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Civic Action Against Son Preference in Tirupati, India: Critical International Law Put into Practice?

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Abstract
In this paper based on original fieldwork, I seek to contribute to critical scholarship in international law by providing an investigation into the engagement with international law by actors in civil society working against son preference primarily in Tirupati, India. I suggest that the turn to the international legal order by civic actors should be theorized as something else than as merely coming 'from above', 'from below' or as a 'translation' of 'global' law to 'local' conditions. Instead, I propose that the mobilization of international law within Tirupati's civil society should be seen as an emancipatory undertaking, an act of resistance with the overarching ambition to reclaim the *zenana*. In that, I argue, the strategies within Tirupati's civil society are more appropriately understood as critical international law put into practice.

Keywords International law · Critical scholarship · Son preference · Civil society

The Task: Introducing the Paper

In recent decades, international legal vocabulary has been increasingly used by social movements in civil society as a way to frame debates and as a basis for claims-making (see Hellum and Katsande 2017, p. 119). In turn, there has been an emerging interest within contemporary 'critical' scholarship of international law to explore the connections between activism and the legal system (Baaz and Lilja 2016; Kennedy 2016; Koskenniemi 2011a). Today, there is a rich body of research activities spearheaded by many different critical legal scholars addressing the use of legal strategies, or perhaps in most cases legal tactics, as a means for creating societal change, including the work of feminist, queer, and Third World Approaches to International Law (see Knox 2010; Andreassen and Crawford 2013; Anghie and Chimni 2003; Baaz et al. 2017). It is in this discussion the following paper is placed.

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While there is a growing body of scholarship dealing with the 'social life' of international law, there is still much to learn about how international legal frameworks are being interpreted and implemented by civil society actors at a local level (Englund 2006, p. 5). In this paper based on original fieldwork, I seek to contribute to critical scholarship in international law by providing an investigation into the engagement with international law by actors in civil society working against son preference primarily in Tirupati, India. The issue of son preference is much more than merely an attitude and pertains to more than fertility behavior. Rather, as Liu Shuang (2006; Cited in Eklund 2011, p. 30) suggests, it is an organizing principle for social, economic, and cultural aspects of everyday life. The struggles of civil society actors against this issue invoke many important questions. Perhaps the most crucial one, at least for present purposes, is the question of how international law becomes 'translated into local terms and situated within local contexts of power and meaning' (Engle Merry 2006, p. 1). At the same time, it will be argued below, the context of civil society-based resistance in Tirupati sheds light on how civic actors attempt to deal with colonial legacies and structural inequalities by turning to the international law concepts. This begs the precarious question: How should we theorize legally inspired civic action via the use of the international legal order?

Taking such questions as a points of departure, focusing on civil society-based resistance in Tirupati against son preference, I suggest that the turn to the international legal order by civic actors should be theorized as something else than as merely coming 'from above', 'from below' or as a 'translation' of 'global' law to 'local' conditions (cf. Rajagopal 2003; Merry 2006; Levitt and Merry 2009). What I am proposing through the paper is a reorientation to view the turn to international law within Tirupati's civil society as an emancipatory undertaking. In that, I argue, the maneuvers within civil society are more appropriately understood as critical international law put into practice. My argument is that in Tirupati, international law has percolated to local actors and informs their understanding of social and political relations. In turn, we are now at a point in which the actors within civil society are not merely relays for international ideas, or translators for it, but they instead draw from the international legal terminology in a calculating way, using legal concepts in a way that makes them take on different meanings from the original legal formulation, moving beyond the control of traditional legal institutions. In particular, I suggest that the adoption of the concepts of genocide/gendercide is an indication of both the creativeness of local actors, but also to their capacity of changing the setting in which international law is applied and their potential to challenge its entrenched boundaries which, ultimately, may open for a transformative engagement by alternative registers beyond the 'narrow confines of the liberal fishbowl' (Kapur 2018, p. 1).

The Context: A Brief Exposition of the Historical, Social, and Political Context of Son Preference Focusing on Tirupati

In almost all states in contemporary India, the preference for sons influences a wide range of behaviors (Hatti and Sekher 2007, pp. 1–2). The notion is apparent not least in the country's skewed child sex ratios and the large number of 'missing' girls

and women (Eklund and Purewal 2017, p. 34; Lilja, Baaz and Strandberg Hasselind 2021; Sen 1992). According to a report released in June 2020 by the United Nations Population Fund, one in three girls missing globally due to sex selection is from India, adding up to a total of 46 million (UNFPA 2020; Cited in Kaur and Kapoor 2021, p. 112). The skewed demographic is an indicator of contemporary discriminatory social attitudes towards girls and women, that call for the need for better understanding 'the foundation of the cultural, economic, social, and ideological arguments that justify the preference for, if not the deification of, sons' (Purewal 2010, p. 1).

Uncovering the social problem of son preference is one thing, but accounting for it, redressing and reducing it in appropriate ways is something completely different. Taking stock of the historical, social, and political context surrounding ideas of son preference can help us to better understand civic action against it.

During the mid-part of the twentieth century, 'Malthusian theories which framed overpopulation as a crucial inhibitor of "development"' had a firm foundation within India's dominant political landscape (Kaur and Kapoor 2021, p. 113). Consequently, the exercise of population control was seen as a pressing task to tackle poverty and underdevelopment by the governing elite (Rao 2014, p. 199; Eklund and Purewal 2017, p. 34; Purewal and Eklund 2018, p. 724). In the early 1950s, various incentives aimed at family planning were launched, often under the Hindi slogan *hum do, hamare do* (us two, our two), hailing the small family as a sign of modernity and progress. In the 1970s, India was the first country in the Global South to legalize abortion. However, feminist scholars such as Nivedita Menon (1995, p. 369) have suggested that this political move was motivated rather by ambitions to decrease family sizes, whereas women's self-determination only served as pretext. During the 1980s, 'wide-ranging discrepancies in budgets allocated for preventive measures (such as contraception) compared to female sterilization showed the commitment of the Indian state towards finding more long-term, irreversible "solutions" to the overpopulation issue, which explicitly focused on the targeting of the female body as the site of intervention' (Kaur and Kapoor 2021, p. 113). From the 1990s and onwards, a significant facilitator in the process of fulfilling the state ambition to decrease family sizes has been the easy access to various technological advancements linked to sex-determination (Rao 2014, p. 205).

Taken together, ideas of governing population have resulted in a huge shift in the number of children born per woman in India from 5.2 to 2.2 in a span of four decades (Purewal 2018, p. 29). According to Bijaylaxmi Nanda, this development shows how the female body has become the 'site for competing claims of rights' revealing 'the collaborative and combinative nature of the terrain of gender discrimination' (Nanda 2019, p. 180). In this way, the female body has become a symbol for the broader political debate of 'overpopulation', tied together with an administrative strategy of quotas and records entrenched in a neoliberal and patriarchal ideology (Purewal 2018, p. 32). However, the complexities extend deeper still. Population control strategies have through and through been gendered, by using class-sensitive markers to explain the development challenges within India's society, casting poor, often Dalit, women as the key reason for them (Kaur and Kapoor 2021, p. 113). Even though progress within India's society is made in relation to female literacy

and increasing participation of women in different areas of economic and social life, it remains a conservative and patriarchal society, in which girls and women are seen as less important.

The current situation should be viewed in context of colonial legacies. British colonialism played a huge role in the production of gender norms and patriarchy in India (see Purewal 2010, p. 26). In the end of the nineteenth century, British administrators in colonial India 'discovered' that female infanticide (the killing of newborn baby girls) was a problem requiring intervention through 'civilizing missions' (Grewal 1996, p. 19). The administrators decided that the killing of infant girls was rooted not in individual deviance but in the culture of the *zenana* (Sen 2002, p. 53). The term *zenana* was used to refer to the women's quarters of homes in India where women and girls would spend their time away from the gaze of men and the outside world. This was a politically feminized separatist space: 'it was a domesticity in which women, rather than men, made the important decisions' (Sen 2002, p. 61). However, during colonial rule, the *zenana* acquired a distinctly negative connotation, as a place where women were confined by men, living in complete seclusion, unseen by outsiders, and rarely, if ever, permitted to leave (Dharampal-Frick et al. 2015, p. 275). To a degree, this space was uncolonized, in which British authority was 'not only alien but also powerless: here, the "observer" could not observe' (Sen 2002, p. 54). This led to, as Navtej Purewal (2010, p. 26) points out, the *zenana* becoming 'characterized as an opaque space understood by colonial observers to be diametrically opposed to the transparency of the normative Victorian household and thus in need of reform and rescue'. One such endeavors of reform and rescue that targeted the *zenana* was the 1870 Female Infanticide Act (Purewal 2010, p. 12). The colonial understanding of the underlying issues of female infanticide, including son preference, was shaped by ideas of collective criminality based on the assumption that this was a crime that occurred in the native family, and specifically, in the *zenana* (Sen 2002, p. 61).

The allocation of guilt for female infanticide was contingent upon colonial interpretations of the family politics of the *zenana*, seen as one of the root causes for son preference. In that, gender was utilized for colonial objectives of social control through legal reform. Today, while traces of the traditional *zenana* culture may persist in certain pockets of India's society, the concept as it existed historically is no longer a dominant or widespread practice. Furthermore, while the notion of son preference seemingly predates British colonial rule, the practices and policies of the colonial administration exacerbated and entrenched existing patriarchal norms and values, contributing to the persistence of son preference today. It did so by introducing a 'binary purview to gender along with notions of perversion and criminality towards gender diverse populations' (Shankar et al. 2022, p. 173). It is important to note that the link between the *zenana* and contemporary son preference is not a direct or causal relationship. Son preference is a complex issue influenced by a range of factors. Various socio-economic aspects combined with the lack of personal autonomy of women due to unequal power structures between men and women have also been proposed as contributing factors to the lower status ascribed to girls and women (Patel 2007, p. 33). Other practices with a religious or cultural background, such as dowry and the lighting of the funeral pyre by the male heir have

also been put forward as factors undermining the relative worth of girls and women in comparison to boys and men (Robitaille and Chatterjee 2018; Guo et al. 2016, p. 135). In turn, there is a perception for some parents that having a girl child would be equivalent to be 'watering the neighbor's garden' (Attané and Guilmoto 2007, p. 2). As such, due to prevailing gender biases, girls in various contexts in India are currently at risk of being eliminated as soon as their gender is determined (Aravamudan 2007, p. 39).

In my view, it is clear that son preference is a part of a complex state of affairs. The representation of the problem is moreover connected to colonialism. Bearing in mind the complex character of the social issue, I agree with Purewal, who argues that the issue of son preference and the 'missing' girls in India needs to be discussed and debated more within a 'panoramic lens which would allow for a fuller and more critical analysis and discussion' (Purewal 2010, p. 2). More importantly, Purewal also notes:

> The orthodoxies around how sex selection and feticide are commonly discussed as a 'social evil' reflect the narrowness within which the issue has come to be framed. It avoids the bigger picture of son preference as a foundational ideology of social relations and social reproduction. Moreover, it ignores the more sinister, mundane expressions of son preference that exist within people's everyday lived realities, the images that are transmitted and the gendered values, expectations and aspirations that circulate in society (Purewal 2010, p. vi).

Being inspired by Purewal's intervention into the field, the discussion in the paper will not be limited to female feticide or female infanticide, but rather to include the many social processes and institutions that surround and construct the desire for sons and to critically reflect over the context in which civic action is carried out against it. In a time of general improvement of welfare and deep economic and social changes, but also growing inequalities, the relative importance of sons has increased rather than decreased in certain contexts in India (Larsen 2011; Sekher and Hatti 2010). The pan-Indian census in 2011 showed a sharp decline in the child sex ratio in many, if not most, states in India. In response, there has been a lot of scholarship done from many different angles on the causes, ramifications, and responses to the 'missing' women and girls in India (Milazzo 2018, p. 467). Furthermore, numerous measures have been taken targeting the root causes of son preference (Kumar and Sinha 2020, p. 87). On a federal level, the Indian state has made various, albeit unsuccessful, efforts to address the problem of son preference through legislation. For instance, India enacted the Pre-Conception and Pre-Natal Diagnostic Techniques Act (commonly known as the PNDT Act) as well as the Dowry Prohibition Act with the overt purpose to combat these norms. The former was enacted in 1994 with the main purpose to regulate and prevent the misuse of technologies such as ultrasound and genetic testing for sex determination. The PNDT Act prohibits sex determination tests and the communication of the sex of the fetus to the parents during pregnancy. Despite the legislation, as well as subsequent amendments to it, son preference is a persistent problem that remain challenging. There are several factors contributing to the limited success of legislation targeting practices reflective of son

preference. Inadequate monitoring, insufficient resources, and corruption seems to have undermined the impact of the legislation (Singh 2022, p. 28). As we shall see, civic action has been carried out in response to this limited success. Thus, taking further steps to create and solidify efforts to evaluate relevant interventions should be seen as important, which further warrants this scholarly intervention (Guo et al. 2016, p. 135; Luke and Munshi 2011, p. 1).

India is one of the most socially, culturally, and linguistically diversified countries in the world. Moreover, as with other parts of South Asia, women's growing access to education and their increasing presence in the workforce has begun to mute or reshape some of these societal pressures and stereotypes. As a way of mitigating the risk of conceptualizing India in singular terms, I have chosen Tirupati as the site of study. Tirupati is a semi-rural, semi-urban city located in Andhra Pradesh in southeast India, near the Pālkonda Hills. Within Hindu mythology, Tirupati is known as the home of the Hindu god Venkateshvara, Lord of Seven Hills, something that attracts a large number of religious pilgrims. For this reason, it is sometimes referred to as the spiritual capital of Andhra Pradesh. Tirupati has undergone profound change in a relatively short time, both in terms of population growth and infrastructure development. The rapid development of Tirupati, combined with its hybrid mix between rural and urban makes it an interesting setting to consider. Tirupati is chosen, in part, because it is situated close to what sometimes has been called the 'female infanticide belt' in India, coupled with the circumstance that 'the highest rate of prevalence is found in the states of Maharashtra, followed by Madhya Pradesh, Andhra Pradesh, Rajasthan, Haryana, Bihar and the Union Territory of Delhi' (Lata Tandon and Sharma 2006, p. 4). In Andhra Pradesh, the child sex ratio dipped from 961 in 2001 to 925 in 2021, which is among the lowest child sex ratios in India (MoHFW 2021; cf. MoHFW 2016, p. 136). This means that in Andhra Pradesh, there has been a significant worsening of an already problematic child sex ratio. I would suggest that this reflects a continued preference for the boy child and the relatively lower status of the girl child. Many respondents report that a lot of work has been done against son preference in civil society, particularly in Tirupati. In Andhra Pradesh, feminist movements are not at all outside the normal, such as the anti-Arrack movement in the 1990s (Vindhya and Lingam 2019, p. 263). The presence of feminist movements in this area is another reason for choosing Tirupati as the site of study because it is likely to have had an impact on the ways in which gendered issues are tackled within a local context.

The foregoing account on the phenomena of son preference and the 'missing' girls does not in any way claim to be exhaustive, nor should it be seen as an authoritative statement on the matter. There are many issues intersecting with respect to broader gender discrimination patterns in the context. That is not to say that they should be clubbed together bluntly. However, the ambition is to underline the complexity that is attached to the problems at stake in this paper. There is not one but several ways of approaching and understanding these issues. Reflection and carefulness are warranted when discussing the actualized context. On a broad level, my claim in this paper is that the case of son preference illustrates how gendered norms, underlined by structural factors discussed above, influence the everyday social life of families and individuals. When seen in the setting of Tirupati, taking into account

the historical context of population control and colonialism, the notion of son preference can be seen as embedded in a long political debate with strong patriarchal and imperial undertones.

The Method(ology): The 'Critical' Turn in International Law

After the end of the Cold War, a new genre of critical scholarship 'began to enliven and provoke impassioned debates about the proper relation between theory and practice in international law' (Orford and Hoffman 2016, p. 4). Due to this advancement, the discussion on international law attracted an increasing amount of attention, both in terms of public debate and in academic scholarship (Schwöbel-Patel 2014, pp. 169–170; Baaz 2015, p. 161; Baaz and Lilja 2016, p. 146). Although, drawing from Rebecca Gidley (2019, p. 19), much like how the 'transitional justice literature is still steeped in the language of democracy and liberalism [and] holds tight to the assumption that the post-conflict government is pursuing transitional justice in order to bring about positive societal change,' I would add that the same applies to much of the contemporary liberal discussion on international law. According to Christian Reus-Smit, legal scholars inspired by a critical approach argue that 'liberalism is stultifying international legal theory, pushing it between the equally barren extremes of "apology" – the rationalization of established sovereign order – and "utopia" – the naïve imagining that international law can civilize the world of states' (Reus-Smit 2014, p. 286; Koskenniemi 2016). Simultaneously, critical international law is both within the tenets of liberalism, and against it, particularly on the latter when it is paired with interventionism.

It has long been the task of scholars hailing from the 'critical' body of legal theory to substantively engage with various blind spots and issues relating to, *inter alia*, imperialism, colonialism, and exclusion. In this paper, I am inspired by such endeavors. More than that, I am convinced that there is reason to call for an increased commitment with identifying, raising awareness, and questioning ideas and assumptions that are taken for granted within the international legal system to generate insights that in the long run can contribute to a more nuanced understanding of its key aspects (Strandberg Hassellind and Baaz 2020, p. 255). There is currently a patchwork of viable critical approaches. While critical approaches to international law are not uniform in character, it does not mean that anything goes (Baaz and Lilja 2016, p. 144). A recurring conceptual point of entry for scholars who are critical towards 'traditional' liberal legal theory is to emphasize that we must move beyond legalism and problem-solving within 'a self-referential search for origins, authority, and coherence', illustrated in part by the 'turn to history' in international law scholarship (see Purvis 1991, p. 105). The lowest common denominator for critical perspectives is that they reject the inequalities manifest in the existing world order, seek to expose power relations and to produce knowledge geared toward creating conditions for social change. The objective can therefore be said to focus on the ways in which this order materializes, particularly by problematizing and questioning existing institutions and/or power relations, asking questions not only about their origins, but also whose interests they serve (Baaz 2015, p. 675). Scholars inspired by critical

scholarship suggest that liberal international law should be understood as ideology and argue that the motivation of all critical research is 'emancipatory' (Minkkinen 2013, p. 119). An extension of this logic is to perceive theory and method as integrated (Okafor 2008, p. 371). In the paper, I draw from such ideas as operational points of departure.

An emerging facet of the critical turn in international law has been to understand how international law becomes translated into local terms and situated within local contexts of power and meaning. While it could be argued that the seeping of international law into local situations is just an accidental function of the international law project and that the main, if not sole, feature is inter-state conduct, complexities extend deeper. For instance, Vasuki Nesiah (2016, p. 985) argues, the local appears, at least in many cases, to be constituted globally. Consequently, it has been held that examining this process has 'significant implications for how we understand the sociopolitical dynamics of how ideas about human rights circulate' (Nesiah 2016, p. 999). Through this paper, I seek to add insights to this ongoing discussion within the critical turn in international law.

The Material: Some Brief Reflections on the Design of the Interview Study

The empirical inquiry of this paper relates to understanding how and why local actors in civil society draw from the international legal vocabulary in their struggles against son preference. Only relying on formal justifications, I believe, is insufficient for fully analyzing such questions. To render a more complete picture, I would suggest that there is a need to go beyond the verbatim. Thus, I have conducted interviews with key figures in primarily Tirupati's civil society. Engaging in conversations with these individuals regarding their methods and approaches has made it possible to explore their perspectives and ideas more comprehensively. In Tirupati, perhaps in India generally, there are many actors working against the issue of son preference. In order to address this intricate situation, a deliberate and tactical approach was required in selecting the interviewees. The present paper is a qualitative study. As such, the selection is not intended to be statistically representative. Instead, there has been an interest in reaching heterogeneity in the material within a relatively limited geographical context. I have also had an interest in reaching data saturation based on the interviews, which for me is indicated by the same themes coming out repeatedly (see Berryman 2006, p. 8). The interviews serve as a framework against which the broader theoretical assertions will be presented.

For the purposes of this paper, a total of 30 interviews were conducted during a three-year research period. The data collection process was initially carried out amidst the COVID-19 pandemic. Consequently, 14 interviews were conducted digitally via various online applications. During a research trip, 16 representatives from civil society were interviewed. The respondents are diverse, including various representatives of NGOs, scholars, religious leaders, police officers, reporters, activists, and judges from the Supreme Court in India who all work against perceptions of son preference in different ways. The interviews have been open-ended and

semi-structured, in the sense that there was much space for the respondents to raise questions and reflections of relevance to them (Alvesson and Deetz 2000; Alvesson and Sköldberg 2017). The questions asked of the respondents relate to their struggles against son preference, focusing on the mobilization of international law in that context. The interviews have informed the reading and analysis of other secondary sources, such as civil society reports, statements, and journalistic writings. The matter of each interview has been changing, as my knowledge of the subject has changed gradually. As such, the interview material provides insights into how the actors in the study view their role in this struggle, and their relationship to international law. It is not intended to give universal answers, but rather perspectives coming from a specific setting.

The Theoretical Discussion: 'From Above', 'From Below' and 'Vernacularization' Processes of International Law Mobilization

The international legal order has a unique capability to communicate strong normative undertones. Some critical research in international law has emphasized the potential of the international legal order to function as a tool for emancipation. At the same time, much skepticism has been voiced. For instance, by drawing from B.S. Chimni and Wendy Brown, it could be argued that by reframing a movement in terms of the international legal vocabulary, analyzes of structural parameters that are fundamental for the oppression of people in the Global South may not be fully brought to the fore, meaning that the problem at the heart of the struggle cannot be fully understood (Chimni 2017, p. 440; Brown 2015, p. 201). In that way, the international law discourse could silence the oppressed and distort the representation of repression. When viewed from this lens, international law can be perceived as coming 'from above'. Another perspective, albeit somewhat different, following David Kennedy, turning to international law in attempting to deal with injustices may cause problems, not only from the inaccessibility of international courts, but also when the international legal order becomes construed as the sole legitimate argumentative route to frame political action (Kennedy 2012, p. 19).

Emerging as a counterpoint to the skeptics, Balakrishnan Rajagopal suggests that international law also can be perceived as operating 'from below' through the gradual emergence of subaltern demands and ideas (Rajagopal 2003, p. 9). Similarly, Martti Koskenniemi reminds us that international law 'gives voice to those who have been excluded from decision-making positions and are regularly treated as the objects of other peoples' policies; it provides a platform on which claims about violence, and social deprivation may be made even against the dominant elements' (Koskenniemi 2011a, p. 266). Antony Anghie, whose impact on TWAIL scholarship cannot be understated, has stated that he is interested in the ways in which international law 'might be used by people of the Third World to pursue their own interests' and how 'contradictions and tensions seem to be an inescapable element of international law' (Anghie 2008, pp. 38–44; Cited in Koskenniemi 2011b, p. 6). However, Boaventura de Sousa Santos suggests, for international law to enable 'subaltern cosmopolitan politics and legality' it needs to be 'translated' into an appropriate local

framework (de Sousa Santos 2005, p. 28). Put differently, international law must go through a process in which it is attuned to a situational context, thus becoming 'vernacularized' – a process through which ideas of international law 'travel to small communities [becoming] vernacularized, or adapted to local institutions and meanings' (Engle Merry 2006, p. 39). Peggy Levitt and Sally Engle Merry (2009) have devoted much attention to unpacking processes of vernacularization in different situations, for instance in the context of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In the move between the global and the local, Levitt and Engle Merry argues, interpreters (or, in their words, vernacularizers) are central in conveying 'ideas from one context to another, adapting and reframing them from the way they attach to a source context to one that resonates with the new location' (Levitt and Engle Merry 2009, p. 447). Ultimately, the goal of this process is to influence contextual understandings of women's rights to challenge local inequalities.

In sum, the theoretical discussion on international law as 'from above', 'from below', and as vernacularization provides valuable insights into the complex character of international law mobilization. I have sought to summarize the major lines of debate in this section. However, I would suggest there remains a gap in current research, specifically regarding how social relations are conceptualized within this discussion. The impact of power dynamics, cultural context, and the complex interplay between actors at different levels of society are crucial aspects that all warrant further scholarly exploration.

The Frame: Civil Society and International Law Mobilization

In recent decades, many key actors within international society such as the World Bank, the International Monetary Fund, and in particular, the UN, 'promoted the liberal peace agenda' in which civil society 'was seen as an important grassroots promoter of democracy and development in post-conflict societies' (Schultz and Suleiman 2020, p. 435). Owing partly to this gravitation, civil society has become somewhat of a buzzword, often having different and ambiguous meanings (Crawford and Andreassen 2015, p. 13).

In understanding civil society, I draw from the notion of a 'political space where associations of citizens seek, from outside political parties, to shape the rules that govern society' (Aart Scholte 2004, p. 214). I use Jan Aart Scholte's definition to point to the ways in which a key role of civil society is to provide a platform for social action on a collective level. I conceptualize civil society as a political term and as an ideologically contingent phenomenon. From this perspective, actors based in the civil society can, at least to a certain degree, produce political pressure against different social contexts and issues outside the divide between the state and the market. I would like to complement Aart Scholte's definition by drawing inspiration from Antonio Gramsci. Borrowing from Vasilis Maglaras (2013, p. 1), I understand Gramsci's concept of civil society 'as a place in which the relations of state and economy, private and public sphere are redefined, under the terms of an ideological competition'. Hence, Peter Thomas (2009, p. 137) explains, Gramsci's civil society

is 'the terrain upon which social classes compete for social and political leadership or hegemony over other social classes'. In Norberto Bobbio's view, what is included in this definition, is 'not all material relationships, but all ideological-cultural relations; not the whole of commercial and industrial life, but the whole of spiritual and intellectual life' (Bobbio 1988, p. 83). Drawing from this outlook, I will carry with me a conceptualization of civil society as a place in which various actors can contest the social status quo outside the state. Put in the words of Hagai Katz (2010, p. 3), it is an 'arena of creativity where counter-hegemonic forces develop alternatives to the hegemonic ideologies and practices, and from where, under specific conditions, reformist processes can emerge'. I believe it is important in the context of Tirupati, and even more so in India, to say what civil society is working against. It is not the state in its governmental form and policies, it is instead primarily the search for alternatives to dominating gender hierarchies relating to son preference.

To provide somewhat of a consolidated outlook, it should be noted that actors in civil society 'are not just agents of change or means of positive development' (Andreassen and Crawford 2013, p. 14). I would instead like to argue that all actors within civil society are part of normative and legal contexts, their actions are influenced by and works within domestic and international legal orders. There is more to the work of civil society-based agents, as Henry Steiner, Philip Alston and Ryan Goodman argue, than just to 'provoke and energize […] and spread the message of human rights and mobilize the people to realize that message' (Steiner et al. 2008, p. 1421). Actors within civil society are social constructs rooted in social and political settings that restrain, underpin, or propel their activity. They are also 'driven by their institutional needs to survive, with internal dynamics of struggles over strategies and institutional power and position' (Andreassen and Crawford 2013, p. 14). Within Tirupati, there are many actors in civil society – such as NGOs, journalists, monks, teachers, student collectives, priests, and more – who work against issues of son preference and gender-based discrimination. Civil society activity and outreach, not seldom inspired by feminist ideals, has been prevalent in Tirupati's society for a long time. Based on observational data, it has functioned both as a social network but has also come to serve as a safety net by providing various social services for many locals, comparable to extended family structures that often fulfil similar purposes, or by providing services the government is not able to provide. I would like to argue that many of these movements are not interested in the law or the legal system in their day-to-day operations, at least not at face value. However, they understand that they cannot isolate themselves completely from the legal sphere, both on a domestic and an international level. Generally, civil society today forms an integral part of the everyday political life in many contexts across the world.

The Scenario: Maneuvers from Civil Society Actors in Working Against Son Preference and 'Missing' Girls

In this section, I seek to present some findings on the maneuvers enacted by the respondents to achieve results in their struggles against son preference. The section is based on the empirical material collected. A question that has been

recurring in the interviews is what role, if any, international law has played for the local actors. This is a quite open-ended question. The founder of an NGO called *Abhaya Kshethram*, a shelter for abandoned girls, destitute women, survivors of acid attacks, survivors of domestic violence, and for physically and mentally challenged orphans, noted the following in response:

> I think that the international legal system can provide us with the words for imagining a better society in the future. […] I think it can create strategies and political ideas for creating a more inclusive society. Just take the convention on the rights of the child, convention against discrimination of women… Even if we do not go to the police about these things, they make things happen in our minds, they help regulate what we think is right or wrong. That would be something worthwhile. But I think it cannot be just international law. The political thought needs to be there. We must combine both (interview with NGO founder, 3 January 2022).

As we can see, the reflections above point to an argumentative usefulness of the international legal order. It serves as a, some would argue incidental, reference point for framing ideas. At the same time, the respondent implicitly deconstructs and denaturalizes international law, pointing to gaps existing in it, opening up for political engagement, which I would argue constitutes a form of application. Later, during the same interview, when asked to further expand on the complex political situation, the respondent remarked on some of the ways in which the international legal order can be usefully applied to bypass nation state politics, arguing that.

> For us in civil society, talking about rights and referring to international legal frameworks give what we say a certain impartiality towards the state and other people in society. This is important for us, since we live in a political situation that is marked by polarization. Besides, we need all the tools we can get. Even if international law can bring change for just a few people, that would be going in a positive direction (interview with NGO founder, 3 January 2022).

The statement above can be read as a general call for tools to help in order to develop normative claims in relation to son preference. This ties into a statement made by a respondent in another interview, who uses the criminal label of genocide to explain the issue of son preference,

> The missing women and the son preference in India is a genocide, happening now (interview with Sabu Mathew George, 20 November 2021).

At this point, a good enough claim can be made that international law has percolated to these local actors and informs their understanding of social and political relations. I would argue that it is possible to draw the argument further. By framing son preference as a violation of human rights and invoking international legal norms, such as genocide, civic actors can mobilize public opinion, engage with policymakers, and influence the development of laws and policies

that address gender-based discrimination. This has also been the case in various settings. For instance, the respondent who described son preference as a genocide has used litigation in India's Supreme Court as a means to raise awareness on the issue. Having found the argumentative framing of genocide useful in creating momentum for the rather unsuccessful PNDT Act, he notes:

> Public interest litigation in the Supreme Court was a way for me to get the country at large aware. […] Parliament amended the PNDT law in 2002, following a Supreme Court direction. Therefore, sex selection before and after conception was also included; the original law only covered fetal sex determination. The state of Jammu and Kashmir enacted the law following this litigation. Thus, the entire country had a specific law and initiation of implementation also resulted in disappearance of public advertisements promoting sex selection (interview with Sabu Mathew George, 20 November 2021).

Thus, the respondent uses his understanding of the international law concept of genocide before domestic courts for strategic litigation. Regarding strategical litigation, it should be noted that, in the respondent's perspective, the court process is perceived not merely as a legal mechanism, but as a fundamentally political phenomenon, where legal arguments are strategically deployed to challenge existing gender norms. The legal and the political are, put somewhat bluntly, conflated by this move. By tapping into this logic, the respondent uses the court process as a platform for political advocacy and as a tool to challenge the status quo. Again, the link to genocide in this context is interesting, especially seeing as the crime is formally inapplicable to groups defined by gender (Strandberg Hassellind 2020, p. 60). In the respondent's application of the term, there is a completely different meaning from the original legal formulation of genocide (Carpenter 2002, p. 77). In my experience from the fieldwork, the genocide term has been used by various respondents to describe son preference. For some respondents, there seems to be a genuine conceptual connection between son preference and genocide. At the same time, the same respondents also appear to view genocide as a rhetorical recourse to deploy a discourse that is powerful in one context to bolster campaigning in another. I would note that what we are witnessing in that context is a strategical use of international law, in the sense that the deployment 'concerns the manner in which we achieve and eventually fulfil our long term aims or objectives' in grappling with son preference (Knox 2010, p. 197). What is implied here is the perception of law as a man-made social tool, and its communicative aspects being dependent on which interests it is intended to serve (see Akhavan 2012, 10). In that, the statement would be in line with a reflection shared by another respondent, who stated 'we must identify the gaps of the law and, as members of the community, step in and take responsibility for filling in the blanks' (interview with NGO founder 3 January 2022). I would suggest this to be an illustration of how critical theory is being put into practice, in that the concept of genocide becomes adopted in dealing with existing blind spots inherent in the international legal system. In the discussion, there seems also to be slippage between international law, international human rights law, and international criminal law. When genocide is referred to, it is used to signify both behavior that is, or at least should

be, criminalized as well as human rights transgression in a broader, more vague, way. The strategic use of international law can thus be exemplified by observing how international legal terms are flexibly employed in a broad sense: actors within civil society have used derivates from the word genocide, namely 'gendercide' as a potential eye-opener for the issue of son preference (Jones 2014, p. 566; Warren 1985, p. 22). As one respondent suggests:

> Because the thing is, people have the answers. They have the questions too. But we need to put them together. They know it is wrong to kill a baby girl. They know it, but they don't reflect about it. We can start the thinking; this is what we must do. Those who do it aren't bad or evil, they do it because they don't put the questions together with the answers. To see, am I really doing this to my girl child? And to answer, this is not what I want to do. I think that we must raise awareness. This is the key. Maybe [the word] "gendercide" can do that. […] It is a social task, it is communication (interview with NGO founder, 2 October 2020).

This is a clear-cut case of interpretation and implementation of international law concepts into the practical work of awareness-making for the NGO. In this logic, son preference is construed as something to challenge due to its relationship with structural inequalities. While there may be reason to question the appropriateness of the use of genocide/gendercide to describe son preference, it is a connection currently being made. Moreover, the conceptual terms genocide/gendercide are not used to call for individual accountability, nor for state responsibility. As we saw, is a social connection used in a way to call a social practice into question and to change public opinion. In fact, it appears to be a recurring theme for actors in civil society in Tirupati. A local scholar/activist who reflected over the ethics of using the gendercide word noted the following:

> Talking about a gendercide can perhaps create hope and anger of the patriarchal system, and create a longing for a better, more equal society. From that way, the international legal system could create political movements. It can also create shame and fear, which would be very bad, then the international legal system would maintain oppression. […] But if we are not careful, it can just end up making things worse (interview with anonymous local scholar/activist, 11 January 2022).

The respondent returns to the communicative aspects of the legal system and our ethical responsibilities of taking responsibility for our perceived blind spots inherent in it, independently from the respondent above. Drawing from this logic, it would be a mistake to view the respondents as being conduits for the international legal order, translating 'global' ideas, inserting them into a 'local' context. To view them as such would, ultimately, be to trivialize not only their actions, but also the political backdrop of previous feminist movements, which has been an important part of Tirupati's political history (Vindhya and Lingam 2019, p. 263). Instead, the activities are a more complex phenomenon, rather being informed by an emancipatory logic than a globalizing one. These individuals are actively

interpreting and implementing international legal frameworks, harnessing their potential as catalysts for social change. Through their multifaceted approaches, they recognize the pedagogical power of law, employing it as a tool to raise awareness and foster critical thinking in their local setting. As one respondent notes:

> You see, law is pedagogical. It can help raising awareness because people know, if it is against the law, it is really worth thinking over. Maybe then they choose not to follow, but at least the thinking will be there (interview with Tirupati-based educator involved in civic outreach, 7 January 2022).

To give further empirical support, there is the recognition among some civil society actors of international as a force that shapes consciousness. A scholar/activist remarks on the incorporation of UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) the following:

> [The CEDAW] is an international legislation, made into Indian law in 1993. By using international law, things are put into a frame of thought. It gives the appearance of being some sort of universal moral standard, even if we know that there is no universal moral. It is a strategically useful resource in working against patriarchy. That was the case for CEDAW. You know, it isn't really important that the law is practiced much, I think. In CEDAW, I do not know many cases where it has been used, but still it is symbolically important. What is important is that representative dimension of it, the way it makes people feel and act (interview with scholar/activist, 11 January 2022).

The local advocates tap into a frame of thought that communicates a semblance of universal moral standards. Though acknowledging the absence of an absolute universal moral, they strategically leverage the symbolic importance of international law to challenge patriarchal norms. The emphasis lies not only in the practical implementation of such laws but also in their representative dimension, which influences people's perceptions, emotions, and subsequent actions.

A different, albeit similar, avenue pursued by civil society actors is to further highlight the transformative role of legal language and discourse surrounding the concept gendercide, as discussed briefly above. The use of the concept of gendercide by civil society actors can itself be seen as an interpretation and/or implementation of international law, despite its absence in explicit legal frameworks. It serves as a symbol that encapsulates and communicates the gravity of gender-based violence and discrimination, by creating a wordplay on the concept of genocide. By employing this term, civil society actors bridge the gap between legal principles and social norms. Rather than invoking shame or guilt, the focus is on utilizing the gendercide term as a symbol that prompts positive dialogue. By reframing the narrative, the goal is to encourage open discussions that can contribute to a shift in societal attitudes, as a Hindu monk explains:

> There is something for everyone to do. Talking to neighbors, talking to friends. The question is how we can do it positively. I think if we can use gendercide to be a symbol for positive things, maybe it would be better. Not shame. Not

> guilt. I think the way it has been used before has created shame and guilt, maybe. Like I said, maybe it can be used to open discussions (interview with Hindu monk at undisclosed temple, 11 January 2022).

Tying the two aforementioned empirical quotes together, I would like to argue the following. By actively interpreting international legal frameworks and imbuing them with meaning, civil society actors demonstrate agency and initiative in their quest for social transformation. Their efforts extend beyond a passive adoption of international law, as they navigate the complexities of cultural context and strategic implementation. Through this lens, it becomes apparent that these actors are not merely relaying international law but actively shaping its impact on society, drawing upon its potential as a resource for dismantling gender inequality and challenging oppressive power structures.

The Takeaways: Beyond 'From Above', 'From Below' and 'Vernacularization'?

Taken at face value, it would seem that the strategies of the civic actors in Tirupati could be categorized as part of a process of vernacularization, or as a response 'from below'. For instance, according to one of the respondents, international law is useful in order to get a 'certain impartiality towards the state and other people in society' which is in line with the logics of vernacularization. These rationales are applicable to the context and could likely yield interesting reflections in themselves. However, in my view, they are largely unsuccessful in explaining the engagement of activists in the civil society who mobilize these concepts for the purposes of social change, not mentioning the adoption of the concept of gendercide as a canvas to conceptualize son preference. I would like to propose a mode of explanation that takes into account these aspects.

I suggest that in Tirupati, we are at a point in which the actors within civil society are not merely relays for international ideas, or translators for it. Instead, actors in Tirupati's civil society use the international legal order as a resource for claims of power, for resistance in calculating terms in the 'war' against son preference. That would mean, strategical emancipatory impulses that are transmitted from a political context in which feminist activism is nothing outside the normal. Take the adoption of the quasi-legal concept of gendercide as an example here. It has been pushed as a frame to enact resistance against son preference, an explanatory model that asserts a normative claim in juxtaposition to patriarchal gender norms.

At this point, I would like to return to the theme of colonialism. As discussed above, British colonialism played a huge role in the production of gender norms and patriarchy in India (see Purewal 2010, p. 26). This is where international law, with its imperial origins, could be useful to make sense of the cultural norms: I suggest that by deploying genocide/gendercide in a way that is in line with the perception of the social issue within Tirupati's civil society, without a sense of 'loyalty' to the Western international legal order and its definition of genocide, is to reframe the

struggle in terms that challenges the colonial frame of understanding the issue of son preference. As one of the respondents puts it:

> Civil society knows the values and can help us see them. […] It is not negative for us […] to listen to them (interview with local police officer, 7 January 2022).

While the respondent does not note anything explicitly about colonial legacies, it seems to be an implicit aspect. As argued above, the problem definition of son preference has historically been defined by colonial authorities in the penumbra of the 'overpopulation' debate. By allowing actors in civil society who 'knows the values' to speak, we can perhaps better accommodate for underlying values of people who have previously been marginalized by the colonizers. What is happening in Tirupati's civil society with the use of the international legal order in working against son preference, I suggest, can thus be read as an act of resistance with the overarching ambition to reclaim the *zenana*. By this, I mean that their actions can be understood as metaphorical and symbolic acts aimed at challenging and transforming the ways in which the politics of the family is defined and named and by whom. The form of action is carried out in the context of civil society resistance movements against son preference and involves reinterpreting and reimagining family politics in a way that subverts patriarchal norms and expectations within personal, familial, and societal contexts. Reclaiming the *zenana* as a site for empowerment and agency signifies a collective effort to redefine gender roles to create a more 'inclusive society' as a respondent put it. In doing so, it becomes a space for political contestations through which civic actors can challenge patriarchal structures and mobilize for change. The *zenana*, once a symbol of confinement and seclusion as well as an entry point for colonial objectives of social control, can through such a maneuver become a powerful platform for political engagement, transformation, and collective action. Not only that, but I would also suggest that by actors in civil society adopting and implementing the international legal terminology, as illustrated by the case of gendercide and practices of strategic litigation, their use seems to take on different meanings from the original legal formulation, moving beyond the control of traditional legal institutions. In total, it seems compelling to argue that there is much common ground between critical scholarship in international law and the strategies of actors in Tirupati's civil society. Let us not forget, while the term of gendercide is derived from the international legal order, it is not used to ascribe neither individual nor state responsibility. Human rights discourse in general should be thought of as a power resource. As the empirical material shows, however, the tools do not come ready made. The term genocide has a lot of authority, and to create new authoritative resources, civil society actors construct new signifiers which may have purchase on the actions of others. Through the rhetorically powerful word genocide, those who are attempting to have an impact on social relations create an equivalence to it by constructing the term 'gendercide'. Those who challenge the status quo have to be creative, creating equivalences between recognized signifiers which already carry a lot of authority, and newly constructed ones, such as gendercide. In the context, it should be borne in mind that, in historical terms, genocide itself is also relatively newly socially constructed, in the aftermath of the Holocaust. It should also

be borne in mind that human rights are not 'natural'. They are social constructions, which are claimed to be 'natural', and that claim is a strategy to make the signifier more convincing, or to give them more authority. It is a way to acknowledge son preference as a problem, but to co-opt the legal terminology to steer a narrative that puts civil society in charge of how the problem should be represented.

While there seems to be a sense of genuine conceptual connection between genocide, gendercide as well as the issue of son preference for some civic actors, I would argue that this does not matter that much. Even if there is a genuine sense of conceptual connection, there is no specific addressee for the term. While Margaret Keck and Kathryn Sikkink have showed us how various civic actors pursue claims and pressure through a 'boomerang' effect, I would argue that this aspect only is relevant to a minor extent in the context of Tirupati, because the ambition is not to change policies on a nation state level (Keck and Sikkink 1998, p. 165). The intended effect is more abstract, with the use of the international legal order linked to the developing of normative claims by bypassing nation state politics via pointing to an exogenous body of norms. It is instead a social or relational question. This relates to another point raised by Levitt and Engle Merry, discussed above, namely that there is a 'disparity between seeing human rights as law and mobilizing these ideas for social movements' and that the latter is the only aspect available for civic actors (Levitt and Engle Merry 2009, p. 459). Implicitly, the argument is that there is a dichotomy between activists and lawyers. At the same time, many respondents, despite lack of expertise in international law, without formal training, has in my experience showed a candid curiosity of learning more about international law to, for instance, use strategic litigation as a tool for their activism. I would therefore argue that, in Tirupati, it seems that the picture is more complex than what Levitt and Merry points to, with laypersons within civil society seeing international law as a platform for ideological claims, which is reminiscent of the key commitments of critical international law. Based on my empirical investigations in Tirupati, it instead appears as if there are multidirectional movements between what sometimes reductively is called the 'global' and the 'local', motivated by the excerpts from the empirical material. What *prima facie* may appear to be the use of international law 'from below', or a process of vernacularization, in the context of civic action toward son preference, is possible, perhaps even necessary, to conceptualize as something else.

The 'something else' would, I believe, capture better what Priyamvada Gopal (2019, p. 21) refers to as a 'language of dissent'. The embracing of gendercide as a novel term to shed light on colonial and structural dimensions of son preference is an indication of not only the creativeness of civic actors, but also to their capacity of changing the setting in which international law is applied and their potential to challenge its entrenched boundaries. The question then becomes what this means, and why adding this aspect to previous scholarship of civic action is at all relevant. The engagement with international law from the perspective of civil society is a complex phenomenon, comprised of several interwoven layers. By looking at it in terms of critical scholarship being put to action, I suggest that it is possible to get an enhanced understanding of grassroots activism inspired by the international legal order, arguably better taking into account the social and political complexity that make up the experiences of these local actors. Not only that, but it can also help us

sketch out and unpack assumptions about social change that is prevalent for civic actors. Such an orientation can in that way be seen as a conceptualization that underlines the importance of bringing the voices of the local actors and their social relations to the fore, doing embodied research instead of merely detached theorization.

Concluding Remarks

In this paper, I have investigated the engagement with international law of actors in civil society working against son preference, primarily in Tirupati, India. The question of civil society activism is a complex one, comprised of several interwoven layers. Based on what has been documented in this paper, such as the adoption of the genocide/gendercide concepts, strategic litigation, the use of international law as an ideological mobilizer and other calculating uses of the international legal order, we may need new tools to theorize what is taking place in Tirupati's civil society. One such tool, without discounting the need for others, could be to view it as critical international law being put into practice, or put differently, praxis in the form of 'reflection and action directed at the structures to be transformed' (Natarajan et al. 2016, p. 1946). In the way I see it, previous modes of explanation – 'from above', 'from below' and 'translation' processes – do serve a purpose in understanding how the international law vocabulary can be made useful to a certain extent. However, what I am suggesting through the paper is a reorientation to better understand grassroots activism inspired by the international legal order that arguably better takes into account the social and political complexity that make up the experiences of these local actors. I add a frame of understanding that conceptualizes the actions as actors in Tirupati's civil society as acts of resistance, with the overarching ambition to reclaim the *zenana.* Still, the question if the outcome of the civic actions in Tirupati really will contribute to rectifying the issue of son preference remain an open one, as does the question of how international law becomes 'translated into local terms and situated within local contexts of power and meaning' (Engle Merry 2006, p. 1).

The aforementioned question leads us back to Anghie's (2008, p. 38) interest in the ways in which international law 'might be used by people of the Third World to pursue their own interests'. The key question, however, is how that process can be envisioned. The argument I have laid forth in this paper relates to casting the resistance strategies of civic actors in terms of critical international law in action. That is not to say that this theoretical reorientation is a panacea. Plenty pitfalls remain. Just like the view of international law from below or vernacularization are explanatory modes that peel off complexity, the same applies to the mode suggested here. More work is needed, but it is nevertheless important to remember that there are currently many issues with seeing what is happening in Tirupati as only responses from below, from above or as vernacularization. This is because colonial, intersectional, and structural parameters seem to be left uncovered from these perspectives. Nonetheless, I remain convinced that seeing the strategies of civic actors in Tirupati as critical international law put into action can help, at least theoretically, in painting a more nuanced picture of engagement with international law 'on the ground', or at the very least provide new terms to explain difficult subjects.

By way of conclusion, it could be argued that the discussion of civil society strategies stemming from a rather limited context did not take us very far. At the same time, these processes and struggles are still ongoing. To document the ways in which the international legal order pierces situations in the Global South, which may not have been intended at the time of drafting of international legal provisions is an interesting phenomenon that is deserving of more attention. In this regard, many stones remain unturned. However, the paper does point to findings of a conceptual character that can be used to inform future research projects, both relating to civic action via international law in general and son preference in particular. To name a few queries that remain interesting to ponder: Should a temporal lens be added to the existing discussion on international law mobilization for civic actors? Are there casual links of interaction between civil society-based resistance cast in international law terminology? What are the unpacked perceptions of social change inherent within civil society and research? Are they coinciding? These questions, while falling outside the scope of this paper, remain highly relevant to consider for the future.

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