits them approximately once every two weeks and her father,

mother and brothers do not visit her more than once or twice a year. When she does visit, her husband does not accompany her.

Karine: Why don't you go more often to visit your parents?

Soulouchana: Why would I go more often? I do not want to impose myself.

Karine: Do you feel that it is easier to live in your *maher*?

Soulouchana: Not really. It is not good to stay in our *maher* after our marriage. It looks bad.

Karine: Do you feel more safe in your *maher*?

Soulouchana: It is nice because I know more people

Karine: If you have fights with your husband, are your parents or brothers intervening?

Soulouchana: No. I have to cope with it.

4.5.1.e Distance Between *Maher* and *Sasar*

One day, I asked Lakshmi and her husband, "The anthropological theories consider that it is easier if the *sasar* is close to *maher*. What do you think?" They replied, "Yes, it is true if the daughter is not having money, the daughter can travel more easily if she is close to *maher*."

According to the data found in Bheema, northern large distance patterns seem to be stronger over the past decades. In my marriage genealogies sample of thirty women, all of them came from natal villages located more than 15 kilometres from Bheema. In most cases, their *maher* was 30-35 kilometres from their *sasar*, with two cases where the

distance was of approximately 150 kilometres, and another where the young bride was from Bombay.

Women indicated the distance between their *maher* and *sasar* mostly by the time it takes by bus to reach their *maher* when they visit. A trip of 30 kilometres by bus costs approximately 20 rupees. If we consider that a woman working as an agricultural labourer is paid 30 rupees a day (50 to 60 rupees for men), it is a very expensive visit. The cost of travelling partly explains why most women do not visit their *maher* more than two three times a year, and then mainly for such important festivities as Diwali and Bhaubies (to be discussed further). A girl's parents visit her in her *sasar* even less often.

The distance between *maher* and *sasar* is considered to enable women's living conditions after marriage.⁹¹ In the 1950s and 1960s, average distance between *maher* and *sasar* in rural Maharashtra is reported to have been approximately 8 to 15 kilometres (Malhotra 1980; Rao & Chowdhury 1988).⁹² In East and South India, the distance between inter-marrying villages is smaller: between 0 and 8 kilometres (Claus 1972; Epstein 1973; Ishwaran 1968).⁹³ In the North, a marriage may be made from villages over 16 kilometres apart from one another (Agarwal 1994).⁹⁴

4.5.2 From *Maher* to *Sasar*: 'Anandi Kay Ahe?'

For women, there exists a great difference between one's natal and marital families, while for men there is no such distinction (Sharma 1980: 19). The adjustments a married woman has to face in her *sasar* are more numerous than if she stays in her *maher*. Women's living conditions with their in-laws depend on several factors. When women

are married at a later age, they will be less vulnerable in their *sasar* than a female who is married in childhood or in her teenaged years. The advantage of a woman marrying at a later age is, for her husband, that she will have a more mature behaviour. However the rest of his family may find, as a result, that she is also less malleable (Caldwell et al. 1988: 83). When a married couple lives in the same *ghar*, the new bride must adapt to her *sasu*'s habits of household management and food preparation. In Vaishali's case, as in many others, she feels that even after five years of marriage, her *sasu* expects her to do a great deal of housework. Vaishali feels that she has to bear the burden of being the only *sun* and she is frustrated at being treated as a servant in spite of her high education. Vaishali hopes that her husband's younger brother will marry in the near future because at such a time his new bride would be able share the housework with her. However, Vaishali mentioned that would only be so if they get along well. Otherwise her problems would only be confounded.

One might wonder what the role of the bride's natal family might be after her marriage. According to Hindu ideology, the natal family has a long-term responsibility in ensuring the well-being of their daughter (Raheja & Gold 1994: 83-85). Yet there are certain families where, apart from gifts, women receive little support from their natal family after their marriage or even after the death of their husband (Basu 1999: 136; Jeffery et al. 1989). However, a number of studies on Hindu women's relationships with their natal families emphasize women's defiance of this notion that they have cut their natal family ties and indeed affirm that they retain profound emotional connections with their family (Jacobson 1977: 276-277). These links translate notably throughout the

brother-sister relationship, as it will be presented in the discussion on widowhood and inheritance practices (Goody 1990: 178).

The long-term responsibility of a woman's *maher* members exists only if their daughter performed the arranged marriage they agreed upon. It is a tacit cultural agreement. Younger women, more aware of the reality of love marriages, were consistent in their perception of arranged marriages: if they do not work, you can ask advice or help from your parents and brothers because they arranged it at the first place. Like Nanda, they feared that if you have a love marriage, you are fully responsible for it. In a context where job opportunities and salaries are low, and where social welfare, pension plans and other social security measures are seldom available, the family remains the core social and economic safety net. This is the case in spite of the limited contacts a woman may have with her *maher* due to the distance between *maher* and *sasar* and the willingness of her in-laws to allow her to visit her *maher*. Also, if a bride's parents wish to visit with their daughter, they will need to seek the approval of her husband or else her in-laws.

In some cases, the *maher* may serve as a refuge. Alkamawsi's daughter came with her son to stay for a period of four to five days at every festival. As a battered wife, living in a very poor household, she told me that her *sasu* is relieved when she is not home. Although she is like a servant in her *sasar* and therefore helps enormously with cooking and cleaning, her husband and his parents do not accept her ways to do housework. Her husband wishes to remarry in order to get a better dowry than what his actual wife's parents could provide him and his family with.

To visit her *maher* is risky, because while she is absent arrangements for her husband's second marriage can be made. If this were to happen, she would be forced to fully rely on her *maher*. Her understanding parents have always welcomed her. Many times Alkamawsi told Mira and me that she worried for her daughter. One day, Alkamawsi, a Kumbar woman, was preparing special *papads* and food. Knowing that no festival was coming soon, I asked the all-smiling Alkamawsi what was the special occasion. At first, she said that nothing special was going on. But after few minutes she said that her daughter was coming the next day. Knowing how much she and her husband loved their daughter, I commented, "You must be very happy". A moment of silence followed. She stared hard at the cooking stove fire, and whispered: "*Anandi kay ahe?* [What is happiness?]" I returned the question, and she said that to be happy you need good food, a roof, good health... and happiness for all your children.

In this thought, '*Anandi Kay Ahe*' resides the dilemma of women's emotional ties between *maher* and *sasar*. Even women whose *sasar* is in the same village as their *maher* feel that they do not belong to their parents' family. When they talk about their *kutumb*, they refer to their *sasar*. On the other hand, the *sasu* and *sasare* will not consider her as their *mulgi* (daughter) but as their *sun* (daughter-in-law).

It is important to understand why certain families treat their daughters-in-law well, but the ethnographic literature provides few examples of good relationships between a woman and her *sasu*. In such villages as Nangal and Qaziwala (in the North, in the state of U.P.), several women have said that they prefer living in an enlarged household because they would bear less responsibilities (Jeffery et al. 1997: 205). Similarly, in

Karnataka all women do not experience great conflict within their husband's family (Caldwells 1988).

As well, in Bheema, most women living with their *sasu* have adjusted to their *sasar*'s life. Of course, it is easier if they live in separate houses. That is so even if they are living in *ghar* next to each other. Cooking separately reduces the amount of conflicts (proving the old adage 'too many cooks in the kitchen' true!), and makes it easier for the wife to participate in household management alongside with her husband.

When the new bride joins a household where her *sasu* is a widow, the tensions may be lessened because, the widow will not have the same power as a married woman. In Bheema, 47% of the thirty-two widows, identified during my village survey, live with a married son. Another 12.5% share their house with two or three married sons. That is, a total of 19 widows were living with one or more married sons. While conducting my survey, the widows were always identified as the head of the household. In fact, while a widow might retain some decision-making power in the early stages of her son's marriage, her influence on household organization reduces rapidly, especially after the *sun* delivers her first baby.

Within that household dynamic, what are the experiences of the *sasu*? The adjustments experienced by widows are well expressed by Arobai. Her son of 23 years old was not yet married, and, although she was very eager to fix his situation, she often cried, out of fear that a future *sun* would not like her. She was concerned that her son and his wife would kick her out of the house and that she would have nowhere to go.

Many non-widowed mothers-in-law also encounter problems such as disputes over housework, how to raise children, etc., with their daughters-in-law. In these cases also I tried to ask how they deal with such conflict. It is very difficult from outside to evaluate who has the most accurate version. But in practice, conflicts occur over perceptions of reality and personal experiences more than over any 'real' sequences of facts (or events).

The delicate situations experienced by every member of the household, although at various levels (emotional, social, economic) create potential for conflicts, but mostly of conflict-avoidance.

4.5.3 **Hunda: The Issue of Dowry**

The issue of dowry (*hunda* in Marathi), that is the money and goods given by the bride's parents to her in-laws at the time of a marriage, is a complex issue and relates to various aspects of (Indian) social life. In this section, we will briefly examine how *hunda* is pertinent to a woman's position in her *sasar*. The dowry is usually practised in areas where the post-marriage residence is patrilocal. Yet the most significant factor is whether marriages between close affines is socially allowed. When marriage between two families of close association (such as in a case-cousin marriage) is possible, the dowry is less prominent an issue because it is more difficult to demand a dowry from a family member. In the North, not only are marriages made from greater distances than in the South – notably from outside of the bride's natal village – but also, the alliances between the families of both spouses do not last over generations as, indeed, they do in the South. In India, the practice of dowry became associated with hypergamy.

Links are therefore very strong between affines in the South, especially as they live at close distance. The strength of familial ties in the South explains in part the fact that dowry practice is less important there, as the marriage becomes equivalent to an exchange between two close families, which diminishes the need for a monetary gift. Similarly, Adams underlines that in Bangladesh, the distance between the woman's birth village and her husband's village very much influences the practice of dowry (1993). Such relationships between patrilocal residence, marriage within family and the occurrence of *hunda* are also pertinent in rural Maharashtra.

There is also another dimension to the visits of a daughter to her *maher*. In Uttar Pradesh, the Jeffery et al. heard testimonials from parents who asked their daughters to visit them less often as they did not have the means of satisfying the eventual requests for money or goods of their daughter's in-laws (Jeffery et al. 1989: 222). When I asked mothers why they had to comply with their daughter's in-laws' requests, either at the time of the wedding or over the course of the marriage, they said that they were all concerned about the well being of their daughter. To avoid ill-treatment of their daughter and conflict with members of her *sasar*, the parents will try to fulfill any demands. When it is not possible, they prefer to reduce the contacts with their daughter in order to avoid any tensions and fights with their daughter's in-laws. Such a situation is not easy for them because, in spite of the ideology in which a woman's family after marriage becomes her *sasar*, she does not cease to have feelings for her parents, and they also continue to care and worry about her.

Dowry does not seem to empower women or increase their bargaining power with their in-laws as this practice is associated with those regions of northern India where women's disadvantages are always greatest.

4.5.4 How a Child's Gender Affects the Mother's Condition

In Bheema, many families will continue to produce children until they have at least one son. While a woman will not be ill-treated or ostracized because she does not have a son, a couple will nonetheless, in all probability, continue to have children until a son is produced. Sterilization of women often takes place only once the couple has a son, as most women and men interviewed in Bheema confirmed.

The status of the young bride changes after having given birth. This change is particularly striking when compared to the position of unmarried girls or to the vulnerable position of new bride in her *sasar* (Basu 1999: 60). A woman's children thus forge a certain type of security for her. The chances are that her husband's family will better respect her, especially if she gives birth to a boy (Jeffery et al. 1989, 1997).

Low sex ratios indicate that female children are more likely to die than their brothers, due to poorer nutrition and health care. They also indicate the growing effect of sex-selective abortion (which is illegal but widely practiced), made possible by pre-natal ultrasound testing.

The preference for boys is strong in the North of India (Jeffery et al. 1989, 1996; Miller 1981; Wadley 1994) as well as in Maharashtra (Poitevin 1985). This preference

has several impacts. First, the boy represents, in the long-term, a greater security for women. That is especially so when a woman becomes widowed.

Second, in Bheema, as in northern India, it is the daughter's family that must come courting for her husband (Wadley 1994: 241). According to the Caldwells, one of the reasons for this growing disadvantage of girls in Karnataka, is that the rapidly spreading - and escalating - practise of dowry (which is illegal) creates a heavy economic burden for families (Caldwells 1988: 103). This is also the case in Maharashtra. Daughters are thus viewed as the greater burden as their families must accumulate a large amount of money to provide *hunda* for a daughter's marriage. It may take years for a family preoccupations for her family to gather the appropriate amount of money for the *hunda*, the marriage expenses, the gifts to offer to their extended family and to their daughter's in-laws. In case of financial need, the girl will have to leave school to find a job to save some money for her wedding. Male children are not the cause of such concerns because they remain with their parents after marriage and because the dowry comes with the bride (Wadley 1994: 238). Formerly, the groom's parents often paid a 'brideprice' in Maharashtra, but this is not longer widely practised.

For the reasons just outlined, it is not only men who push for having a son. Hemant's story illustrates this point. Hemant did not wish to have a second child. His first child was a daughter and he was very happy with her arrival to his family. He wished her to get a high level of education, he is hoping that she will even complete a university degree. Hemant felt that if he and his wife concentrated their time, energy and money on their girl, she would have as many chances and possibilities in her life as any boy. When we were having lunch together at his home, Hemant told us that his wife wanted a second

child because she wanted to give him a boy. He started teasing his wife, saying, “After this, you can not say that I am not a good husband!” Hemant had adopted many of the more progressive views in Indian society and was actually realizing projects in the village to help poor children and women to access education. Hemant himself has a university degree in Commerce, which is unusual in Bheema.

The ideas of this man of 35 years old illustrate how education may have an impact on fertility rate and sex equality of children. It is even clearer when we compare it to this Kumbar of thirty-eight years old, whose education is of 8th degree. Madan has a daughter of nine years old, a boy of seven and a girl of four.

Karine: Do you wish to have more children?

Madan: My wife does not want to. She wanted to stop after two. But I wanted another boy. Instead we had a girl. She was supposed to be a boy. I want another child.

Preference for a son does not mean that parents are all unhappy when having a daughter. This may be partly explained by the help that daughters provide in cooking, housework, and child care. An elder daughter is often an important care-giver for a son.

4.5.5 Marital Relationships and Household Formation

The set of norms influencing household composition is summarized by Shah as being “the principle of the residential unity of *patrikin* and their wives” (Shah 1974: 16). In such a context, what is the place of the couple? Ethnographers have touched very little upon the couple question, emphasizing, rather, relationships between mother-in-law and daughter-in-law.

The husband is always older than his wife: 29% of the couple in my village survey had a five year difference in age, and 20% have an age difference of 3 or 4 years. Only eleven couples had an age difference that ranged between 11 to 15 years, and four couples have 16 to 20 year gap between the age of the husband and his wife.

Table 13: Age Difference Between Spouses.

	Number of person
AGE DIFFERENCE	
0	2
1	0
2	6
3	21
4	20
5	50
6	9
7	19
8	7
9	5
10	29
11 to 15	11
16 to 20	4
No data	11
Total	202
Percent	100%

As in other parts of India, the difference in age between a husband and his wife has diminished in Bheema over time (see the following table). For the age group where the husband is 46 years old or more, 36% of the couples have a age difference of 5 to 7 years and 35% fall within an 8 to 10 year age difference. Within the next younger cohort (where the husband is 31 to 45 years old), 49% of couples have an age difference of 5 to 7 years. The major shift is found within the third younger cohort (where the husband is 30

years old or less): in this age group, 50% of spouses have a 2 to 4 year age difference, 42% of couples have an age difference of 5 to 7 years, but only 8% have more than 8 years difference between them.

Table 14: Comparative Table of Age Difference Between Spouses

	Number of couples		Number of couples		Number of couples	TOTAL
FIRST Cohort		SECOND Cohort		THIRD Cohort		
(Husband of 46 years and more)		(Husband of 31 to 45 years old)		(Husband of 30 years old or less)		
Age Difference		Age Difference		Age Difference		
0-1	0	0-1	2	0-1	0	2
2 to 4	2	2 to 4	13	2 to 4	32	47
5 to 7	19	5 to 7	41	5 to 7	27	87
8 to 10	18	8 to 10	20	8 to 10	3	41
11 to 15	5	11 to 15	6	11 to 15	0	11
16 to 20	3	16 to 20	0	16 to 20	1	4
No data	5	No data	1	No data	1	4
Total	52	Total	83	Total	64	199
Unknown						4
Percent	26%		41%	Percent	32%	100%

As demonstrated at the beginning of the chapter, most households in Bheema are formed by nuclear families (the husband, the wife and their children). Consequently, the conjugal couple have more say in decisions made on a number of questions previously dealt with by extended family in the past, such as questions regarding the number of children to have (and when), sex preference, and the economy of the household.

Husband and wife relationships were summarized by Sangita: "Things won't change. It is like that only. Your husband goes to work in the morning. You prepare his food. When he comes back at night, he beats you. Whatever you do, it is like that." Three

other Mang women were present when Sangita spoke and they agreed with her, adding that violence connected with their husbands' drinking problems are not only frequent but increasing in occurrence. Women do not drink and are expected to bear this type of behaviour from their husbands. Women of other castes had similar views on the often powerless dynamic that exists between a wife and her husband.

In spite of potential ill-treatment, a woman considers her husband to be her protector (Ahuja 1992: 72), and I should add that she depends on the security network she weaves through her marriage with him. Moreover, marriage is essential for a woman's status to a greater extent than it is for a man. Therefore women are extremely reluctant to break that link.

In Bheema, I did not encounter cases of formal divorced women, but there were a few women deserted by their husbands who had returned to their *maher* in Bheema. In those cases, the women were very discreet concerning the circumstances of their cases. Also, it was difficult to approach them as their mothers, with whom they were living, would be the ones talking to us, leaving little room for their daughters to speak.

In the Bheema sample there were two cases of women who had deserted their husbands. This was the case with Ratna, who left her husband because she was violently beaten. Her own sister, who was married to her husband's brother, died due to such violence. Ratna came back to her widowed mother's house with her children. Ratna strives to make a living and, most of all, to gain some respect from her own father's *kutumb*. Similarly, Pranita had to join the house of her widowed mother because her husband contracted AIDS. In the latter case, Pranita not only has to face the difficulties

that come from the fact that she is not staying with her husband but she is also ostracized because the villagers know her husband suffers from AIDS.

4.6 Sisters and Brothers: Sibling Interaction

When marital relationships are causes of insecurity at material, social and emotional levels for women, and when the life in the *sasar* becomes unbearable, what are the roles of sisters or brothers? What are the relationships among brothers and sisters?

Competition among brothers and sisters may occur over inheritance, as will be explained in Chapter 5. Relationships between brothers and sisters are a neglected area of study by anthropologists, in spite of the fact that a woman's experiences over the course of her life cycle often depends on the possibility of her relying on help from her brothers, as well as her sisters.

Brothers and sisters are considered to form a privileged relationship throughout India (Eglar 1960: 80). Women consider that it is important to have a brother. One of the reasons is because it is the surest link between a daughter and her natal family after her marriage (Karve 1953: 177-78). This is not because the sister can often go back to her *maher* to see her brother or that he comes to her *saser* on a regular basis. However, when they visit with one another, brothers will offer presents to their sisters. In Uttar Pradesh, the brother's importance is reflected in the rituals linked to the mourning of the brother, which are similar to the rituals of mourning a husband (Raheja 1994: 34).

In Bheema, some women mentioned that their brothers bring gifts during times of important ceremonies over the course of their lives (cf. Kapadia 1995: 20-26; Agarwal 1994: 260-268). In rural Maharashtra, among the most important moments of the year are Ganesh festival, Rakhi Purnima, and Bhaubies during Diwali. Bhaubies is very significant for women. When I asked various women what Bhaubies consisted of, they were very excited to present it as a moment when their brothers will call them to their homes, will offer them saris, flowers, and generous hospitality – ideally for many days. In return, women bring sweets for their brothers. Women are very excited because it is an occasion to wear their best saris and jewels and to put flowers in their hair. But most importantly, it is an occasion for the brother to show how much he appreciates his sister. Women have high expectations for this festival. Weeks in advance they hope their brothers will call them to stay at their house. If this social obligation is not fulfilled, women feel a great deal of sadness. It is expected that a brother should at least visit his sister for Bhaubies, and bring her a sari.

From what I observed in Bheema, the brothers are much less diligent in celebrating Bhaubies compared to the extent to which women celebrate Rakhi Purnima. On this occasion, it is the women who offer gifts to their brothers. The sister ties a bracelet to her brother (and often also to her *culat bhau*) to symbolize the tie between sister and brother and to ask for his protection. In return the brother offers a gift to his sister. Women respect and practice Rakhi in a very systematic way. In the difference in the extent to which Bhaubies and Rakhi are practiced, I saw a sign of the higher necessity for women to have protection from their brothers than the reverse.

The common explanation in Bheema of the origin of Bhaubies reveals the protective role of the brothers. According to legend, long ago, a king in Rajasthan was attacked by his enemies. The king said to his army that the enemy was very strong and they did not have enough arms to fight such an enemy but that still, they must strive to defend their kingdom. The king's wife tied bracelets on the wrist of each soldier before they set off to battle. Also, she applied *tika* to their foreheads (before going to war, wives perform a purification ritual for their husbands known as *arti*). The queen told the soldiers that from this time on, they were no longer simply soldiers or servants but like her brothers to her, and asked them to please save her husband and the kingdom. And the king and his soldiers won the battle against the enemy.

The observance of Bhaubies shows that it is also important for a man to have a sister (Jeffery et al. 1996: 46). In Maharashtra, and notably for the Marathas and the Shegar Dhangars, the sister has a role to play in relation to her brother's children (Bénéï 1997: 39), during her brother's wedding ceremonies (Bénéï 1997). A sister may even help her brother find a bride. When I interviewed men about their relations with their sisters, they were happy to talk about them. One told me that he is helping his sister financially because her husband is drinking so much that she barely has money to buy food for the children. In the same vein, Suraj has visited his sister's husband, who, after just a few months of marriage, wanted to break his promise to let his wife work as a nurse at the hospital. Suraj was successful in convincing his brother-in-law to let her work.

There are other reasons for a man to want a sister. Because she marries out of the *maher*, the sister creates a network that may help her brother to find a job or other types of economic contacts outside his home village. Moreover (depending on the location), a

sister's *sasar* may provide a residence for the brother's children when they need to attend a better school.

To what extent do brother and sister relationships (or the absence of it) influence widows access to property? Do all the factors related to marriage practices have an impact on widows? How is it not to have a husband?

4.7 From *Sasar* to Widowhood

Vidhya, a Kumbar, lost her husband three years ago. Like the other widows of the village, she wears a few colourful bangles. A simple black necklace replaces her *mangalsutra* (the black necklace with black pearls worn by married women), which was removed and burned with her husband's body. Her *kumkum* (the wife's red dot – or *bindi* - on the forehead) has been replaced by a black *bindi* to mark her status as widow. For weeks, Mira and I visited Vidhya every day. She welcomed us from the very first time we met. Long hours of discussions, chats, and numerous laughs were shared with her. While she was working on her sewing machine, she asked questions about 'my' marriage system, my family and 'my' country.

One day, I asked Vidhya what changed after losing her husband three years ago. She answered, "Since I am a widow, I cannot wear the same saris and I miss wearing my jewels as before." As I observed with other widows in Bheema (and overall in Pune District), her saris are light in colour, and of muted design. Gold or red colours, or complex patterns, for instance, would not be found on a widow's saris. Often, widows' saris are made of cheaper material than those of married women from a similar economic background. Contrary to other parts of India, especially in the North, widows' saris will

not be strictly white, and their heads are not shaved. When I asked Vidhya why she could not wear bright, colourful saris, and some jewels, she said, "People will talk. I am afraid of what people will say. My behaviour should be good." When she told us that, we were, as usual, sitting in her house along with three other of her female neighbouring friends. Hence, as other women from the village, Vidhya and her friends all think that a 'widow's behaviour' has a significant impact on how she experiences the loss of her husband. When I asked what they meant by that, it was difficult to obtain clear answers. The first thing they underlined is that widows should be nice to other people in the community. They added that she should maintain a good reputation. Having observed the fragility of widows' status and the gossip that may affect their reputation, I understood these comments to mean that widows should avoid any appearance of improper behavior with men. Fancy saris can be considered to be too attractive for a widow, whose appearance should be simple and whose sexuality should be restrained. A discussion of clothing is really a discussion of morality and especially the social reminder that widow's sexuality must be controlled.

All these elements are very important for Vidhya. From early morning to late at night her house is open while she works on her tailoring business. The clients, who come and go all day, respect her because of her good work and her discreet behaviour. Although she lives alone – her two daughters are married – she is rarely alone with clients, as she receives almost constant visits from female neighbours. She chats with her female friends as she works and receives clients. In this way, her capacity to retain her source of income depends on the protection of her reputation provided by her neighbours. What also helps is that when male clients come to pick up clothes, they do not enter her

house at any time. She brings the clothes outside and makes sure that they also pay outside. The transaction is then a public one, with nothing to hide or to be ashamed of. Her social acceptation in Bheema depends on an implicit, fragile, and constant negotiation of her place in Bheema. On one hand, the fact that she is now a widow overrides the fact that she is back in her *maher*. On the other hand, the fact that she lives in her *maher* may facilitate long term friendships.

According to my sample in Bheema, 75% of widows were 50 years old or more. Twenty-two percent of Bheema's widows fall in the age group of 30 to 49. Only 3% of widows are less than 30 years old. Throughout India, the frequency of widowhood has diminished over the recent decades, in part due to longer life expectancies for both men and women (Chen & Drèze 1995: 2436). Also, instances of young widowhood have declined because women are now older than before at the time of marriage, and the age difference between spouses is less (Goody 1990: 207).

In Bheema, I did not encounter any remarried widows, although it is not necessarily perceived as being a wrongful practice. Rather, most women feel that it is not an alternative for them, as one husband is enough. Married women perform various rituals and conduct fasts to ensure the well-being of their husband and there are annual rituals aimed at asking various gods to have the same husband for seven lives. I asked women if they really wanted to have the same husband for many lives even if their husband did not always treat them respectfully, or if their husband was sterile. The common answer was that maybe another husband would be worse. Men do not have rituals and fasts aiming at the well-being of their wives and marriage with the same woman during many lives. I discussed that with some married men and they did not know the rationale behind the

absence of such rituals in men's lives. Overall, they felt that if they live a good life, they would have a better wife in future lives. This could also happen in the current life, if they remarry after they become widowers.

4.8 **Conclusions - The Maharashtrian Household: the Real Security Network**

While every person is differently affected by the contingencies of life cycles, a global analysis of the lives of the respondents gives us some indication of which life events and circumstances influence their access to property and other resources. As it will be analyzed, certain beliefs and local practices associated with widowhood in Maharashtra affect the chances of widows gaining economic security and/or setting out to claim their inheritance rights. The next chapters will discuss how local beliefs and practices influence women's perceptions of the national legal system, their use of its alternatives and how access to justice, economic resources, and education are related.

Chapter 5 Property Rights and Inheritance Practices in Bheema

5.1 Introduction

The house is now empty. Three weeks ago, it was still a joyful house, where both husband and wife, belonging to the Mang caste, raised two daughters, encouraging them to study so they would not be financially dependant on their future husband and *sasar* members. Overnight, everything changed. After being hit by a car while coming back from a day of work, the father, Suhas, was hospitalized in Bheema's dispensary. The next morning, the severity of his condition led to his transfer to a hospital in Pune. Due to complications, he died forty-eight hours later. At forty-one, Anita is now a widow, in charge of Sunita, aged 14 years old, and Manjita, aged 17 years old.

The last time I saw Anita, she was a defeated woman, mourning the terrible loss of her husband, and anguished over the financial crisis into which she, her husband's brother, and his son were precipitated because of the costs of the hospital bills and death ceremonies. She had no idea of what she would do. "I do not know what will happen to me and my daughter. We lost everything. Everything."

Later, when I saw her empty house, it had a large, metal padlock on the door. I was shocked. Arobai - a friend of Anita's - told me, "Anita had to go to live with her sister. She left by bus with her daughters. They only had one bag each, nothing else. They are not coming back." That was the end of 18 years of marriage, 18 years of life in her *sasar*.

I asked Arobai, “What will happen to the house? She owned it with her husband.” Arobai answered, “No one wants to care for her in Bheema now. That’s why she left for her sister’s place. Her brothers-in-law will rent out her one room house [here] to get some money [for themselves].”

This is what happened. The house was rented after few weeks, and Anita never came back to her *sasar*. Anita’s story illustrates the precarious position of a widow in her *sasar*, the importance of brothers and sisters, and the difficulty to access her property, in spite of official title. It is the interplay of all these factors that will be explored throughout this chapter.

5.2 Inheritance Genealogies: Official Title and Control over Property

5.2.1 Widows’ Awareness and Understanding of Inheritance Rights

In the case of intestate succession, the *Hindu Succession Act* confers to the widow a succession right in her husband’s property. For example, if a Hindu dies intestate leaving a son, daughter and widow, the property will be divided in three equal shares. When I started my fieldwork in Bheema, I did not expect that women and men would know the specific rules under the HSA. In any society, citizens rarely know the specifics of a law unless they are confronted with the legal system. Bureaucrats and court officers are there to explain the content of an act and how an individual’s rights can be claimed. Yet, to know that they have some rights in their husband’s property does not guarantee that they will claim their inheritance rights. Legal awareness is the first step to ensure that people will claim their rights.

In Bheema, only one widow went to court to claim her inheritance rights. For various reasons that will be explored throughout this chapter, women do not see the advantages of claiming their inheritance rights. The following examples show that women in Bheema are aware that they have some rights to property, such as inheritance rights, but they may not know exactly what their rights consist of. Also, as Sangena's case below illustrates, women may know that they have rights to property, but without knowing the procedures for claiming these rights, they lack the means to do so.

One day Mira and I were visiting Sangena, a woman of the Kumbar caste. She was excited to speak with us, explaining, "My husband and I just bought a piece of land. We will build a house there." After nine years of marriage, they were achieving a dream. With three children, it is not easy for a couple living in a nuclear family to save money, and to this end Sangena occasionally worked as an agricultural labourer, while the children were at school. When I asked Sangena if she had an official title to the land, we had the following exchange:

- Sangena: My husband bought the land and signed the paper. I do not need to sign them because I am married to him.
- Karine: So you also own the land?
- Sangena: Yes.
- Karine: Because you are married, you are automatically entitled to the land and your future house?
- Sangena: Yes. It is like that, it is the law.
- Karine: Well, I hope it will not happen, but what if your husband dies?
- Sangena: Same thing, I go to court and they will give me the title of the property.
- Karine: Do you have a proof that you are married?

Sangena: [Laughs.] Everyone in Bheema knows I am married! Why would I need to prove it?

There are various elements of interest in Sangena's understanding of her property rights. First, she is aware that if she were to become widowed, she would have rights to her husband's property. Yet her knowledge of her rights ends there. Some of her misinformation includes the following. First, she has the impression that you can prove your marriage by hearsay, because people in Bheema know that she is married. In fact, she needs more than that to prove to the pertinent administrative authorities or to the court that she was her husband's official wife. Sangena possesses wedding photos, ration cards and photos of her children, which she keeps locked in a cupboard for safekeeping. These photos and the ration cards (indicating her name, the name of her husband and the names of their three children) may sufficiently prove their marriage. But what would really facilitate her potential claim to her husband's property would be to have an official marriage certificate, which, like most women in Bheema, she does not have.

Second, a widow does not have to go to court to obtain her inheritance. The HSA can be implemented through administrative paperwork, as long as the widow has control over the above-mentioned documents. As will be explained in Chapter 6, however, such administrative procedures may take a long time, might cost money, and may also involve a certain level of education due to the complexity of their requirements. Yet, at this point, what is important to note is Sangena's belief that she must claim their inheritance rights in court. This would true only in cases contested by members of her *sasar* or by her own children.

When I asked unmarried or married women, as well as widows, the general question of whether widows have a right to the property of their husband, the majority of them answered that it was possible after his death. Only two widows, who belong to the age group of 60 and more, told me that they did not know about their rights. One of the Maratha widow, Aji, said, "Why would I have a right to my husband's land? I am a widow now. No one cares about me. I do not know about law." Aji is approximately 70 years old and her husband died around 10 years ago. Her life has greatly changed since her husband's death and her journey through widowhood will be discussed in the next section.

Before asking the 35 women I interviewed in dept to explain what their inheritance rights were (or how they perceived their rights of succession), I asked them to tell me if it was law (*kayada*) or tradition (*parampara*) that gives widows rights to the property of their deceased husband. Only one widow of around 40 years old said she did not know. Three other respondents said that it was a tradition. All the other respondents (31) said that it was the law, without naming the *Hindu Succession Act* (1956). Two of the three respondents who said that it was a tradition were over 60 years old. When I asked for how long succession had been a tradition, two said that it was there since the Independence of India and the other said that it has always been like that.

The understanding of the law also differs from person to person. When the respondents were asked for how long the law on inheritance had been present, four different answers were suggested: since 4 or 5 years ago, since 10 to 15 years ago, since 40 years ago, and since Independence. For most widows, it was not clear whether they had an automatic succession right to the property of their husbands' or if they had to go to

court. After some hesitation, a majority of widows thought that it would be necessary to go to court in order to obtain a share of their husbands' property.

Throughout the discussions, it was never mentioned that the law divided property between the widows and her adult children (sons and daughters). Moreover, the possibility of making a will was never raised. No one said that a will could change the legal situation and, therefore, deprive a widow of her right to property. Another interesting finding is that Buddhist women of Bheema were unaware that they fell under the Hindu laws.

Overall, women knew the main principle of 'the law' that provides them with inheritance rights. However, their very limited knowledge of the necessary parameters of the law and surrounding bureaucracy is one of the factors explaining why they do not claim their inheritance rights.

5.2.2 Who Has the Official Title to Your Property?

Although the widows I interviewed were mainly of poor and middle-class economic backgrounds, all of their husbands possessed some property: either land, a house, a shop or a business, savings, furniture, etc. Section 14 of the *Hindu Succession Act* states that any property, movable or immovable, possessed by a female Hindu is held by her as 'full' owner and not as 'limited' owner, as it used to be until 1956. Until then, under traditional Hindu law, a woman did not have a full interest in the property, which meant that she could not dispose of and control the property as she desired. The HSA provided women with the full right to ownership, not only a limited control over or right of usufruct of the

property. To what extent do women in rural Maharashtra benefit from their ownership rights?

It is in this context that we will observe how widows situate themselves in terms of inheritance rights. In Bheema, out of the 14 widows from whom I collected stories, 4 claimed to have received their share of the property of their husband (house or land) after his death. However, according to the official records I could consult, only 2 Maratha widows (aged over 60 years old) are the official owners of the houses in which they live, and none of the 4 women officially own any land.

In the first case, Tarabai, a Maratha widow, told me that she is 60 years of age, or perhaps older, and that she lost her husband about fifteen years ago. Tarabai is the official owner of the house in which she lives alone because her only child, a son, lives far away. Her in-laws, who possess 80 acres of land in one of Bheema's hamlets, built a house for her in the village many years after the death of her husband. She told me that her three brothers-in-law gave her her share of her husband's land. However Bheema's land records do not confirm this particularity of her ownership rights. Tarabai has stayed in her *sasar* throughout her widowhood because her in-laws accepted her well and because she did not have support from her siblings. She did inherit some of her husband's property, although not her full share. Yet her situation is much better than that of other widows. Tarabai is not obliged to work, unlike other widows of her generation. However, the good relationship she maintains with her in-laws depends on the fact that she does not ask for her full share of property, as well as the fact that she does not live with her in-laws. Tarabai's is an uncommon example of a working compromise between a widow and her in-laws.

The other Maratha widow obtained her house from a special governmental program designed to help the poor by building them houses for which they will be the official owner. She was already a widow when the house was built and, therefore, it was she that became the sole owner of the house, and not the unmarried elder son with whom she stays.

I will briefly outline the stories of the two other widows who asserted that their houses were in their names - and yet whose claims were not confirmed by official records. I must stress that they were truly convinced that they had a title of official ownership. However, after I looked into the village records, I did not inform them of my findings. It would have caused them, at least a certain level of insecurity, and in the worst case, it could have provoked conflict with their *sasars*.

One Mang widow believed that her name as the sole owner of the property of her deceased husband was automatically registered at the Gram Panchayat office. After her husband committed suicide 10 years ago, Shilpa was left in a position of extreme poverty and bearing the full responsibility of her son and daughter, who were, respectively, aged 16 years old and 13 years old at the time. Here is part of our dialogue.

Karine: Are you the official owner of your house?

Shilpa: Yes. It belongs to me. When my husband died, I became the owner.

Karine: Did you have to do paperwork to have an official title in the house?

Shilpa: No. When my husband died, the Gram Panchayat knew about it. I told them. Then they put my name as the only owner.

Karine: Did they give you a paper, a proof of your ownership?

Shilpa: Why would they give me that? I do not read. I have no education. I know they did it. And I pay all taxes.

There are two interesting comments worth underlining here. First, in a village like Bheema, the Gram Panchayat is rapidly aware of everything happening within the community. However, the mere fact that this village institution knows about someone's death does not ensure the registering of the widow as the owner. Administrative procedures must be done in order to officialize the changing of title. Yet Shilpa, like other widows, continues to pay taxes on property she may not be on record as owning.

The second point of interest lies in the trust Shilpa puts in the Gram Panchayat. Other women also showed similar confidence in what the Gram Panchayat would do in terms of administrative paperwork. Their reactions are mainly explained by their lack of education regarding the limited powers of this institution. The widow herself must initiate the paperwork. Also, men are the ones that generally take care of such matters. Thus when a woman loses her husband, she relies on the male members of her *sasar* to take care of administrative work and she does not wish to interfere in order to avoid conflicts with them.

The fourth widow who believed that she was the official owner of her house is Krishnabai, a Maratha woman approximately 65 years old. Her story is uncommon. Here is an excerpt of a discussion we shared on the subject.

Karine: When did you acquire this house?

Krishnabai: That was the house of my uncle and aunt. My *mawsi* [mother's sister] and her husband adopted me when I was four years old because they had no child and my mother, who was very poor, had four daughters. They raised me like their daughter. I got married and stayed in my *maher*. I lost my husband a long time ago [thirty-five years ago]. My daughter [her only child] was young at that time. I had to get her married in my *mawsi*'s house [her daughter moved to her *sasar*'s house at this time].

When my uncle and aunt died I stayed here because they gave me everything.

In other words, she was adopted because her *mawsi* did not have a son. Yet, the village records do not mention her as a house owner. Instead, it is her (deceased) *mawsi* and her husband who are still officially registered as the house owners.

It also happens that some widows do not know who owns the land of their deceased husband. That was the case for Aji. In the previous section, we mentioned that she did not know if widows have a right to husband's property. When I asked her about her particular situation, she said that her four sons probably have an equal share, but that maybe only her elder son holds the official title. Aji stays with her sons, but in a separate house. She wishes to cook separately from her daughters-in-law because her *suns* are impolite and rude with her. It seems that only some of her grandsons are helping her financially. Hence, she is obliged - despite her age - to work in others' fields in order to feed herself. That is despite the fact that the joint family property represents 80 acres of land, one house of three rooms, and five houses of one room each. Also, the family possesses two bullocks and they raise 15 to 20 chickens:

Lack of practical knowledge of their rights and of the concrete procedures to enforce them are important facts that may explain why widows do not claim their inheritance rights. Also, a widow will not wish to create conflicts with her *maher* and *sasar*. This consists a core factor explaining why widows may not wish to claim their inheritance rights.

5.2.3 On the Importance of Siblings

A woman's security network is forged around her marriage. At the beginning of the present chapter, Anita's experience of the loss of her *sasar*'s support after the sudden death of her husband shows some of the problems faced by widows as they seek to keep their relationships with their in-laws intact. Anita could have inherited a one-room house, and Aji could have inherited her share – one-fifth (one-fifth for each of the four sons and one-fifth for her) of the 80 acres of land owned by her deceased husband. Whatever the amount of property is, the difficulties face by widows of Bheema to obtain a share in their deceased husband's property are the same. Also, the cases under examination confirm that the living conditions of a widow in her *sasar* remains difficult, thereby justifying her need to avoid conflict.

Yet this does not mean that widows leave their *sasar* after the death of their husbands, as it is not considered proper to come back to stay in *maher* after widowhood. During one of our conversation that took place before she lost her husband, Anita expressed her desire not to go and live with her brother. Part of our dialogue went as follows:

- Anita: My brother would be good to me, but it would create tensions with his wife.
- Karine: What type of tensions or problems?
- Anita: See, if I go to live there with my two daughters, he will wish to help them for education. Then his wife would say that there is no more money for the education of her own children. If he wants to go to see a movie with his wife, my brother will feel bad not to bring me. But if I go, his wife will be angry with me. It is not good for them as a couple.

The discussion I had with Anita revealed the extent to which competition among women is a crucial element in a widow's access to property, which is a symbol of both material and social security. Her story also demonstrates that co-operation among sisters may help widows to survive the crisis caused by the loss of their husbands. Rejected by her *sasar*, and not wanting to cause trouble for her brother because of tension with his wife, Anita went to live with her married sister. This is an exceptional case of co-operation between sisters. It is exceptional not because sisters do not want to help one other, but because they are generally constrained by the fact that each depends on her *sasar* for access to resources.

For Vidhya, who has no sisters, it was her brothers who helped her. At the end of the previous chapter, I outlined how Vidhya needs to maintain discreet behaviour as a widow was presented. Here is the second part of her story, which demonstrates the interplay between her brother's support and absence of support from *sasar*.

When we arrived in Bheema, Vidhya had just seen to the marriage of her youngest daughter and it was a major relief for her. Her main preoccupation at that time was that her elder daughter, who had been married for two years, had not yet been able to bear a child. The elder daughter's in-laws were pressing Vidhya to pay for her daughter to have medical examination in order to ensure that she would produce offspring. Vidhya said, "How can I pay for it? I do not have enough money for myself and all my savings were used to marry my younger daughter!" I asked her, "What about your in-laws? They cannot help you?" Vidhya smiled sadly, "What about them? They were even not helping my husband when he was alive!"

Her prosperous brothers-in-law do not help her at all financially, although she is still in contact with them. Yet she does not go visit her *sasar*. Situated 30 kilometres from Bheema, she cannot afford the bus ticket, which costs 46 rupees, the equivalent of three or four days work for her. Her mother-in-law comes three or four times a year to visit her. Vidhya says of this situation, "My *sasu* is nice, but her sons are not." Yet she hopes that one day they will decide to support her, and that is why she does not wish to claim her share in husband's property and maintains a polite relationship with them.

In spite of her low income, Vidhya's life conditions are better than those of other widows due to the support she receives from her brothers, help that was present even before the death of the husband. Although her husband came from a prosperous family of tailors, after fights among his brothers concerning the family business, Vidhya's husband left his household and went to stay in his wife's natal village. Vidhya's parental house was available: her parents were dead and her two brothers were doing business in Pune. They agreed that she, her husband, and their two daughters could move into the family house. It was at this time that Vidhya's husband began a tailoring business that Vidhya has kept up after her husband's death. The support Vidhya still receives from her brothers has been crucial. Not only have they let her live in the parental house, they also paid the dowries and marriage expenses for her two daughters. Without their help, Vidhya told me that she probably would not have been able to arrange the marriage of her daughters because her savings were too small to provide for marriage arrangements.

It is delicate to remind a woman that she is a widow. Most of them have raised the issue themselves. Vidhya would not openly talk about it. Mira and I decided to broach the issue of widowhood very carefully. Knowing the kind of relationship, Vidhya had with

her brother-in-laws (and that her husband had no sister), I brought up the topic of widowhood by asking her if widows have a right to their husband's property. Vidhya, like the majority of the women of the village, knew that she had a right to her husband's property after his death. However, she felt that to go to the police or to court in order to gain access to the property would not be well perceived by either the women or the men of Bheema, because such an initiative is seen to bring shame on the widow and her family. Anyhow, on a practical level, how could she claim her share in *sasar*'s property - even her husband was excluded from it. If her husband could have had access to it, or if partition of the joint family owned business had taken place before, to think about claiming something would be more plausible for Vidhya. "What would I claim exactly? I do not want to work in their business. Anyway, they would not accept me."

In the absence of acceptance of the widow in her *sasar*, siblings are of crucial importance. Yet, the older the widow, the more complicated is the situation. Brothers and sisters may not be alive anymore. Also, after many years of life in their *sasar*, many widows have lost touch with their brothers and sisters. Indeed, Bheema has only had bus service for ten years. Before that, travelling to their *maher* was even more difficult than it is nowadays.

In the following section we will observe how a brother's support, and to some extent a sister's help, depends on a woman not seeking to claim a share in her parental property after her parents have died.

5.2.4 Dowry and *Stridhan* as replacement of Inheritance: Choosing Between the Husband's and the Father's Property

When I asked Sunita, a married Maratha woman, about her access to property, she explained that her husband provides her with everything she needs and nothing more was necessary for her.

Karine: Did you obtain a share in your father's property?

Sunita: Why would I have it? If I ask, then they would be very unhappy. Now, I have the love of my brothers and they never forget me at Bhaubies, Diwali, and other festivals. They welcome me in their houses when I go. Why would I break this just for money?

Atypically, Bheema is Sunita's maher and her brothers also live in Bheema. Her husband has a small shop where he sells school furniture. The couple lives close to the village square with their three children. Her brothers reside in a nearby hamlet, but they do not come to visit her. She does, however, visit them, and they welcome her very well each time, which makes her feel happy.

Sunita's point about money is crucial. Whether a *kutumb* is rich or poor, it is her impression that good relations among people should not be broken 'just for money', as Sunita said. Her comment symbolizes how much someone's overall wellbeing depends on the quality of her or his relationship with others. In rural Maharashtra, this is true for men as well as for women. Without understanding this social norm, it is not possible to grasp why women do not try to claim title to property left by their deceased parents or husbands.

Kavita, a *Kumbar* woman, has one sister residing in Pune and her maher is situated 35 kilometres from Bheema. Kavita considers that she maintains good

relationships with her two brothers, who own 10 hectares of land together. The following is an excerpt of our discussion regarding this relationship to her siblings.

- Karine: When your father and mother died, did you receive something from their land?
- Kavita: Why would I want land? What would I do with it? Nothing! It is in another village and I will lose the love of my brothers!
- Karine: When your mother died, did you receive something from her?
- Kavita: What can I receive from her?
- Karine: Did she have some property or personal belongings?
- Kavita: Only saris and jewels. I got one sari and one of my brothers' wives gave me one [of my] mother's pair of earrings. Everything else I got at the time of my marriage. My parents paid for my wedding and for the *hunda*. Why would I want more?

Kavita's spontaneous reaction shows her firm desire to maintain a good relationship with her brothers and the other members of her *maher*. Village exogamy and patrilocal post-marriage residence mean that it is usually not feasible for a woman to own and cultivate land back in her *maher*. Moreover, property that belongs to her parents will fall under the control of people staying in her *maher* when her parents die. Consequently, the brothers and the brother's wives will acquire whatever saris, jewels, vessels (cooking instruments), furniture, and other movable property are left at the time of the parents' death. That is why it was within Kavita's brother's wife's control to give her the sari and the earrings once belonging to her mother.

As sisters, women generally feel very uncomfortable claiming their rights to a share of their fathers' property, as their parents and brothers already spent so much on their marriages and their dowries. Also, in the case that a widow has been abandoned by

her in-laws, recovering her *hunda* (dowry) can be made difficult as women do not always know what their *hunda* consisted of. Also, they find it very intimidating to ask for something from their in-laws, even if it is only for their own saris, jewels, etc. overall, women feel that to remain in a precarious material situation is less problematic than to be in conflict with their *maher* and *sasar*.

Overall, the issue of access to property for women is ingrained within the logic of *hunda* (dowry) as inheritance, although, in fact, the *hunda* is transferred to the woman's *sasar*. Actually, if women were really controlling their *hunda*, or part of it, they would not be as financially deprived at the time of their widowhood as they are and would not be so dependent on their *sasar*.

5.2.5 Daughter's Inheritance: Genealogies of Exchanges at the Time of Marriage

The 30 inheritance genealogies I collected in Bheema included data on inheritance from both women's parents and their husbands. Both aspects of women's succession rights are covered by the HSA. Although it is beyond the scope of this thesis to fully describe the economic transactions at the time of marriage, some concrete examples are necessary in order to understand why women feel that they have received their share in the father's property at the time of her marriage, hence preventing them from claiming inheritance as daughters.

The typical explanation I received from women for not claiming their share of their natal property upon the death of their parents was that their parents had already given

them all they needed at the time of their marriage. Women over 60 years old were the exception, as their parents had all received a *dyaj* (bride price) instead of giving a *hunda*.

Lanka is such an example. She is a 50 year-old widow from the Mang caste. Her natal home is quite far from Bheema, more than 24 hours by bus. She settled in Bheema 20 years ago with her husband who was also from another village. They were very poor and were attracted to Bheema because at the time there was construction work available as the village was building a school and a dispensary. Lanka and her husband also worked as agricultural labourers and were never land owner. After the death of her husband, her only child, a son, became the sole owner of their one room house. Still, Lanka remains very poor and now lives with her son, his wife and their two young children. Lanka doesn't remember all the details of her marriage.

Karine: Lanka *mawsi* (aunt), did you receive *stridhan* at the time of your marriage?

Lanka: I don't know what *stridhan* is. But [the] only thing I received was 200 rupies from my father. My *mawsi* give me a sari and my *mama* also gave me a sari.

Karine: Did your father give something to your in-laws?

Lanka: No. At that time the daughter's parents were not giving something to her future in-laws.

Karine: Is it what you call *dyaj*?

Lanka: Yes, yes. This was *dyaj*.

Karine: So it is your husband who gave something to your parents?

Lanka: Yes, yes. But it was a very small amount. Only, I don't really know, only maybe 300, 400 rupees. It is not like today's craze about money. Now the future bride has to pay money to her husband's family. If you don't do that, you cannot marry your daughter.

Karine: What do you mean by craze? How much money is given?

- Lanka: Only Marathas can give huge amounts. Like the Maratha neighbour at the end of the lane gave a *hunda* of 25, 000 to 50,000 rupees. Plus, he paid for a big wedding. Here on the village square. Two thousand guests.
- Karine: But what about other castes?
- Lanka: I don't know everything. I'm not educated. In my caste, maybe 5000 to 10, 000 rupees *hunda*. Because we are very poor and I am a widow, my son only got 3000. But she [*sun*] is also from a very poor family. How can you ask for more? It also depends on people's background. Maybe Kumbar or Gosavi will give 10, 000 to 15, 000 [rupees], sometimes more.
- Karine: How is it decided?
- Lanka: You have to negotiate with the other family.

Lanka underlined, as many other villagers, the fact that *dyaz* did not represent a financial burden equivalent to the *hunda*. Although it is not possible to precisely calculate what a *dyaz* of 400 rupees would equate today, the following comparison in terms of the salary of an agricultural labourers can be indicative of the value of this amount. Around 25 years ago, one day of work in the field would give one rupee to a woman, while today, she receives approximately 30 rupees. More comparative study would be necessary to conclude on this issue. Yet, the *dyaj* seems to have been, in Bheema, more than a symbolic amount of money.

Lanka's story about the switch from *dyaj* to *hunda* is similar to Primala's mother's marriage story. Primala's mother is a woman of over 70 years old. She has been widowed for the last 24 or 25 years. As a *Gesari* woman, she does not own land and continues to pay rent to her husband's brothers who own the room where she stays with her separated daughter and her three grandchildren. A discussion we had about marriage follows.

- Primala's mother: I don't count time anymore. I have so much trouble and it doesn't end. Work, work, work, this is all we do. I don't have time to remember my marriage time.
- Karine: What would be the main difference with today's marriage and marriage in your time?
- Primala's mother: What difference? You get married, you get children, and you have to cope with life.
- Karine: No, but what I mean was it *hunda* or *dyaj* at your time?
- Primala's mother: *Dyaj, dyaj*. My parents received 500 rupees for my marriage.
- Karine: And who paid for your marriage expenses?
- Primala's mother: [Primala's mother remained silent on the subject of marriage expense. Preoccupied, she continued to cook food for lunch for the rest of her family.]

What is clear from the examples mentioned above is that the switch from *dyaj* to *hunda* marks a transfer over the last thirty years in Bheema from a southern pattern to a northern one. Here are some examples of what a *hunda* consists of nowadays. Sunita discussed with us how much her brothers had to pay for the *hunda* and marriage expenses of their daughters.

- Sunita: My elder brother give to his daughters husband's family five *tola* of gold (10 grams of gold) and 40 000 rupees. Plus, he paid all the marriage expenses, another 40 000 rupees.
- Karine: Did he give something to his daughter?
- Sunita: Yes, saris, vessels [cooking instruments] and other clothes.
- Karine: Are these objects belonging to her only?
- Sunita: Nothing is belonging only to her. After marriage you have to share everything, no?

Sunita spoke of marriage within a wealthy Maratha family, however not all Marathas are as rich as her family. On the other hand, it is now common to witness middle- and low-status castes, such as the Kumbhar, Gesari, Dhobi, and Chambar castes, throwing lavish, expensive weddings and providing large *hundas*. What becomes clear from Sunita's example and Lanka's comments on today's weddings is that *hunda* is not equivalent to *stridhan*, as *hunda* does not become the property -- or fall under control of - the bride. Yet women feel that they receive their shares in natal property through *hunda*. Significantly, the goods and monies transferred at the time of marriage are not officially registered. However, they are recorded into family books. Indeed, both the bride and groom's sides will keep details of every gift and amount of money received at the time of marriage from different family members to ensure continued reciprocity among the families. Neither the bride nor the groom will have possession of the records. These records will be in the hands of family elders such as their parents or grandparents.

Hunda is a complex practice that cannot be fully developed in the context of this chapter, but the main point for present purposes is that brides do not acquire *hunda* from their natal families - rather, grooms and their parents do. In theory, *hunda* is seen by women as a transfer of goods to a young bride by her parents at the moment of her marriage - as a form of pre-mortem inheritance. But such was not the case in Bheema, even though the wives of Bheema seem to view the *hunda* as their share of parent's (especially father's property).

Classical legal texts of India concerning Hindu law, such as the *Dharmashastras*, describe the notion of women's rights to property, *stridhan*, as being complementary to men's legal property rights (Goody & Tambiah 1973: 67). These same legal texts

describe dowry as being a portion of the parents' fortune that is inherited by their daughters. The father of the groom is not supposed to keep the money or goods for himself or to use it to marry his daughters off. The bride is thus meant to have the control over her goods even if her husband has the right to administer them (Goody & Tambiah 1973: 62). According to classical Hindu legal texts, the wife can keep her dowry in case of divorce, as her dowry should have always been her possession (Goody & Tambiah 1973: 64). That is why, according to Goody and Tambiah, dowry can be considered a *pre-mortem* inheritance.

The classical notion of dowry did not include portions of the bride's father's ancestral land (Goody 1973: 1), nor his acquired land, house, or any other immovable property. Still, nowadays, only movable goods are part of dowry, and nowadays, brides do not have control over it. Thus, according to Srinivas (1984: 11), it is important to distinguish between *stridhan* and the modern form of dowry - which consists in luxurious gifts to the betrothed son and to his family (Srinivas 1984:11). This new form of dowry can properly be considered as 'groomprice', because it rises with the perceived desirability of the groom (his education, job, and family wealth) (Bossen 1988: 140-141), and Sharma considers that the contemporary practice of dowry undermines any potential inheritance rights of a daughter (Sharma 1980 47-48).

This analysis on women's difficulties to access property and inheritance cannot be complete without taking a more holistic approach on inheritance practices in general. That is, we also need to understand problems of men's access to property and succession.

5.3 Fighting for Property or Keeping Brotherhood Alive?

India, like the rest of southern Asia, is characterized by the predominance of a system of patrilineal inheritance except in communities that traditionally recognize women's right to land. The North-East and the South of India include some matrilineal or bilateral communities. However, in most of South Asia, succession rights are primarily from senior to junior males (Agarwal 1994; Singh N. 1995: 107). In such a context, one may think that inheritance for men does not create tensions within the extended family or that claiming their share of the father's property is without difficulties.

Arobai is a Mang widow of 41 years of age who stays with her unmarried adult son, Eknath, aged 23 years old. Their one room house is officially registered at the Gram Panchayat under the name of her deceased husband, Eknat's father, who died one year ago.

- Karine: Why is it that the house is not in your name and Eknat's name?
- Arobai: I want to give it to Eknat. I do not want to have a part of it. But I do not have the money to make the changes.
- Karine: What do you mean?
- Arobai: I need to go to Shirur, in a office, to get the death certificate. Then come back in Bheema and ask the Gram Panchayat to transfer the title to my son.
- Karine: Why do you wish to give it to your son only and not a part to your daughter?
- Arobai: My daughter is married. She is in her *sasar*, two hours from here. She lives in a good *sasar*, no need for property. And I do not need property also. I am like dead. My husband is gone. But to find a good wife to my son, then he should have a house.

As expected, this example shows that the son is more likely to have a share in the father's property than his sister. But what it also demonstrates is that, during the time needed to implement official procedures through various levels of administration - which can take years - many sons may not have official title in a given property. Although they have a better chance than their sisters to eventually obtain such a title, in the meantime, there is an important gap in terms of male succession to property. During that time, their social and economic status is lower than other men of the same age who do have an official title to property. Such a situation also prevents economic independence. For example, how can Eknat get a bank loan to start a small business? Without economic stability, his capacity to get married is also reduced, or he may be obliged to marry a girl who is not very educated, thus reducing their overall capacity to expand their assets.

The economic independence of men only exists in terms of an overgeneralization of a 'typical Indian' male model, devoid of any regional, local and personal variations. In fact, men in rural areas are not all economically independent. The most we can say of men's economic position is that, compare to woman, being a man will increase the probability of access to various economic (and social) resources within the realm of one's birth position within a caste, a community and a specific family organization. Also, if women's economic and social survival depend both on their *maher* and *sasar*, men have to be in good terms with their joint family. Male dependence on joint family is expressed by Sudhir.

Sudhir: I stay in Bheema with my wife and children because of the land. We could afford a flat in Pune, but I cannot leave the land.

Karine: Why?

Sudhir: Because I would lose my right in the land.

Karine: Don't you have official title?

Sudhir: Yes, but a title can not help you in the face of your unhappy family.

Karine: Why would they be unhappy with you?

Sudhir: See, my work is in Pune. I make a good salary. My wife could find a job in Pune and do the same work as in Bheema. Together, we make a lot of money. Life would be much easier in Pune and the children would go to better school, to learn English. Because we work outside the house full time, we can not take care of the land. We do very little and I fight with my brother because of that. I compensate our absence of work with money. Yet, they say that we do not like the land and should not have it. For sure, if I do not stay in this house, next to my father's house (the widowed mother, elder brother and his family stay there), my brother will steal my land along with my cousin-brothers' (father's brother's sons') land.

Sudhir's father died six years ago, leaving his wife and four married children (two sons and two daughters). He did not write a will, but the land was not divided according to the HSA, that is, in five shares (one for the widow and one for each child). Rather, the 80 hectares of land were officially transferred to his two sons. Sudhir comes from an important Maratha land owning family of Bheema. His father had himself inherited 50 hectares of the land from his own father. This part of the land is considered, under traditional Hindu law, to form the ancestral property. The remaining 30 hectares were acquired by the father throughout his life. In other parts of India, according to the HSA, only the 30 hectares would be divided equally among the sons, daughters and the widow. The ancestral property would have been divided only among sons. In Maharashtra, the HSA was amended to ensure that both ancestral and acquired properties are transferred to daughters and sons. This contemporary mode of succession proposes a new social order

as well as a progressive model of household organization, which does not only affect land titles.

As in most cases of succession, Sudhir's father's land was officially transferred only to the two sons. At present, the two brothers jointly own the land.

Karine: Your sisters obtained nothing?

Sudhir: No, they do not need that land.

Karine: Why?

Sudhir: They are married outside and they have all they want in their *sasar*.

Karine: But according to the law, they are supposed to get a share in their father's property.

Sudhir: Yes, yes I know that they are equal to us. But my sisters are nice, they gave us their share of land. They signed papers to give us [his brother and himself] the land.

Karine: What about your mother?

Sudhir: Same thing happened.

Sudhir holds a B.A. in Commerce. He knows about the law. His statement illustrates that women can forfeit their inheritance rights, without having to go to court. If a woman signs a paper saying that she does not wish to retain her share in the land and that she gives her rights to her brothers, in front of witnesses, then it is considered a valid paper, which is necessary to register the transfer of property only to the two brothers.

If women can give up their inheritance rights, men can also do so. There are cases where men gave up their rights to land, a house or other property under the pressure of their brothers. This is what happened to Sunita's husband, who gave his 5 hectares of land

up to his brothers. He now lives in Sunita's *maher*. One day, I was in their house and we were discussing property rights of men and women in Canada. At one point I mentioned that my maternal grandfather had a farm of 50 hectares of cultivable land. The land was not divided among all his sons, and the daughters were completely excluded. Only the four elder sons got a share. That situation created a lot of tension among my mothers' brothers.

Sunita's husband: Same thing happened to me. I am the younger son and my brothers did not want me to keep my five hectares of land. We fought for many years. One day I decided that I could not take it anymore and gave up my title, but they gave me some money in return. I used that money to start my business.

Karine: Did they give you an amount of money equivalent to the value of land? My uncles got no compensation.

Sunita's husband: How can they give me the equivalent value? Now, they are very prosperous and make a lot of money. They give me nothing.

The disputes he had with his brothers are not uncommon. The larger the landholding, the more cultivators can share it. Yet it is not uncommon that one or two brothers are left out of a family deal. Competition among brothers over property can be rude and even lead to violence.

As his parents' only son, Madan is perpetuating the traditional pottery enterprise of his Kumbhar family. He stays with his parents, his wife and his three children. The children are too young to work, and his mother performs much of the housework. His wife actively participates in the familial business, but his sister is no longer considered to be part of this household. Rather, she belongs to her *sasar*. I used to visit Madan's family

every two days, and because I was well accepted by all the members of the house, I used to call him *bhau* (brother) and we felt comfortable discussing all types of matters.

Karine: Your wife works very hard!

Madan: Yes, I married a good wife! She is not complaining all the time!

Karine: Why would she complain? Aren't you a good husband!

Madan: Of course I am a good husband! She is the one who is lucky! I provide her with everything she wants. But we are a modest family. She can not be too demanding and she has to do her efforts [to participate].

Around eight months after I started my fieldwork in Bheema, a change in the economic organization of the household rendered Madan very happy man. He and his father had acquired twenty goats. From morning until evening, Madan's father took the goats to graze. He was also responsible for selling their milk to a neighbour. This family's experience denotes that when 'demographic roulette' (Attwood 1995) has made you the only son in a family already endowed with property or other assets, your prospects are much better than if you have to compete with brothers who may not participate (with their labour or their money) in the development of the joint property. Also, this is an example of how multi-generational households can benefit from the complementary organization of work by senior and junior generations. Hence, the joint family also has advantages that may be felt also by women, even if they do not possess official control over property.

5.4 The Hindu Succession Act of 1956: Modifying Social Roles and Reorganizing Kinship

When we look closely at the development of various situations over one year or more in a specific community like Bheema, it becomes clear that, if gender inequality exists, intra-gender inequality also influences the daily life of each person. Hence, among women of similar status, there are discrepancies in their capacity and ability to get access to property. The same is true for men. Such patterns exist in spite of the existence of various laws.

Whether for men or for women, access to property rights is strongly conditioned by their household and kinship relations. At almost no point can a purely individual decision be taken, because outside the realm of the *maher*, *sasar* and extended joint family, life is even more uncertain and access to economic resources even more precarious.

The mere knowledge of the existence of rights does not ensure access to property. As we have seen, women and men of Bheema expressed their desire to avoid conflicts with their extended families, as well as with other villagers. Avoiding conflict with in-laws is one reason why women would not proceed with claiming their inheritance. But, as it will be explained in the next chapter, there are other reasons why women would not proceed with administrative actions – reasons such as lack of money and education.

Chapter 6 The State Legal System and its Alternatives: Negotiating Access to Justice, Economic Resources and Education.

6.1 Introduction

Applying the HSA would mean, for most people in Bheema, endangering their own social and economic survival network. It would may also mean dividing properties that are often not enough in themselves to ensure acceptable living conditions, for the reasons explained in Chapter 2. Hence, the implementation of the HSA only makes sense in a context where survival alternatives are available. To ensure such a long-term development, this chapter discusses how access to economic resources and to education influence the implementation of a law such as the HSA.

As we have seen in the previous chapter, a majority of widows, have the impression that it is necessary to go to court in order to obtain a share in their husband's property. So why don't widows go to court to claim their rights? Is it only to maintain harmony within their family? To answer such questions, an analysis of villagers' perceptions of the bureaucracy and court systems, as well as the difficult access to the judicial system is necessary. Hence, for the purpose of this chapter, I will underline some aspects of the judicial bureaucracy as seen by the villagers of Bheema. To do so, my point of departure will be, like in previous sections, the fieldwork I conducted in Bheema. There, I could collect examples of how people deal with the police and the court. My analysis will also be based partly on observations I have made in Pune District Court and Family Court, as

well as in a law office in Pune. Court cases not originating in Bheema will be left for analysis in future publications, as will an in-depth analysis of the court system. Before commencing that discussion, the judicial system in Bheema is contextualized in the following section.

6.2 Contextualizing my Observations in Court

Cases under *Hindu Succession Act* (hereafter HSA) fall under the Pune District Court. After weeks of negotiation, I at last obtained the permission of the Bombay High Court Chief Justice to access court archives. The District Court Chief Justice and its staff directed my inquiries to two specific court rooms and gave me access to the jurisprudence available in the affiliated clerk rooms, but not to the archives of the District Court. Hence, two judges were informed of the reason of my presence in their court room. They were quite welcoming and helped me to understand various aspects of Indian law. The cases I observed in these court rooms were related to property issues, but rarely to the HSA. Concerning written decisions or jurisprudence, the clerk 'selected' the cases according to his understanding of my problematic. Photocopies were not permitted and therefore, I logged notes on approximately 25 cases. Indeed, because I am a foreigner, it is logic that I faced so many procedural and time-consuming obstacles as I endeavoured to access information on the current treatment in cases of property rights and succession. But the problems I encountered were not only related to the fact that was I am not an Indian national. They also indicate how problematic access to state justice can be due to procedural obstacle. Data collected through such a process cannot claim to be representative.

As it was discussed in Chapter 1, pluralism is not only found ‘outside’, but also ‘inside’ the state legal system.⁹⁶ This point is fundamental and is too often absent in anthropological research not directly focusing on legal issues. The state and its ‘court system’ are too often presented as a static and homogeneous entity. No state justice system is animated by a single culture. Judicial decisions are the result of a dynamic dialogue between various ideals of justice proposed by laws and legal actors. A model of justice translated in words through specific acts is also the result of a long negotiation over various values, as is illustrated by the legislative debates that took place in the Lok Sabha⁹⁷ (Parliament – People’s House) before the adoption of various personal laws in the 1940s and 1950s.

Plurality of legal cultures became a relevant and important consideration within the context of Family Court. Family Court’s objective is to facilitate access to justice in cases of separation, divorce, alimony and adoption. Procedures are less complex than in District Court, and the underlying culture of Family Court is to facilitate dialogue between the various parties of a dispute. It was easier for me to attend cases in such a court setting because I only had to meet the ruling judge in charge of each courtroom. Courts are public spaces, yet to have them agree on my presence was important. Only lawyers receive copies of the written decisions upon request. These were not available to me, and I could not have access to the archives.

I attended court sessions in the Family Court and District Court of Pune in order to observe the dynamics of litigation and study legal procedures. To look at the jurisprudence and to observe court cases is insufficient for understanding the philosophy and cultural patterns influencing the procedures, the court’s interpretation of the cases,

and potential outcomes. As we will see in this Chapter, the enforcement of court decisions is not automatic. Although the courts may decide in favour of a woman, the judgement will not necessarily be respected by the opposing party. For instance, economic compensation may never come due to the lack of enforcement mechanisms compelling the other party to pay the woman back. In order to grasp the subtleties of the Indian legal system and Marathi legal terminology, the guidance of an assistant familiar with legal procedure is essential.⁹⁸ That is because the analysis of court cases should include a deep understanding of both the legal and extra-legal contexts and, as I learned through my legal training, the culture of courts, legal procedures and legislative lobbies all have a major impact on court outcomes.

6.3 Contextualizing Legal Awareness and Access to Justice in Bheema

One factor to consider in the analysis of access to justice through state legal organization is the physical proximity of the legal institution to the general population. Bheema is situated approximately 30 kilometres from the judicial administration centre in Pune and 30 kilometres from the police station, located in Shirur. In spite of available public transportation – in this case the bus – both the distances in themselves and their associated travel costs participate in limiting widows' capacities to access their rights, such as property rights.

Bheema's legal circumstances are not exceptional. Throughout Maharashtra, at the village level, there is no representation of the national judiciary. In contemporary India, judicial matters are not dealt with at the local level. Before Independence, village

councils, constituted of non-elected senior upper caste members of the village, ensured the functioning of the *baluta* system. These council members also served as forums of conflict resolution in litigious cases. In Bheema, the Gram Panchayat is at the core of the organization of village life. Many people consult the Gram Panchayat either for advice on various administrative issues or else to learn more about their rights. But it is not under the Gram Panchayat's jurisdiction to deal with judicial matters, and the Gram Panchayat not used as a forum for conflict resolution by people in Bheema. To understand the roots of the current divide between the judiciary and the executive powers at the village level, a brief review of the post-Independence debates surrounding this the organization of the judiciary is required.

The role that villages had to play in the process of democratization and modernization of India was a topic of great debate in the 1940s-1950s. The draft constitution of India did not mention the village as constituting a fundamental unit, an omission for which Ambedkar, the chief draftsman, was criticized for - notably by Gandhi, who was a vigorous proponent of the ideal of the self-sufficient village. However, Ambedkar declared: "I hold that those village republics have been a ruination of India... What is a village but a sink of localism, a den of ignorance, narrow-mindedness and communalism" (Galanter 1989: 60)? At the end of the debate, the ideal of democratic decentralization won out, leading to Article 40 of the Constitution which obliges the state to "take steps to reorganize village Panchayats and endow them with such powers and functions as may be necessary to enable them to function as units of self-government" (Galanter 1989). Hence, Independent India attempted to democratize the political system in the subcontinent. "Completing a process of judicial reform started

under colonial rule, India's post-Independence Constitution directed states to establish local self-government and to separate judicial and executive functions at the village level" (Meschievitz & Galanter 1982: 47-48). This position means that judicial affairs were integrated into the national legal system, away from the local mechanisms of conflict resolution, and rural life was reorganized around what was called the Panchayat Raj.

In the 1950s, the Panchayat Raj structure of elected local councils was instituted, incorporating the Zilla Parishad at the district level, the Panchayat Samiti at the block or taluka level, and the Gram Panchayat at the village level. The Gram Panchayat primarily served as a development agency responsible for maintaining, upgrading, and developing public facilities in the village. For example, it was the Gram Panchayat's responsibility to award 'surplus' village land to the landless.

The three types of councils listed above are all composed of elected members, who may be men or women belonging to any caste or religious group. Including all castes and both genders should have led to significant changes in governance, because these elected Panchayats are quite different from the traditional Panchayats formed by the non-democratically elected elders of the community (Luchinsky 1963: 73; Robbins 1962). Some judges have pointed out that "rather than inspiring a resurgence of local law, they may instead effect a further displacement of local law by official law within the village" (Galanter 1989: 32).⁹⁹

In view of what I observed in Bheema, it seems that the official judicial system is not answering the needs of the rural population. Villagers often have to take justice in their own hands, as the anecdote in the next section illustrate.

6.3.1 Where is the Police?

One day, in a lane next to the fields at the edge of the village, I sensed that people looked particularly tired and quiet. It was a strange atmosphere. I was going to visit one Mang widow, Lanka. When I arrived at her place, she told me what happened the previous night.

Lanka: We were awakened last night by big noise and shouting in the fields. I woke up, very nervous, and saw a group of young drunk men stealing onions and throwing them at houses, breaking the widows. When they saw me, they said: you, old woman we will kill you.

Karine: That is frightening.

Lanka: Yes. I woke up my son and he went to tell the neighbours to wake up to check their belongings. But in the meantime, they put fire to a house, the house next to me.

Karine: What did you do? Did you tell the police?

Lanka: Which police? The police are in *Shirur* [town] only. We have to defend ourselves. The women, we stayed in our house to make sure they would not come inside. The men took bats, brooms and stoned the young boys. They finally left.

The police were absent from that scene, as in any such cases in Bheema. The next day, no one alerted the police about the incidents. Lanka told us that this happens almost every month, and it is worst in the remote hamlets of Bheema. It is no wonder that women will not feel like going to the police. One day, it happened that a young married woman died. Did she die due to illness, suicide, dowry murder? It is impossible to know. The policemen never came to Bheema to inquire and no autopsy was conducted as the body was cremated early the next morning.

At this point, it is pertinent to explore the alternatives to filing a lawsuit. Nowadays, caste Panchayats (caste councils, led by the elders of the caste) are not very active around Bheema (except in some tribal communities). However, even before the creation of a national Court system, caste *Panchayats* did not really deal with 'women's issues' except in cases where a property claim created a dispute between two families.

Women may go to a women's organization to obtain advice or conflict mediation. In Pune District, such organizations are concentrated in the city of Pune and its immediate surrounding areas. But Bheema is too far from such organizations and within the village or the next town they are non-existent

Overall, there are few institutions and organizations that offer alternatives for conflict resolution. In a context where the national judicial system is not active at the village level, where other means of conflict resolution are absent, how do the people of Bheema perceive the court system and use their national rights?

6.4 Fighting for Property Rights in Court

6.4.1 Relationships With the Bureaucracy

Arobai: The Gram Panchayat told me that I can get a small pension as a widow. But I have to go to Shirur to get death certificate and fill out paper work. I went last week to Shirur. It costs me 30 rupees to take the bus. They gave me forms to fill out. How can I do that? I am illiterate! I have to go with someone who can understand the questions and fill out the papers. After that, I have to go to another office, I do not remember why, then get another paper. It will take the whole day. Who can come with me? My son works every day. We are poor. He can not lose one day of work.

Karine: No one else can go with you?

Arobai: Who can come? We are all Mang, all uneducated. And no money.

Karine: The other day you told me why you did not go to put the house under your name and Eknath [her son]. Would you need to pay also for that paper work?

Arobai: Everything costs money. It is like that nowadays. It will cost money for each procedure. There are fees at every step. Small fees, but I am so poor. And I do not understand what to do. It is very complicated.

The legal system's dense bureaucracy and the complexity of the governmental apparatus partly explains why access to justice is limited for widows. During my observation of court proceedings in Pune, I realized that gaining access to property is often a highly technical procedure. As mentioned earlier, in order to obtain this right, a widow has to produce her husband's death certificate. The ease with which the widow will be able to obtain the desired certificate seems to vary at random. Firstly, it is not always easy for a widow to go to the Gram Panchayat or to governmental offices by herself. For most women, the paperwork that follows the death of their husbands will be the first administrative work they have ever had to tackle on their own. Even women who are breadwinners are not necessarily familiar with administrative work and negotiating with governmental agencies. The intricacies of governmental administration also transform the task of finding a simple piece of information into a real challenge, which can be very discouraging for someone who is unfamiliar with such procedures or bureaucratic work in general.

Widows in Bheema, in other villages of Shirur Tashil as well as in Pune, often told me their concern and despair regarding administrative procedures. Indeed, their frustration was such that it was not uncommon to find widows who had given up pursuing access to their husband's pension, to widow's pension, or to other types of property to which they had a right.

In Chapter 5, I presented the case of Sangena, a married Kumbhar woman who was very happy because she and her husband had just acquired a house. She thought that by the mere fact of being married, she had a title in the house. The matter is more complicated than what she believed.

Karine: Let's say that you fight with your husband – I hope it will not happen – but let's say something happens between you and your husband, and you have to leave your husband, what will happen to your house? Will you get something?

Sangena: If I leave my husband, then I get nothing. But if he threw me out of the house, then he would have to give me a share of the property.

Karine: In that last case, is it automatic?

Sangena: Yes. I go to court and ask for it. They will give me my share.

Karine: In which court would you go to?

Sangena: Pune.

In such a case, however, the wife would not really have any legal claim on the house unless the deed was registered jointly in her name. Moreover, her legal standing might be dubious if she lacked a marriage certificate (as most wives do).

Contrary to requirements of the State, marriages are almost never registered, so it is very hard to prove officially that one was married. Clearly, since it is difficult to prove that someone was your husband, it will be even harder to claim rights to his property. Wedding photos and invitations often constitute evidence that the wedding occurred, but only if the widow can lay her hands on them. Also, most of the time, the widow will have to go to court to obtain official recognition that those constitute accurate evidence of her marriage.

When someone deals with a modern legal system, such as the Indian one, the officers and bureaucrats are not likely to know the identity of the individual personally. Hence, the bureaucrats will first make sure that the person is officially an Indian citizen and that the person's request is put to the proper jurisdiction or local governmental office. Identity cards indicating, among other things, the name, address and marital status of a person can facilitate the paperwork necessary to access some economic resources (such as widow's access to a part of the husband's pension). Yet, individual identity papers are not common.

One problem with the access to state judicial system and its bureaucracy. Individual identity cards are rarely held by villagers. In villages such as Bheema, administrative proof of one's existence is merged within the household. For most villagers, it is their ration cards that indicate the names of every household member. Most often, these cards are in the possession of the male head of the household. The situation is similar for other identity documents such as caste certificates and birth certificates. This means that, in case of widowhood, identity documents are almost never under the control of a woman.

All members of a household, especially young unmarried men, may also not have individual control over identity papers. The joint ration card is usually in their father's hands. Married or not, it is not uncommon for men to be obliged to ask their fathers for access to the ration card in order to visit a bank, apply for a job, etc. In the absence of such papers, it is not impossible to deal with the bureaucracy, banks, etc., but it does create delays. It may also create unexpected expenses. For example, to 'replace' the ration card, a person can obtain a notice from a lawyer that proves their identity. This involves

additional fees. Of course, the effects are even more detrimental for the poorest. The problem resides in the fact that the less education someone has, the harder it is for them to deal with all these procedures.

Independent India has proposed legal reforms introducing concepts of individual rights, along with an administrative and judicial bureaucracy relying on a mechanism of evidence that rests upon the provable existence of individual citizens. The point here is not to evaluate whether this historical evolution in the concept and application of justice is valid or not. Rather, the goal of the research was to evaluate, why HSA is not used. As I could see it from Bheema, Maharashtra's bureaucracy (and India's) does not provide citizens with the means of implementing the rights proposed by the national legal system. To further complicate the judicial process, to go to court, one's need a lawyer. How is it for people in Bheema to access a lawyer?

6.4.2 Do You Know a Lawyer?

One day, I asked Sudhir, a highly instructed Neo-Bhuddist computer engineer:

Karine: Is there a lawyer in Bheema?

Sudhir: No. If we need a lawyer, we have to go in Shirur.

Karine: That far?

Sudhir: Yes, lawyers are only in towns like Shirur and Pune.

How can women go 30 kilometers away from Bheema in case of need? If she is still in her *sasar* after widowhood, how can she hide such a long trip from her in-laws, so as not to alert them about her intention to claim her rights? As a widow is not normally

free to go out of Bheema unaccompanied, even to the market three kilometres away from the village, how can she go discretely to Pune to find a lawyer? This is what I tried to figure out during my discussions with people in Bheema, such as the following one:

Karine: In cases of separation or widowhood, if a woman wants to claim her property rights, where does she find a lawyer?

Vijaya: I do not know. Women do not know those things.

Karine: Is it like that in every caste?

Vijaya: Yes, every caste. Even though I went to college, I would not know what to do. Maratha people do not like to talk about court and fights.

Karine: So you do not know women who went to court in Bheema.

Vijaya: I do not personally know someone. The only person I know was the *sun* of one Maratha family who stays in the village. She left her husband. She said that she was badly treated by her in-laws. Now she has gone back to her *maher* but went to court to claim money from her *sasar*.

Vijaya also pointed out that to go to court is shameful for a woman and her family.

Some men told me that before going to court, the brothers of a widow will try to resolve matters with her husband's family. Some men also said that it is their duty to help their sister when she becomes a widow. In practice, most widows, especially the elder ones, have lost contact with their brothers or receive little help from them. If a widow finally brings her case to court, it is not often an individual decision: it will be a familial decision. Both financial and psychological support from her brothers and extended family are often necessary (but not always available) in order to confront the legal system.

6.4.3 "All That Money for Nothing!"

As mentioned, the *Hindu Succession Act* is seldom used by widows. Since 2000, the Supreme Court of India has heard seven cases related to this Act. Because it is a very

complex law, covering various aspects of intestate succession, only three of those cases directly treated widows' right to inheritance. The Bombay High Court has heard five cases related to the HSA. The number of Supreme Court and High Court cases is only an indicator of claims under this Act. Most cases would be found at the lower court level. In Bheema, if a widow wishes to claim a share of her husband's property, she will first go to the District Court. Then, in case of appeal, the Bombay High Court will hear her case.

When I conducted my research in the Pune District Court, the two judges who specialized in hearing cases on succession told me that they had heard only two or three cases concerning widows' inheritance rights since approximately ten years. These particular cases had been in court for the last five to ten years. Matters were pending due to procedural delays such as I described in the previous sections. Hence, over the eight months I attended court cases in Pune District, only one widow came to give her testimony. Yet observing other cases on property and succession provided me with another facet of Bheema's women's perceptions of the court system, and helped me to better understand its procedures. This last aspect is very important and too often forgotten by anthropologists, other social scientists, and legal reformers. Also, the length and costs of court actions are better understood when all steps of the process are taken into account.

In Bheema, I met only one widow who had been to court to claim her succession rights. Manisha is Buddhist, 35 years old, and came back to stay with her family in Bheema five years ago when her husband died. She now lives in her elder brother's house, with his wife and their three children. Her mother, who is also a widow, resides with them as well. Manisha was young when she became widowed and hence went back

to live in her *maher*. Her mother is a very articulate woman of around 60 years old. Hence, she is the head of the household, takes part in all decisions, and is well respected by her children. She is the one who told me her daughter's story.

Manisha's mother (Mm): We spent 25, 000 rupees for nothing! All that money for nothing! The judge gave her [my daughter] nothing!

Karine: How did the judge justify his decision?

Mm: The judge said that because Manisha did not have children from her husband, she did not have a right in her husband's property.

Karine: Really! How come?

Mm: This is what he said. I understand nothing in these things. We are uneducated, we do not know. See, these are the papers.

Surprisingly, she had a copy of the judgement. The two women were clever enough to ask for a copy from the lawyer. Normally, claimants do not receive a copy of the judgement. They just hear what is being debated in court. Court decisions are in English and the legal jargon used as well as the particular phrasing used by the legal professionals render it incomprehensible for laymen. However, I was able to gather the following information: Manisha's court case lasted for ten years and the widow as well as her family had to spend more than Rs 25,000. The judge finally decided that she could not obtain a share in the husband's property because she had no children. The *Hindu Succession Act* does not stipulate that a widow can inherit only if she has children. This indicates that diverse interpretations of law also exist inside the legal system itself.¹⁰⁰

The costs associated with heavy bureaucracy are important factors influencing people's access to justice. Since the mid-1990s, women litigants in Maharashtra are exempt from paying court fees in cases relating to maintenance, property, violence, and

divorce. Nevertheless, the cost for lawyers' services remain high. In one case, a widow claimed compensation for her husband's fatal accident but had no money left to claim her share in his property. Women in Bheema are not aware that they may have access to a government lawyer through Legal Aid. However, obtaining a lawyer through Legal Aid requires not only patience but also the capacity to deal with bureaucratic matters.

What if the decision of the court had been in favour of Manisha? If a court decides in favour of a widow, is it the end of the matter? The answer is no, as the judgement still needs to be executed. In the next section, we will briefly explore the difficulties that winning claimants face in seeing a court decision carried out.

6.5 The Impact of a Decision in Favour of a Widow

The ability to enforce a court decision depends on a variety of factors, among them both the financial and personal capacities of a claimant to communicate and/or 'deal' with the judicial bureaucracy as well as the willingness of the guilty party to abide by the court order. To illustrate these two aspects the enforcement process, I will briefly outline the story of Nanda, a Maratha widow of Pune, who now lives 20 kilometres from her *sasar*.

Nanda is a 45 years old widow from the Chambar caste. She was granted her inheritance rights by the Bombay High Court after 15 years of judicial procedures and more than Rs 50,000 in legal expenses. Her father and two brothers encouraged her to claim her rights and financially supported her throughout the whole court procedure. However, although the judgement was delivered three years ago, Nanda has yet to receive

her share of the land (10 acres) and business from her husband's brothers (in the form of monetary compensation).

The main reason for this delay, according to Nanda, is that her brothers-in-law bribed the local police to stop the execution of the court decision. The police took the money, and in return they agreed to prevent Nanda from accessing her piece of land in her *sasar* by harassing her and by refusing to recognize the court order.

The brothers-in-law also produced a woman in the police office, who claimed that she was Nanda. This woman told the police that she no longer wanted her share in the property and she claimed to forfeit her inheritance rights by signing a document to this effect. The village authorities turned a blind eye to the fraud, although they knew that the woman was not Nanda. Moreover, Nanda saw the falsified document and denied that it held her signature. But the village authorities would not listen to her. As she and her four children (two sons and two daughters) had to leave her *sasar*, has not been easy for her to influence and control what is going on there. As in the case of many widows, she no longer belongs in her *sasar* on the death of her husband died. In addition, this widow and her children have been subject to various acts of intimidation from her in-laws with the aim of discouraging her from claiming her rights. For instance, they apparently threatened to break the legs of her younger son (who was 12 at the time), if his mother continue to claim her rights.

Nanda, her father, and two brothers are already in debt. Fees continue to accumulate because the lawyer's services are still required in order to ensure that the legal decision is enforced and upheld. But there is no guarantee that the judgement will be enforced. In

addition to the lack of money, Nanda's children, who are almost all adults, now demand their mother drop the case. They are discouraged by the length and costs of the legal procedures, but, most of all, by the lack of tangible results. In addition, her children, are also concerned about their future weddings. This implies expenditures, especially for the daughters' dowries. Although all four children have jobs, their meagre incomes do not allow them to save any money.

Complex procedures further increase the costs of the judicial process. Where can women find such money? Once they become widows, especially when they are young, they have to go back to their *maher*. There, they have to find a job, most likely as agricultural labourers in rural areas. Such casual employment does not provide much money. Therefore, unless the members of her *maher* can afford to assist her financially as well as psychologically going to court is not a feasible for most women.

It is usually after his death that a wife becomes aware of husband's financial situation. This sometimes brings unpleasant surprises, as in cases where the husband had acquired heavy debts. The widow then must repay these debts in addition to providing for the family's basic needs.¹⁰¹ Banking procedures are often unknown to married women as bank accounts are generally managed by their husbands. Women seldom have savings in their name. Joint accounts may be under the name of both husband and wife, but the wife is often unaware of how much money is in the joint account. Also, some women believe that both signatures are necessary to withdraw the money, which is not always the case as it depends on the instructions given to the bank at the time the account was opened.

6.6 On Education

A common assumption is that better access to education promotes female empowerment, for example by enabling women to understand and claim their legal rights to property. As demonstrated by the economists Jean Drèze and Amartya Sen, the role of education is crucial in promoting social changes (such as the ones concerning health issues) – and indeed it is often more so than legislative reforms such as the HSA (Drèze and Sen 2002). Yet recent research demonstrates that education is not equally effective in every region or even in every locality. Fieldwork in two villages in Uttar Pradesh (UP) has shown that increased female education may lead, for instance, to lower child mortality but not to female empowerment (Jeffery et al. 1997). Comparisons among regions show that female education seems to reduce gender inequality, but residual variations are heavily influenced by regional customs (e.g., kinship, marriage and inheritance patterns) which are not readily captured by statistical indicators (Drèze and Sen 2002; Murthi et al. 1997). More ethnographic research in the transitional state of Maharashtra is needed to conclude on the interplay of those factors. Yet, it seems that popular education along with a raise in the literacy rate of the whole population were key elements in the social changes concerning castes and the place of widows that took place since the 1950s.

How do people in Bheema feel concerning the impact of education in their lives? In fact, women and men in the village are proud to talk about the improved position of women in the community, especially with regards to women's access to higher levels of education.

Lakshmi: Nowadays, everyone goes to school, women and men. It is good for Mang people like us. We can get as much education as others. I could not go to school, but see, my *sun* went to the university. People do not regard us as being as backward as before.

Karine: Do you think that it changes some things for women?

Lakshmi: Someone who went to school is always more respected. The woman can find a more educated husband, with a better job.

Karine: But is an educated woman better treated by her husband?

Lakshmi: Not always. But if she has a good job, then the husband is happier with her.

Lakshmi is herself illiterate, as is her daughter, Alka, who is ashamed of the situation.

Karine: Does the fact that you have a job and bring back a small income to the house improve your relationship with your husband?

Alka: We are poor. My parents, who do very well, do not help us. I am ashamed when my husband asks them for money. I have to work.

Karine: Does your husband appreciate your financial contribution?

Alka: Yes. It is good. But if I was educated, it would be better. I could have found a better job. And I could read. I would have liked to read. Now, I can only sell brooms at the market place. It is very little money and it is hard.

Alka stayed in her *maher* after her marriage and lived in a one-room house with her husband and three children. Her parents are an example of economic mobility within the caste system. They have three different businesses (a general store, a small business making and selling brooms, and a rickshaw). Alka's brothers benefit from this, but Alka is excluded from the joint family's financial expansion. She has a fifth-grade education, but it was with great sadness that she confided that she considers herself illiterate. Her elder brother has married a woman who is 28 years old, like Alka. Alka's sister-in-law

has a M.A. in literature. She reads the *Bhagavad-Gita* in its original Sanskrit every night to her in-laws during the familial prayers time. Her husband is less educated, having completed the eleventh grade. They had made a love marriage, and she is respected in her *sasar*

What is the role of formal education in terms of legal awareness in Bheema? Schooling in and of itself does not directly help women to be aware of their rights. When I asked women how they learned about the existence of property rights, two answers came clearly: from television and from hearsay from other villagers. In that regard, education (schooling) was never mentioned as a factor of legal awareness. Yet the villagers believe that young girls and boys should go to school as it increases their chances of finding better jobs. Moreover, education has an obvious effect on the ability to fill out official forms and to navigate through the bureaucracy.

As can be observed in the Pune District Court and Pune Family Court, education provides the claimants with many tools necessary to understand and negotiate the processes taking place within these tribunals and with the overall bureaucracy. Ethnographic research conducted in the United States by Conley and O'Barr (1998) underlines that the power of law is embedded in judicial language. "Law is a language, and it is through this language that the macro-dynamics of law's power play themselves out" (O'Barr 1998: 112; see also Mertz 1994).¹⁰² For example, people who speak assertively are more likely to be believed by the courts than people who speak deferentially (O'Barr 1982).¹⁰³ The *rule-oriented* claimants, compared to *relational-oriented* claimants, are favoured by judges of small claims courts in the United States

because the language they use is better understood by the courts (Conley & O'Barr 1990: 58-59).¹⁰⁴

For various reasons, it is not easy for Indian women to be 'rule-oriented'. When they speak in front of a judge, at the Family Court or District Court, these women are often speaking in public for the first time. (This is also the case for many men.) Not only is speaking in public an intimidating experience, but the fact that women and men have to speak about their home life and their relationships with other household members can be embarrassing or dishonouring. In addition to which, the judge 'repeats' in English the 'statements' of the parties to the case and of the witnesses, statements that were made in Marathi. This is necessary so that the clerk can transcribe the 'facts' in English for the court records. Such a translation is not precise and includes a lot of interpretation of the facts by the judge, in addition to the transformations of meanings due to the normal process of translation. The construction of narratives by disputants, the community and the court is an integral part of the disputing process (Just 1991), and these elements should be taken into account while studying access to justice.

In Family and District Courts the court hearings are in Marathi but the paperwork is in English, therefore the claimants have to sign documents that they cannot understand. Hence, they have to rely completely on their lawyers, or on the judge, if they do not have a lawyer. All the paperwork has to be completed by a legal professional, a lawyer, since the jargon of the legal system is very difficult for a layperson to understand. It is also important that the lawyer prepares the client for her court appearance, which for many women and widows will be the very first time they have to speak in public. The court is an official setting that can be intimidating for many. The claimant has to feel confident

enough to listen carefully to what the judge or other lawyers are asking and to answer in a coherent manner. One requirement of the court discourse is that the witness should provide a chronological account of her story. To increase the chance of being listened to and understood by the judge, a good lawyer will help the client in organizing the facts. A good level of communication between the lawyer and the client improves the client's chances of winning the case despite of the intricacies of the legal system.

In Pune district, education is not the only social factor influencing women's relationship with the legal system. Yet, it is certainly an important element in the process of re-shaping an identity that will fit the requirements of the state legal system and that will facilitate access and control over resources. With education, the social mobility of women will increase and they will have more varied opportunities of employment. Hence, women may become less vulnerable and dependent on their *maher* and *sasar* for economic resources and as security network. Being less vulnerable and dependent, woman may not then have – at least to the same extent - the need to avoid conflicts.

6.7 Conclusion

Over the last decades, the persistent increase in literacy rates for men and women, women's increased access to education in the formal and informal sectors, and the better community acceptance of woman going out of Bheema for education and jobs indicate a deep movement towards social changes leading to greater gender equality.¹⁰⁵ These factors may, in the long term, reduce the negative impacts of social indicators associated with the North (such as the prevalence of patrilocality and patrilineal inheritance patterns). In Maharashtra, and Bheema, positive effects of education are already found in

the reduction of mortality rates and decreasing fertility rates. With regards to the topic at hand, it is also relevant to note that widowhood is less difficult now than it was 30 to 40 years ago. Education has also played an important role in eliminating some of the discrimination based on caste or widowhood. There is also a slight but persistent increase in job opportunities now available to women and widows.

With more alternatives to access to resources, such as employment in various sectors and a higher level of education, lengthy, costly, and complicated procedures may not discourage women (and men) from going to court or pursuing their legal claims to the end to the same extent. My observations of the situation in Bheema leads me to conclude that, to be an agent of social changes, a legal reform such as the HSA should be implemented along with other social reforms that would create a social and economic context where claiming for inheritance rights would be advantageous for widows.

Conclusion

Disputes over property are shaped by various perceptions of women's rights, along with ideals of gender relationships and inter-generational organization. Legal anthropology provides a useful framework in which to understand the interplay of various concepts of rights and duties within a context of legal pluralism. Also, legal anthropology contributes to research on women's relationships with the legal system by focusing on cultural analysis of "the ways legal institutions and actors create meanings, the impact of these meanings on surrounding social relationships, and the effect of the cultural framework on the nature of legal procedures themselves" (Engle Merry 1992: 360).

The long debate over personal laws led Indian legislators in the 1950s to choose a new 'social order', by creating possible social disruption or 'social disorder', due to a revision of the ideal of the Hindu joint household and the place of women and men within this model. Although not all households are actually organized according to this model, this ideal is still prevalent. In a transitional context of legal pluralism and rapid socio-economic change, before 'shopping for forums of justice' (Von Benda-Beckmann 1984), women will first – and not necessarily consciously – shop for avoidance of conflict forums.

Women of all castes in Bheema do not see the advantages of claiming their inheritance rights. For if they claim their inheritance, they risk disrupting their security network along with jeopardizing the reputation of their family. For example, if a young married girl loses her husband and takes the initiative to consult a lawyer to obtain her

share in his property, her action will be very negatively perceived by her own natal family. First of all, she will be perceived as rebellious and undisciplined because she did not ask her natal kin if she should take legal action. However, if she had done so, they would probably refuse to go to court. Instead, her brothers (if she had any) would have tried to negotiate with her in-laws to ensure that she continues to be treated well even after her husband's death. Secondly, her independent initiative would diminish the possibility her unmarried brothers and sisters would have in finding suitable partners to marry, because of a bad reputation gained by the parents of a vindictive widow.

There are several reasons why widows don't claim their husband's property after his death. Most importantly, a widow will wish to maintain a good relationship with the *sasar*. Also, widows often repeat that they are not comfortable to ask for money and that it is not good to bother your relatives with such demands. They feel that as married women, it is their husbands that have the responsibility of taking care of them, and as daughters-in-law, their *sasar* should look out for them. Significantly, the 35 women in Bheema I interviewed regarding inheritance rights felt they had received their share of their parents property at the time of their marriage, and that their husbands were (or are) providing them with everything they need.

Claiming inheritance rights to her deceased husband's property also shames the widow and her natal family. Instead of going to the court, the widow's brothers usually try to solve the matter directly with the other family. Men also mentioned to me that it is their duty to help their sister when she becomes widowed. However, many widows, especially the elder ones, have lost contact with their brothers or receive little help from

them in reality, despite such ideals. Hence, many widows live with both economic and emotional insecurities.

According to the research conducted in Pune District, women and men (although in somewhat different manners) will select a specific forum of justice if their social security is not challenged by it. Women in Bheema raised social factors to explain why they did not, or would not, claim their rights. As a young female pointed out to me, “it is not good to create conflict with the parents-in-law. We have to keep quiet for the sake of our children”. This reasoning is also found even among the widows who do not continue to stay with their in-laws after the death of their husbands, who have sometimes been practically abandoned by the families of their husbands.

Contrary to widespread belief, women in Bheema do know that they are entitled to some rights as widows. Whether or not this awareness is sufficient to encourage them to claim their rights is a more subtle issue. The mere knowledge of the existence of rights does not ensure access to property. As in the past, the widows from rural areas seldom have any rights to land or to other forms of property. In order to understand the continuity of this practice it is necessary to see the law, not as a set of fixed rules and institutions, but as a space of social interactions (Moore 1978).

The relationship between social norms and state law has become clearer throughout the analysis presented in this thesis. Indeed, because of the cultural norms influencing womanhood, if widows decide to claim their property, they face many problems. If a woman finally brings her case to court, it is not often an individual decision, but instead it will be a familial one. Both financial and psychological support

from her brothers, and/or other members of the extended family is necessary in most cases to confront the legal system. Changes in individual rights are difficult to implement in a society where the actions of one person, and the construction of personhood itself, are deeply embedded in a kinship network.

In a context of legal pluralism, “which specific repertoire, in which specific case, people will orient themselves to, will mostly be a matter of expediency, of local knowledge, perceived contexts of interaction, and power relations” (Spiertz 2000: 191). The difference between ideology and practices are sometimes very clear, sometimes blurred (and almost lost) among the layers of legal pluralism. When there is a clear distinction between an articulated ideology and its practice, there is often an impossibility to reconcile the values proposed by an ideal paradigm with the daily feasibility of achieving a ‘balance’ between vulnerability and agency, survival and social changes. Hence, justice should be contextualized in order to gain a holistic understanding of legal processes and, overall, the dynamic between property rights and gender in Bheema can be better understood through the explanation of intertwined social and legal layers of pluralism.

Other problems come from the fact that, once in the realm of the legal system, and on the margins of its bureaucracy, women – and men – have to modify the way they present and interpret their life experiences to fit within the parameters of the legal culture of a particular court. An individual’s level of education and capacity for communication with a lawyer play a vital role in the extent to which the claimant can shape his or her persona in order to achieve the status and identity recognized – and heard – by the legal system.

If the Indian State wishes to implement state legal reforms, then education and access to various types of economic resources must be more available in rural areas. As demonstrated Nobel Prize (in Economic Sciences) recipient, Amartya Sen, education, economic participation and property rights are all interrelated (Drèze and Sen 2002). All these factors give more agency to men and women and increases their capacity to participate in various areas of social life. They become less vulnerable when they have access to a broader range of resources that can be used to help cope with and recover adversity and tragedy when one becomes a widow.

Contemporary Indian governments have proposed legal reforms introducing concepts of individual rights, along with an administrative and judicial bureaucracy relying on a mechanism of evidence that rests upon the provable existence of individual citizens. The goal of the research was to evaluate, through various ethnographic research techniques, why HSA is not used. Social aspects of the difficulty to claim rights can change in the long term especially through education and the development of new forms of employment. Yet, the bureaucracy of Maharashtra (and of the Indian state as a whole) is, in itself, not providing citizens with the adequate means with which to implement those rights advocated by the national legal system.

Since Independence, the social changes that have occurred in Bheema for both men and women, including widows, suggest that legal reforms concerning property rights will eventually be utilized by the population. Over the last decades, the persistent increase in literacy rate for men and women, the larger acceptance of female education in the formal and informal sectors, and the better community acceptance of women going outside the village for education and jobs indicate a deep movement towards social changes leading

to larger gender equality. Those factors, on the long term, reduce the negative impacts of social indicators associated with the North (such as the increasing distance between *maher* and *sasar* and the prevalence of patrilocality). In Bheema, and Maharashtra, positive effects of education are already found in the reduction of mortality rates and fertility rates. Most importantly for the present topic, widowhood is less difficult among Hindu communities of Maharashtra than in the North. Schooling and popular education movement have been crucial factors leading to, on the one hand, the reduction of biases concerning lower castes and widowhood and, on the other hand, to the slight but persistent increase of job opportunity for women and widows.

Because social security includes state interventions as well as economic and social support provided by the family and community (Achutan 2003), it is important for the government to ensure institutional changes, such as facilitating access to governmental offices, taking serious means to communicate the content of legislation and the procedures to be followed by the claimants, creating legal aid services – such as legal aid clinics, and reducing the costs of legal procedures. Without such national and local initiatives, widows will remain without real access to property. In addition, the overall education of the population with regards to their rights is important in order to ensure long term changes. Both women and men should be able to see the advantages that the overall population would find in having women less dependent on men. Moreover, the State must encourage local initiatives that aim to, on the one hand, support communities as they face changes brought about by the reallocation of land and other forms of property, and on the other hand, educate the population of the benefits of women's access in property rights.

Notes

Introduction

¹ Under this Act, the 'Hindu' category includes Hindu, Buddhist, Jain and Sikh by religion. Hence, the personal laws somehow redefine what it means to be 'Hindu.' By including all those religious traditions within the grand family of the Hindu religion, a new religious identity is created within the framework of the national legal system.

² The Hindu Personal Laws include the following five acts: *Hindu Adoptions and Maintenance Act* (1956), *Hindu Marriage Act* (1955), *Hindu Minority and Guardianship Act* (1956), *Hindu Succession Act* (1956), *Hindu Widow's Remarriage Act* (1983).

³ Mainly the Mitaksara school of law, which was prevailing in most parts of Maharashtra as well as in the North of India.

⁴ For details on the debate over the relation between individualism and equality, see the article by André Béteille (1986).

⁵ "Although the male members owned property, this ownership cannot be equated with the modern notion of ownership which essentially confers the right of alienation." (Agnes 1999: 14)

⁶ The Constitution divides legislative powers between the Union and the States. It is a quasi-federal Constitution in that it is applicable to all States. The Union government has exclusive powers to legislate on matters enumerated in List I of the Seventh Schedule of the Constitution. The State governments have exclusive jurisdiction over matters enumerated in List II of the Seventh Schedule. The Union and the states have concurrent powers over matters in List III of the Seventh Schedule. Personal or customary laws in List III govern matters such as marriage, divorce, intestacy, succession, joint family and partition and adoption. Consequently, personal laws applicable to Hindus in one State need not necessarily apply to Hindus in other States.

⁷ Married brothers may also live in a joint household after their parents have died, though this is uncommon.

Chapter 1

⁸ Issues of intellectual property (Born 1996; Brown 1998; Coombe 1998; Strathern 1996; 1999) raise complex analysis.

⁹ The Canadian legal scholar Roderick Macdonald clearly demonstrates that there is a co-existence of many sub-national regimes under Canadian federalism (Macdonald 1998).

¹⁰ With the development of the concept of 'legal pluralism', both legal scholars and anthropologists began to collaborate on a more regular basis not only on local issues, but also on worldwide questions such as the universality of human rights. Research conducted by anthropologists and legal scholars also shed light on such subjects as gender and law, as well as alternatives to courts such as mediation, revenge, caste councils, spirit possession, and witchcraft.

¹¹ Pospisil also uses the concept of autonomous and semi-autonomous administrative units (Pospisil 1971: 112).

¹² Comaroff and Roberts pointed out that it is risky to define the term 'legal system' too broadly because, according to them, not all forms of social control (such as families or work groups) are legal systems (Comaroff and Roberts 1981). In the same vein, Jean Carbonnier and A.J. Arnaud recognize the existence of normative order outside the state but argue that this normative order should not be considered law (Carbonnier 1988; Arnaud 1993).

¹³ According to Norbert Rouland, functionalism was the dominant school of thought in legal anthropology because Lévy-Strauss's structuralism was not really preoccupied with law unless it was linked to kinship issues (Rouland 1988).

¹⁴ Non-state means of social control play a significant role in shaping social interaction, as demonstrated by works on revenge (Colson 1953; Verdier 1980) and oath (Verdier 1988). Spirit possessions or ordeals (Evans-Pritchard 1937, 1940), by imposing a non-human legal order, may also be considered as a form of social control, as these phenomena may influence the process of a dispute. It may also reduce the occurrence of conflict.

¹⁵ Rather, law-avoidance ideology considers state rights consciousness as a 'social pathology' (Kidder 2002: 87).

¹⁶ Collaboration between lawyers and anthropologists was uncommon until the 1960s. A major exception to this was the interdisciplinary cooperation of Hoebel (an American cultural anthropologist) and Llewellyn (an American legal scholar) which took place in early 1940s (Llewellyn and Hoebel 1941).

¹⁷ He is doing that "through an ethnographic discussion of the contested valuations of gender, marriage and the 'laws of the farm' on a commercial farm in Zimbabwe, Rutherford exposes analytical and political difficulties that follow from reducing state laws and practices to a unitary gender, class and / or racial interest that purportedly underlies them, as many proponents of the 'gender and the law' literature do" (Rutherford 1997).

Chapter 2

¹⁸ Statistics refer to the Indian census of 2001 unless otherwise stated.

¹⁹ In this thesis, I refer to Sen to define the northern patterns as including the states of Harayana, Himachal Pradesh, Punjab, Rajasthan, Uttar Pradesh (Sen et al 1997). Agarwal designates these states as being part of the North-West pattern and includes Jammu and Kashmir (Agarwal 1994). Both Sen and Agarwal consider Andhra Pradesh, Karnataka, Kerala, Tamil Nadu as the states forming the southern model. In addition, according to Agarwal, the following states of North-East India follow, such as in the South of India, socio-economic patterns that gives women better access to property: Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura. For the purpose of this thesis, this last series of states will be indirectly included in the 'Southern model'. Close to the southern patterns are the states included in the eastern zone of Bihar, Orissa and West Bengal (Sen et al. 1997). Finally, Maharashtra and Gujarat are part of the Western zone of India (Sen et al. 1997).

²⁰ Before 1960, western Maharashtra was a division of the Mumbai Presidency and later became a division of the State of Mumbai.

²¹ Maharashtra occupies a space of 307, 713 square kilometers and hence forms 9.4% of India's territory, which makes it the third largest state of the country (Census of India 1991).

²² Formerly named Bombay.

²³ The early growth of modern industry in Britain generally had adverse effects on indigenous manufacturing centres in India, but did not have a drastic impact in Maharashtra (Kosambi 1988: 27).

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- ²⁴ Kholapur is famous for iron casting and the town of Ichalkaranji is a traditional centre for handloom industries. The cities of Satara, Karad, Sangli, Miraj and Kolhapur are the major urban centres in the southwestern part of Maharashtra (Sirsikar 1995: 53).
- ²⁵ In addition to a constant train commuting between Pune and Mumbai, there is a highway that facilitates the travelling between these two cities.
- ²⁶ Between 1951 and 2001, Maharashtra was the leading state in terms of urbanization.
- ²⁷ "For the purpose of the Census a person is classified as cultivator if he or she is engaged in cultivation of land owned or held from Government or held from private persons or institutions for payment in money, kind or share. Cultivation includes effective supervision or direction in cultivation (Census of Maharashtra (3) 2001: 24).
- ²⁸ An agricultural labourer is "a person who works on another person's land for wages in money or kind or share will be regarded as an agricultural labourer. She or he has not risk in the cultivation but merely works on another person's land or wages. An agricultural labourer has no right of lease or contract on land on which she/he works" (Census of Maharashtra (3): 25).
- ²⁹ One of the key element of a more diversified cultivation is the presence of leguminous crops (Atlas 2004: 31).
- ³⁰ This system was similar to the *jajmani* system prevailing in northern India (Fukazawa 1972, 1982: 252; Valunjka 1966: 17)
- ³¹ In addition to these major dynasties, there were other noteworthy rulers such as the Shilaharas of Kolhapur, the Bhojas of North Konkan and the Kadambas of Gomantak (Goa).
- ³² From Attock (now in Pakistan) to Thanjavoor in the South.
- ³³ The most important of these small rebellions easily crushed by the British are the Ramoshi Rebellions of 1826 and the Koli revolts of 1830 and 1836.
- ³⁴ The Company Rule began in Bengal in 1682 and in 1818 in Maharashtra.
- ³⁵ In his view, Hinduism was a pseudo-religion. He was convinced that the Vedas and the Smritis "were a part of the brahmanical attempt at creating texts which would rationalize and perpetuate their dominance" (Deshpande 2002: 5).
- ³⁶ Phule uses the *varna* names of these two groups.
- ³⁷ He himself had meals with his Untouchable friends.
- ³⁸ The Home was situated nearly four miles from Pune both in order to avoid the plague as well as to create a peaceful environment where women would be able to study without being victims of the social harassment leading sometimes to bad physical treatments.
- ³⁹ Widows form 9% of the Indian female adult population compare to 2.5% of widowers.
- ⁴⁰ In terms of literacy rate, Maharashtra is above the national average for both male and female categories. Yet Maharashtra falls between Kerala's rates (88% for female and 94% for male) and Uttar Pradesh's (44% for female and 71% for male) (Drèze and Sen 2002).
- ⁴¹ A map of Bheema is not presented in order to ensure the anonymity of the villagers I interviewed.

⁴² A *taluka* is a district subdivision. The State of Maharashtra is divided into 30 districts, further divided into 303 *talukas*. My research was conducted in Pune district, which has 14 *talukas*. Shirur is one of them.

⁴³ The numbers gathered during my village survey of 150 households will be analyzed in Chapters 4 to 6.

⁴⁴ On a national level, Hindus form 80.5% of the population and 80.4% in Maharashtra.

⁴⁵ In Maharashtra, Muslims are the second-largest religious group, with 11% of the state inhabitants belonging to this religion. Throughout India they represent 13% of the population. The balance of Maharashtra people belong to diverse religious communities: 6% Buddhists (national 0.8%), 1.3% Jains (national 0.4%), 1.1% Christians (national 2.3%), 0.2 Sikhs (national 1.9%), 0.2% other (national 0.6%).

⁴⁶ Diwali is the Hindu New Year. For this celebration, the Kumbhars make little pots, named *bolka*, used to burn oil.

⁴⁷ As the reader can note, Kumbhar only mentioned nine castes instead of twelve. It is possible to hypothesize that there were also some Dhobis, Sonars and Malis.

⁴⁸ She was elected by the population but many villagers told me that she was there as the wife of a very influential Maratha. She was a candidate because that year, only women could run as a *sarpanch*. Details on reserved seats for women will be further discussed in Chapter 6.

⁴⁹ The age of 18 for girls and 21 for boys were chosen because it corresponds to the legal age of marriage.

⁵⁰ Poor families do not necessarily have a lower caste background, but it is often so.

⁵¹ According to the tax records of Bheema, in terms of residential housing, women paid taxes on 52 houses out of 536.

⁵² I briefly had access to these records under the surveillance of the Gram Panchayat's clerk. Although the *Gram Sevak* (village officer) gave me his 'permission' (I only needed an informal permission because tax and land records are public documents), Mira (my research assistant) and I only had one hour to consult pages of documents because that was all the time the clerk had allotted for us. He never had time on other days. Data on unirrigated land were not yet available because the compilation of the 2001 census was not yet completed.

⁵³ The part of the records available to me did not indicate whether the land was irrigated or not.

⁵⁴ The police quarters are in Shirur, 30 kilometres from Bheema. It is in the hands of the population of Bheema to prevent acts of vandalism and theft.

⁵⁵ Forests make up 4.5% of the land, cultivatable waste represents 7.1% and 6.9% of the area is not available for cultivation, as it is used for housing, etc.

⁵⁶ For a detailed discussion on how famines were progressively eradicated in the Deccan plateau of Maharashtra, see Attwood 2005.

⁵⁷ Most Bheema's population does not live close to the river. Water supply is available through village hand pumps for two or three hours in the morning. Some women directly go to the river to wash clothes, which represents a walk of half a kilometer from the centre of the village.

⁵⁸ Bheema is not a market town. Once a week, villagers go to the market at around two kilometers from Bheema.

Chapter 3

⁵⁹ I have given the village the fictitious name of Bheema in order to preserve the anonymity of the people who were generous enough to share their knowledge and life experiences with me.

⁶⁰ In 1998, I conducted ten weeks of exploratory fieldwork in Pune in order to prepare for my long-term fieldwork and create a network.

⁶¹ The State of Maharashtra is divided into 30 districts, further divided into 303 talukas. My research was conducted in Pune district, which has 14 talukas. Chapter 5 will present an explanation of these administrative divisions.

⁶² The training program for doctors and nurses in India includes an internship in a rural area.

⁶³ Women's influence in economic and social spheres will be analysed throughout the thesis.

⁶⁴ It is not convenient to go to people's house during early afternoon because that is when they rest. After weeks of fieldwork, when we were closer to some families, we were able to go visiting at this time.

⁶⁵ The prevailing image of the Western tourist is of someone who comes to India to live in an ashram. In most social and economic strata of the Indian society, ashrams have a fairly negative reputation, because they are associated with drug use, nudity and free love.

⁶⁶ The remaining 35 houses were more than one kilometre from the core of the village. It was considered very far by most villagers and it would have been difficult to reach them (socially as well as physically). Out of the 25 households, no one refused to answer my questions.

⁶⁷ Marriage also has a central place in a man's life, although for different reasons, which will be explored in Chapter 4.

⁶⁸ Often, women did not know the distance in kilometres, but they were able to tell us the time it took to go there by bus, from which Mira and I would evaluate the distance in kilometres.

⁶⁹ This became clear during the first meeting at the Gram Panchayat, as mentioned in a previous section.

⁷⁰ In Bheema, as in the whole of India, one's first meeting with a member of the community will serve to 'situate' one, as it were, in a larger network. This process of situating your interlocutor continues over time.

⁷¹ See Appendix 1 for a copy of the Research Certificate.

⁷² The research visa was delivered by the Indian Government one and a half years after the application was sent by the Shastri Indo-Canadian Institute.

⁷³ As per my commitment, I will inform other interested parties in India of my study through publications and participation in conferences. Also, I regularly presented a summary of my research to people I had interviewed and asked for their comments.

⁷⁴ The shawl and the rose are symbols of honour in India.

⁷⁵ I was going to Bheema once or twice a week.

⁷⁶ As demonstrated in my M.A. thesis, analysis of court cases can be highly effective for research on women's property rights (Bates 1998).

Chapter 4

⁷⁷ In Marathi, *aji* means grandmother. In India, it is common to call non-relatives with kinship terms.

⁷⁸ *Chaha* is the Marathi word for tea.

⁷⁹ The house is still register under Arobai's husband name, a case that will be studied at length in Chapter 5.

⁸⁰ The exact reason why this period of time is given remains obscure. My understanding is that this period coincides in the arrival, 15 to 20 years ago, of various companies around Bheema. The establishment of new forms of economic activities was combined to the implementation of new agricultural practices as a result of the Green Revolution.

⁸¹ In the community he studied, Carter (1974) also notes that women usually consider their sisters' children as being equivalent to their own children.

⁸² In all Muslim communities women may marry close relations, even parallel cousins. Thus in all regions and communities of Pakistan, at least half of all marriages are made between members of an extended family (Agarwal 1994: 337). In Pakistani Punjab there is a strong preference for alliances between first cousins – between the children of brothers or between the children of a brother and his sister (D. Merry 1983: 541).

⁸³ Marriage season approximately consists in the month preceding the monsoon and the period between the end of the monsoon and Diwali's celebrations.

⁸⁴ As amended by the *Marriage Laws (Amendment) Act* of 2001.

⁸⁵ Section 3 of the *Indian Majority Act* (1875).

⁸⁶ The concept of 'mature' refer to the idea that her body is now 'developed' and 'formed' like the body of a woman.

⁸⁷ Arranged marriages are the norm in Southern Asia (Basu 1999: 8; Jeffery et al. 1996: 30) although each region has its varying customs for the selection of mates.

⁸⁸ In the North, higher-status propertied castes usually make a point of *not* marrying again with the same family. In Maharashtra, as in the South, repeated marriage between the same two families was regarded as a good idea. Why? For very practical reasons. If another family has supplied a good wife to your family in the past, it is likely to do so again: it's a question of character and consistency of family norms. Hence the marriage of a groom to his MBD was considered sensible and prudent. In some pairs of families, this pattern of MBD marriage was repeated more than once, over three or four generations. As well, the terminology also suggests that more than one bride could come from one family to the other even in the same generation: that is, two brothers could marry two sisters. An example follows below in the case of Ratna. And then on top of this, it was possible for two families to be both bride givers and bride receivers in relation to each other. This is radically different from the North, where hypergamy is usually the norm among higher-status, propertied castes. Families which both give and receive brides from each other can only be regarded as status equals.

⁸⁹ Between 1965-1967, Carter observed similar percentage (10%) in his region of study.

⁹⁰ In the Southern and North-Eastern areas of India, as well as in Sri Lanka, there is a greater variety of living situations as uxorilocal residences are not uncommon. Yet in locales such as Bheema, where uxorilocal residence is rare, the men of the household might be subject to public scorn – probably because they are perceived to have lost their rights to their father's property (Jeffery et al. 1996: 123).

⁹¹ Historically, that a bride might marry from so far outside of her social network can be explained by the numerous famines throughout the history of Maharashtra. During such a period of uncertainty, it is important to have family for refuge in another district (Attwood 1992: 35). Hence, contrary to the North, it is not considered shameful to ask for help from affines, even in contemporary Maharashtra. As Carter indicates: "Relations between 'affines' are characterized by easy equality and co-operation. In this, as in other respects, 'affinity' and descent are complementary opposites" (Carter 1974: 91).

⁹² Data presented in kilometres were provided in miles by the referred authors. One mile equals 1.6 kilometre.

⁹³ Data presented in kilometres were provided in miles by the referred authors.

⁹⁴ Data presented in kilometres were provided in miles by the referred authors. In Nepal, Pakistan and Sri Lanka, the distance is usually an average of eight kilometres with a general preference that the marriage itself be held *Maher*.

⁹⁵ Compared to other religions, Christian and Jain women have a weaker preference for son (NFHS India: 121).

Chapter 6

⁹⁶ For a detailed account of the history of the court decision in Pune District and the legal pluralism of the Court system in Maharashtra, see my article "The Indian Legal System, A Unique Combination of Traditions, Practices and Modern Values." In "Communication Processes – 3. Culture and Confrontation", Guy Poitevin, Bernard Bel, et al. To be published in 2005 by Indian Sage (Delhi).

⁹⁷ Literally means 'people's house'.

⁹⁸ Although I have received legal training both in civil and common law, the legal terminology in India is somewhat different than that of Canada or the United States, rendering the legal terminology in Marathi hard to understand.

⁹⁹ *Jai Kaur v. Sher Singh*, A.I.R. 1960 S.C.1118; *Nain Sukh Das v. State of U.P.*, A.I.R. 1953 S.C. 384; *Shangar Umar v. State*, A.I.R. 1952 Saur. 124.

¹⁰⁰ This case illustrates that the legal system is not monolithic. This is also demonstrated by appeal courts overruling lower courts' decisions, and by the publication of majority and dissenting opinions by the appeal court judges which show that they fail to reach consensus among themselves (Culhane 1998: 73). Other views on the property rights of widows may prevail over law as actually written.

¹⁰¹ Married women are often unfamiliar with banking procedures, as bank accounts are generally managed by the husband. Women seldom have savings in their name. Joint accounts may be under the name of both husband and wife, but the wife is often unaware of how much is in the account. Also, some women believe that both signatures are necessary to withdraw the money, which is not always the case, as it depends on the instructions given to the bank at the time the account is opened.

¹⁰² A similar dynamic between law and language has been observed in non-western settings.

¹⁰³ This study was an interdisciplinary work: it combined anthropology, linguistics, social psychology and law.

¹⁰⁴ Small claims courts were chosen as a site of study because these courts offer a legal environment in which judges invited the litigants to tell their story open-endedly, unlike in formal courtrooms.

¹⁰⁵ In Maharashtra, social reformers such as Dhondo Keshav Karve, Justice Mahadeo Govind Ranade, Shahu Maharaj, Jotirao Govindrao Phule, Bhaurao Paigonda Patil, and Dr. B.R. Ambedkar worked for the spread for education in rural and urban Maharashtra. In addition, each of these activists also took specific measures to render education accessible to women, including widows. Moreover, their actions were often shaped by a desire to modify castes relationships towards greater equality. Their actions still influence contemporary India

Glossary of Terms*

Ai: Mother.

Aji: Grandmother.

Ajoba: Grandfather.

Anandi Kay Ahe?: What is happiness?

Atebahin / atebhau: The *attya*'s children.

Attya (mawlan): Father's sister.

Arti: Homage to a significant person or divinity.

Bahin: Sister.

Bhaca: Nephew.

Bhaci: Niece. The term used to identify one's sister's children.

Bhaca-bhaci: The term used to call one's brothers' children.

Bhau: Brother.

Bhaujai: Brother's wife.

Brahman: A category of high-status priestly castes whose members are often literate, often employed in administration. The highest *varna*.

Chambhar: A low-status caste which specializes leather work (shoemakers).

Culat Bhau: Cousin brothers.

Culta /Culti (kaka): Father's brother. However, each cousin has a distinct designation depending on the parental relationship of the preceding generation. Therefore, the *culta*'s daughter and son are respectively called the *culatbhau* and the *culatbahin*.

Devak: A family's symbolic object (such as a flower, tree or artefact) defining it as an exogamous unity (or clan) in most castes of Maharashtra.

Dharma: Righteousness, proper behaviour. Related to one's purpose and duties in life.

Dhobi: Washerman

Dyaj: Goods and gifts given by the father of the bride between the 1960s and 1970s to the bride's spouse in non-Brahman Hindu castes in Maharashtra.

Ghar: House; home.

Ghar jawai: Literally, house son-in-law.

Gram Panchayat: Elected village council.

Gram Sevak: Village officer: a government employee who provides advice and information to farmers.

Gurav: Shaivite priest.

Hunda: Dowry.

Jat: Caste.

Jau: Husband's brother's wife; sister-in-law.

Javai: Daughter's husband; son-in-law.

Kaka: The standard term for the mother's sister's husband.
Kaku: Father's brother's wife.
Kanyadan: Giving a daughter away at the time of her marriage.
Kumbhar: Potters.
Kumkum: Red powder used for ritual.
Kutumb: Domestic group or household.

Lagna: Marriage.

Mahar: Village servants.
Maher: Home of the mother and father of a married woman.
Mali: A middle-status caste of peasants or farmers; also the caste of many princes, military commanders, and district officials in the pre-British period.
Mama: Mother's brother. The husband of the father's sister is called *mama*, therefore considered like an affine to ego's father, like the mother's brother (also *mama*). the children of the *mama* are *mamebhau* and *mamebahin*.
Mamebhau and *mamebahin*: The children of the *mama*.
Mami: Mother's brother's wife.
Mang: A low-status caste of rope-makers and agricultural labourers.
Mangalsutra: A woman's bridal necklace made of black pearls, with two ornaments and five gold beads.
Maratha: The largest caste in Maharashtra. Originally a warrior caste - *Kshatriya*.
Marathi: The common language of Maharashtra.
Mavlan: Sister of the father; paternal aunt.
Mawsa: Husband of the *Mawsi*; rarely used.
Mawsi: Mother's sister.
Mawasbhau / *mawasbahin*: *Mawsi*'s children.
Mehuna: For a male, this will be the term he uses for his brother.
Mulga: Boy; son.
Mulgi: Girl.

Natlag or *Natevaik*: Relatives. There are two types of relatives - *bhauki* (blood relatives - consanguineal) and *soyre* (relatives by marriage, known as *lagna*, or affinal).
Nhavi: A small caste of barbers.

Pahu: The extremity of the sari often used to cover the head.
Punya: Merit.
Putni: Ego's brother's daughter.
Putnya: Ego's brother's son.

Raj: Regime, system of rule.
Rupee (Rs.): The basic unit of currency in India.

Sarpanch: Head of the Gram Panchayat.
Sasar: Natal village of a woman's husband.
Saser: Father-in-law.

Sasu: Mother-in-law.

Sasu-Saser: Mother-in-law – Father-in-Law (or; in-laws).

Shudra: A loose category (*varna*) of low-status castes employed as farmers, labourers and craftsmen.

Sonar: Goldsmith.

Sun: Daughter-in-law.

Sutar: Carpenters.

Suttee: The immolation of the widow upon her husband's funeral pyre.

Taluka: A sub-district administrative unit, consisting of perhaps 50 or 100 villages near a market town. Nowadays often called a 'block'.

Tica: See *Kumkum*.

Vadi: Father.

Vaishya: A loose category (*varna*) of castes below Brahman and Kshatriya in status, often employed as merchants or artisans.

Varna: Four categories (*Brahman*, *Kshatriya*, *Vaishya* and *Shudra*) into which most castes are loosely thought to be grouped.

*The definitions provided in the glossary of Indian terms are in part derived from those found in Attwood (1992), Bénéï (1996) and Wadley (1994).

Appendix 1 : Ethics Certificate



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March 2, 2000

Ms. Karine Bates
Department of Anthropology
Leacock Building
McGill University

Dear Karine Bates,

RE: The Changing Status of Women in India: Widows in Maharashtra

In accordance with the Tri-Council of Canada Guidelines on Human Research, the University Research Ethics Board-1 (REB), at its meeting of 2/29/00, reviewed your project submission and unanimously approved ethics certification. Notice of the REB's decision will be sent shortly to Graduate Faculty and to Special Funds.

The Committee recommends that: 1) because of the small size of the study community, the investigator employ an interpreter-field assistant skilled in the local language/dialect, but a stranger to the community; 2) given the expected small size of the population (widows) to be studied, the researcher not employ a "random sample" approach even if this group exceeds the expected threshold of fifty noted in the proposal. Both recommendations are offered in order to insure minimal risk to the group under study.

The REB also notes that, while annual project reports should be submitted, further ethics review will not be required unless there is substantial change to the present research protocol.

Sincerely,

George W. Wenzel
Professor and Chair

GWW:kmm

cc Department of Anthropology
Don Attwood

McGill University
Research Ethics Board I

Certificate of Ethical Acceptability of Research Involving Humans

Project Title: The Changing Status of Women in India: Widows in Maharashtra

Applicant: Karine Bates

Department: Anthropology

Academic Status: Ph.D. Student

Supervisor: Don Attwood

This project was approved on February 29, 2000 by Full Review

Departmental Review: (for research projects that are carried out by undergraduate and graduate students as part of their course work):

Prof. Donald W. Attwood
(Department Chair)

(Signature)

The signatures below indicate that the project as described in this application is acceptable on ethical grounds.

1. G. Wenzel
G. Wenzel, Chair (Geography)
2. F. Sabetti
F. Sabetti (Political Science)
3. D. Parent
D. Parent (Economics)
4. F. Ikawa-Smith
F. Ikawa-Smith (Anthropology)
5. T. Tuisku
T. Tuisku (Community Member)

Professor George Wenzel, Chair
Research Ethics Board, University-1
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Research Ethics Board Office
c/o Lynda McNeil, Research Ethics Officer
Research Grants Office
James Administration Bldg, rm 429

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March 27, 2001

Karine Bates
Dept. of Anthropology
Leacock Bldg.

ANNUAL PROJECT RENEWAL

RE: The Changing Status of Women in India: Widows in Maharashtra

Thank you for the annual project update. In accordance with the Tri-Council Policy Statement for Research Involving Humans, all ethics approvals must be renewed on an annual basis. This project approval has been renewed for the period of March 1, 2001 – February 28, 2002.

George Wenzel, Ph.D.
Chair, Research Ethics Board-1

cc: Dr. D. W. Attwood

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