



HAL
open science

Introduction

Daniela Berti, Devika Bordia

► **To cite this version:**

Daniela Berti, Devika Bordia. Introduction. Regimes of Legality. Ethnography of Criminal Cases in South Asia, Oxford University Press., 2015. hal-02342635

HAL Id: hal-02342635

<https://hal.science/hal-02342635>

Submitted on 1 Nov 2019

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

[Published in D. Berti & D. Bordia (eds), *Regimes of Legality. Ethnography of Criminal Cases in South Asia*, pp. 1-26. New Delhi: Oxford University Press, 2015.]

Introduction

Daniela BERTI & Devika BORDIA

/p.1/

This book provides an anthropological approach to examining the way criminal cases are dealt with by courts in South Asia. It takes criminal cases as a framework to study how power dynamics and individual strategies either comply or clash with a legal setting. The case-study approach that is used here allows us to examine a set of state and non-state institutions and the practices of people associated with them. It helps to analyse the underlying tension in institutional contexts between legal practitioners such as police officers, lawyers, and judges who orient their claims towards neutralism, objectivity, and equality and a set of everyday interactions and decisions where cultural, social, economic, and political factors play a major role.

Our argument is that criminal cases offer a means of studying a wide scope of social issues from the vantage point of litigation and negotiation. The contributions to this volume focus on acts that the state has classed as criminal, ranging from those that were defined as a crime when the Indian Penal Code was first drafted in 1860 such as murder and rape to events that have more recently been criminalized, such as atrocities against Scheduled Tribes and Scheduled Castes and violence against women. Laws that criminalize practices like domestic violence and caste atrocity have enabled activists to garner attention toward certain issues and to build

networks within police and court institutions. Activists have approached the legal institutions and advocated for legal reform based on different motivations and intentions, and this has shaped the discourse and idioms that animate different social movements. Other cases reveal some resistance within society to conform to the changing definition of crime that is introduced by legislation subsequent to new state commitments. They also show how judicial procedures at play in a given society succeed in enforcing unpopular social and cultural reforms or, on the contrary, how resistance to these reforms impacts the judicial process.

From a methodological point of view, the ethnography of court cases proposed here mainly relies on narrative constructions. Its aim is not to reconstruct facts but to see how opposing parties try to uphold contrasting versions of these facts. These 'stories' that are strategically built in accordance with procedural constraints are eventually legally proven or ultimately challenge the opponent's version. The official version of the story produced at the time of the trial is often the result of more informal, under-the-table interactions and negotiations which may have occurred well before the trial itself and are based on power relationships, political pressure, or, sometimes, monetary transactions. This book focuses on formal and informal interactions between the various actors involved in a criminal case: the accused, police officers, lawyers, judges, prosecutors, witnesses, local leaders, and community members.

Court Case Approach

The heuristic potential of court cases to provide an understanding of the society in which they occur has been widely explored in the field of history. Court documents have been used by historians as a way to capture cultural tension which lends an in-depth understanding of the crucial

transformations at work in a society over a given period. One example is a double volume entitled 'On Trial: American History through Court Proceedings and Hearings' (Marcus and Marcus 2006), where the authors collected edited transcripts of trials for use in American history classes. Starting with the transcriptions of hearings for a series of criminal cases, students are taught about important topics in American history, such as the American Civil War and Reconstruction, the Ku Klux Klan, and the beginning of protective labour legislation.

/p.3/

Similarly, historians specializing in Europe have traditionally used trials as a historical source. Subsequent to Ginzburg's works on witchcraft trials in particular, it is now current practice for historians to draw on court documents to provide information not only on the history of judicial institutions (Farge 2001) but also on aspects of everyday life which, being rather commonplace, are not mentioned in other sources. Court documents have in fact been used to study how the body was perceived and how emotions were expressed by witnesses testifying before tribunals during the Inquisition in the thirteenth century (Cheirézy 2009); or to analyze the perception and the definition of incest in nineteenth century France (Giuliani 2009); or even to document the unknown sleeping habits of French working classes in the eighteenth century (Garnier 2009).

Historians have not only used judicial documents as sources for their research. They have also developed an epistemological reflection on the nature of these sources. They have questioned the kind of voices expressed by these sources and the way they are to be used, the research strategies that have to be followed in dealing with them and the way to interpret these sources. One major issue is whether it is possible to extract from these judicial sources a testimony (Farge and Cerutti 2009) that has not already been structured by a juridical language or if, on the contrary, these sources are entirely shaped by juridical forms of knowledge

and power. More specifically, historians have argued that the voices heard in court reports—that of the judge, of witnesses, of experts—are all distorted by a deforming mirror: the transcription by the court clerk; the witnesses' attitude towards the judge; understanding justice as a system of authority (Giuliani 2009: 21). In other words, they have underlined the need to take into account the relationship between written documents and the situational framework in which these documents have been produced: the fact that the witness report is the result of an interrogation; that the witness report may also be influenced by the attitudes and personalities of the judicial officers; or by the way the witness regards the justice system, and many other contextual factors. In spite of being an 'imperfect archive' (Giuliani op. cit) judicial documents are an integral part of historical research and they are even considered to be one of the only ways many people in past societies had to express themselves and to be heard up to the present time (Garnier 2009).

/p.4/

The importance attributed to the oral nature of court interactions has been at the very heart of the research carried out over the last decades on American and European trials by ethnomethodologists and conversational analysts keen to study the linguistic mechanisms through which legal power is achieved. These authors have looked in detail at oral interactions and examined the mechanisms that lie behind courtroom talk, the power relationships between protagonists, and the strategies used by judicial professionals to turn the situation to their advantage (Atkinson and Drew 1979; Conley and O'Barr 1990; Drew and Heritage 1992; Gnisci and Pontecorvo 2004). Most of these works have treated the courtroom as an empirical setting where power can be observed in action through language (O'Barr 1982; Conley and O'Barr 2005). Here, power means what emanates from the linguistic mechanisms of talk in the courtroom, from institutional legal roles, from professional speech styles. It is power to control a setting where the rules and turns of speech

are very different from those used in everyday conversation (Conley and O'Barr 1990: 21), where some are authorized to speak and others are restricted to giving answers, where by using a legal questioning technique, professionals transform a dialogue into a self-serving monologue. Some authors have also examined the social values behind courtroom conversations. One example is Matoesian's work on rape where the author argues that talk in the courtroom not only enacts the power of legal institutions but also reproduces the social value of patriarchy and male hegemony in society (Matoesian 1993: 215; see also Conley and O'Barr 2005).

Anthropologists working in non-Western countries recently adopted this method (Hirsch 1998; Dupret 2006; Chang 2004; Richland 2008; Stiles 2009; Svongoro 2011), with the exception of those working in India and other South Asian regions where very little research is done on courtrooms. In fact, while historians specializing in India have often drawn on trial reports as precious sources of information (Singha 1998; Freitag 1991), court cases have received little attention by anthropologists. Besides the pioneering works by Marc Galanter, in the 1990s, studies on South Asia started to take into account district court (Das 1996; Agnes 2004) or appeal court judgements which had repercussions on various aspects of contemporary Indian society. These studies have, however, mainly focused on the content of the judicial decision and on the implications that this decision could have from a political /p.5/ science, juridical, or sociological perspective.¹ What has been neglected is not only the form in which these judgments have been drawn up (from a linguistic and 'discursive' point of view) but also the complex and long-term judicial story of the case; this includes a multitude of professional and non-professional actors, of official and non-official interactions and has produced a number of legal (written) documents and contrasted (oral) narratives.

The argument put forward in this volume is that courtroom ethnography has to take into account not only the official reports provided by courts, but also the ways in which these documents are produced in the first place and the discourse that is held inside and outside the courtroom by the actors involved in the case. On the one hand, judicial reports and official documents may help to recreate the ‘texture’ by which the court and society have exchanged, formulated, negotiated, or opposed conflicting opinions on a register that is ‘rule-oriented’ (Conley and O’Barr 1990). On the other hand, the ethnographic investigation of courts and the collection of narratives and practices outside courtrooms may provide a more ‘relation-oriented’ version of legal facts—a version expressed by the parties actually involved in the case, whose logic and points of view are deeply entrenched in social ties, economic interests, feelings, conflicts, or loyalties (Berti 2011).

Anthropological research carried out in the field of legal practice in South Asia initially focused on village disputes and on the tactical possibilities offered by the coexistence of ‘indigenous’ and official laws. Srinivas’ idea of ‘bi-legality’ (Srinivas 1964) by which he wanted to describe villagers’ attitudes to using both ‘indigenous’ and official law in accordance with their own estimations of propriety and advantage was developed by Cohn (1987a, 1987b) who insisted on the importance of analysing both what may induce villagers to choose between one or another system of justice-making, and what kind of consequence the choice may have on relationships in the village. Cohn emphasized villagers’ attitudes to using the court not to settle disputes but to further them, so that most of the cases that go into courts are ‘fabrications to cover the real disputes’ (Cohn 1987: 90).

Ethnographic fieldwork has highlighted, on the one hand, the existence of local procedures of justice-making (Hayden 1984) and, on the other hand, the complex interaction between the official representation of south Asian legal traditions and the everyday practice of /p.6/ justice-making

which is often informed by the pragmatic combination of older and newer legal procedures (Moore 1998). The emphasis these authors lay on the contradictions and oppositions between 'state' versus 'indigenous' customs has been partly criticized by Anderson (1990) who, by referring to recent Indian medieval historiography, underlines the fact that the coexistence of a centralized political power with local dynamics of loyalty and authority existed even during the pre-colonial period. It is not therefore a consequence of the post-colonial period. He also criticizes the fact that these studies emphasize cultural differences to the detriment of an understanding of 'how the structural distribution of political authority is related to processes of production and social reproduction' (Anderson 1990: 163).

Drawing on Galanter's postulate that courts of justice provide a window onto significant facets of Indian society (Galanter 1972), the chapters presented in this volume explore the relevance of analyzing criminal cases from an anthropological perspective. The volume relies on the theoretical assumption that the study of these judicial cases in all their multifaceted complexity provides a pertinent and original angle from which to access some issues of contemporary India, as well as a variety of frameworks where the interactions between different forms of operative power and authority may be observed.

Courts Proceedings and Legal Narratives

The question raised by the afore-mentioned historians regarding the way judicial documents are recorded is of crucial import in the context examined here. In fact, although Indian criminal procedures apply the so-called principle of orality according to which evidence against /p.7/ the defendant must be presented by witnesses in court and must be subject to cross-examination, the judicial practice

attributes a crucial role to writing because what witnesses say before the judge is recorded in writing during the trial. Oral evidence is produced in court mostly so that it can be put on record. The observation of a criminal trial highlights the creative process of legal transcription similarly to what Stiles (2009) wrote in her ethnography on Islamic courts in Zanzibar. The author refers to the work of the historian Leslie Peirce who noted that the different ways in which the litigant's testimony was recorded in documents in sixteenth-century Ottoman Islamic courts was to be interpreted both as a consequence of restrictions on procedures and as a way of preserving communal well-being. Using the linguistic notion of 'entextualization' (Bauman and Briggs 1990), of creating 'extractable' texts from oral discourse, she shows how Zanzibar court narratives are framed differently throughout the proceedings by litigants, by clerks, and by judges, each of them emphasizing different legal issues by building on previous entextualizations of the dispute (Stiles 2009: 35).

Interactions in Court

The process of entextualization is particularly relevant to the judicial settings studied here. In fact, contrary to what Dupret observed in reference to Egyptian courts for example, where the evidence has already been written by the lawyer and by the prosecutor before the trial, and where court hearings are 'weakly interactive' (Dupret 2006: 153), in Indian courts the examination and cross-examination of witnesses and the transformation of question-answers into written documents occur at the trial itself. The production of court documents in India is the result of oral exchanges which are often extremely tense and where, as in other common law systems, questioning is carried out with the aim of suggesting something rather than of obtaining an answer (Conley and O'Barr 2005: 26).³ The writing process enables legal professionals (the lawyer, the prosecutor, or the judge),

who master the relevant writing techniques to transform the questions into witnesses' self-narrations⁴ and put on record the crucial points which they wish to suggest.

The long and meticulous recording of evidence in Indian trials (Annoussamy 1996: 78) strongly contrasts with the French procedure described by Bouillier (in this volume) where nothing of what witnesses /p.8/ say during the hearings is transcribed by the court. Similarly, the eloquent nature of the French *plaidoirie*, is markedly different from the way 'arguments' are conducted in India, which mostly consists in reading aloud before the judge (who follows on his file) passages of the previously recorded evidence.⁵

The role that writing plays during a trial in India and in France needs to be understood in relation to the different ways the verdict is reached and formulated. As noted by Bouillier in this volume, and like other jury-based systems, the verdict is given in France Assize Courts by ordinary citizens—the jurors—who have no legal background and who are asked to decide according to their own 'intimate conviction' on the basis of what they have heard during the trial.⁶ Even though jurors have recently been ordered to provide a short report, they do not have to justify their decision in writing. The 'intimate conviction' according to which French jurors are asked to pronounce the final verdict contrasts with the technicality of the reasoning process through which the judge in India arrives at his verdict. The decision here is taken by the judge alone on the basis of his own interpretation of what has been 'put on record' and by taking into account contradictions, procedural mistakes, and previous rulings. The role played by the recording of the hearings comes across even more clearly during the appeal process when the judge decides 'according to facts and law' by mainly relying on the evidence recorded by the trial court years before.

Settlement Negotiations

Observations of the oral and written procedures applied in court provide the social anthropologist with an interesting setting for studying the way state power is concretely implemented and how people organize themselves when faced with the state's legal constraints. Some of the chapters in this volume show how the judicial process is constantly bent by different kinds of out-of-court negotiations that take place between the parties from the time the case is filed to the trial itself, all of which ultimately undermines the rule of evidence once the judicial process gets under way.

In the narcotics case discussed by Berti, the negotiations prompted witnesses to deny before the judge what had been written in the police report at the time they gave their statement. Such repudiation led **/p.9/** the prosecutor and the judge to declare the witness 'hostile', which insinuated that they had reached some form of compromise with the accused. The police officers themselves were eventually blamed by the judge for having turned the case around in favour of the accused by giving contradicting statements during the hearings. In other cases, an out-of-court compromise between the parties is tacitly accepted by the court or it may even be explicitly requested by the judge—somewhat questioning the criminal nature of the case.

Baxi's chapter presents an inter-caste love story which was initially falsely filed as a rape case by the girl's parents and in which the accused, who was asked by the court to reach a compromise with the plaintiffs, was happily married with the alleged victim when the trial took place. The trial itself then became a form of fiction, which was played out by the prosecutor and the judge even if there was no longer a case to try. Baxi shows the extent to which these dynamics inform the legal procedure not only during the investigation, but also inside the courtroom when procedures are adjusted to ensure that the verdict is in keeping with the compromise that the parties reached a long time ago.

While in Baxi's case, a compromise is accepted or even encouraged by the judge and the prosecutor because of their awareness of the non-criminal nature of the case, in other cases involving allegations of corruption from the victim's party, the judge's reasons for encouraging a compromise may be more difficult to analyze. In the case discussed by Jaoul, for example, the judge's alleged request that a Dalit reach a compromise with the accused from an upper caste was presented by a lawyer activist as proof that the judge had taken a bribe. Here, far from being condemned by the court, an out-of-court compromise is allegedly imposed on the victim under the authority of the judge.

Fictional Scenarios

Verbal exchanges in court are not merely used to contradict previous versions recorded during the investigations. They also produce new narratives which are formulated in anticipation of their prospective use, providing the judge with an alternative narrative for the case. One issue that is addressed in this book is how narratives are formulated during or in view of the trial. In some cases multiple overlapping strategies /p.10/ are used by the parties (with the help of lawyers) to play around with the different legal sections according to their focus of interest. Legal narratives and the effects they have during the trial may also follow a rather conventional scenario familiar to and often produced by legal professionals (Basu, Baxi, and Berti in this volume).

This raises the issue of fiction and plausibility in the judicial process. The case discussed by Letizia (in this volume) about a Hindu extremist in Nepal accused of placing bombs in the city shows how the arguments put forward by the defence—use of torture by the police, frame-ups, political intervention, weak prosecution—appear to be plausible scenarios which guarantee a lenient sentence for the accused. The author also analyses the charisma and religious/political position of the accused and the context of uncertainty within

the Hindu majority owing to secularist reforms in Nepal might have influenced the decision to have a Chief District Officer (instead of a District Court Officer) try the case and have ensured full respect of court procedures (for example, the lawyers being present).

Judicial procedures may also be strategically shaped by the police and the prosecutor according to the social status of the accused or in relation to a specific religious or cultural setting. In the case presented by Bordia in this volume, concerning a Girassia woman accused of killing her husband, the author interprets the judge's attitude towards the case as a consequence of a parallel that non-tribal people make between the perceived immorality of tribal practices—in the case at hand, the possibility for a Girassia woman to have an extramarital relationship— and the culpability of the accused. The impact that the social status of the accused has on the case also emerges in Redding's chapter on a criminal case in Pakistan that was filed against transgendered individuals where the police's method of identifying individuals corresponds to and eventually clashes with the way these transgendered individuals are identified in Court (Redding in this volume).

Although, occasional reference to the personality of the accused or to their cultural or social background is made by the judge or prosecutor during hearings, these references are never recorded in the official transcription of the evidence. In fact, in Indian judicial procedures, as in other common law countries, the personality of the accused or their moral behaviour is not explicitly taken into consideration by the court. This aspect of the procedure yet again contrasts with the context /p.11/ described by Bouillier for French courts where psychologists and psychiatrists may be summoned to the court to give their opinion. The jurors' perception of the personality of the accused and their social/ cultural background, along with the circumstances of the offence, play a significant role in the jury's verdict.

Legislation Through Court Archives

Court reports have also been used by historians to study the reforms the British introduced in legal codes and judicial procedures. Freitag (1991), for example, has analyzed how attitudes toward criminality may throw light on what she calls the 'social order' of a particular place and time. She draws attention to the transformation which the British introduced regarding the perception of crime and in particular to what she considers a fundamental distinction in the way the raj dealt with what they perceived as crimes committed by individuals ('ordinary crime') and crimes committed by communities ('extraordinary crime'). By relying on annual records of crime and police statistics, she shows how in spite of legal codes and of police forces to deal with individual crime, the British were much more concerned with what they believed to be collective criminal actions aimed at weakening the authority of the state (Freitag 1991: 229; see also Yang 2003).

Singha's work is particularly worth mentioning here as it touches upon an issue that is addressed in this volume concerning the definition of the line between civil and criminal jurisdiction during the early colonial period (Singha 1998: 137 sq.). On the basis of court documents, this author shows how a major issue emerging from the cases she studied was an attempt to narrow the public dimension of certain norms of moral regulation by relegating them to the sphere of the domestic and personal. The shifts in the commitments and priorities of the colonial and post-colonial state had a significant bearing on what would be counted as a criminal act. Singha notes that the colonial state wanted to 'communicate the idea that the criminal act affected the interests of all, i.e. the public interest which the state represented, and punishment would be meted out in those terms' (Singha 1998: ix). While the colonial state excluded some issues from the criminal process or therein assigned them secondary status, the post-colonial policy has gradually further extended the category of 'crime' to encompass a

number of /p.12/ social or gender discriminations. Therefore, since the 1980s in particular, a number of Acts, for instance regarding narcotics, caste atrocity, and violence against women, have been passed which have officially criminalized practices and some relationships that were previously culturally approved (or tolerated) and legitimated by law.

The chapters in this volume highlight the different contrasting dynamics in the way this legislation is concretely and even strategically implemented in court. In the case of the Narcotics Drug and Psychotropic Substances Act, for example, the state's attempt to enforce legislation provokes opposition from villagers who defend their cannabis-related practices as their cultural right to assert their traditional multiform domestic use. This cultural argument may also adopt an ideological tone and turn into criticism of the state's inefficacy to propose an alternative for villagers' economic subsistence. The state's efforts to enforce drug legislation are explicitly or implicitly challenged here. However, it would be reductive to interpret these challenges in terms of a simplistic form of opposition between the state/urban elite and village/rural people: firstly, because the economic stakes in narcotic practices in certain regions concern many different people—from villagers to the international mafia network, and even corrupt state representatives (police, land officers, and sometimes even legal professionals); secondly, because the Court may provide an arena for expressing contrasting social dynamics—of both corporatism and antagonism. In fact, the idea that a criminal case may be falsely registered to settle a village dispute is commonly suggested by both villagers and judicial professionals (Berti, in this volume).

The manipulation of the law by plaintiffs appears to be a common aspect of the colonial and pre-colonial period, which according to Cohn (1955) and Benton (2002: 135) would be due to the existence of a plural legal landscape and to the tactical possibilities that such a legal plurality offered. This plurality of choice also occurs within the state system where people navigate within state law, between civil and

criminal sections (Sharafi 2010). However, what seems to characterize the current situation is the multiplication and diversification of mediators between state and non-state institutions that contribute to translating the plaintiff's issue and framing social facts into official legal texts (Chatterjee 2004; Eckert 2006). A number of actors take part in transforming the voices of litigants, reformulating accounts to satisfy **/p.13/** the requirements of legal categories, and exploring alternative parallel options among official legal provisions. Apart from lawyers who put the law at the service of a wide variety of groups in society (Galanter 1972), court professionals, police officers, NGOs, feminist groups, and mediator counsellors experiment with legal provisions, determining the form strategic negotiations take, legitimating 'competing constructions of reality through which the conflict may be expressed' (Comaroff and Roberts, in Rosen 2008:18). The court's decision about the case may be based on the specific section that has been chosen to frame the case and on the judge's personal attitude towards that section (Basu, in this volume).

The question of the 'reputation' under which a law is submitted particularly emerges in the case of the 'Scheduled Castes and Scheduled Tribes (Prevention of) Atrocity Act' which is often presented in upper-caste court milieus as being misused. According to this discourse, the Act would be used by Dalits as a way of exerting pressure on a member of an upper caste or of having him arrested immediately by filing a false case against him. The idea of being involved in a false case is commonly used in court as a defence strategy and Dalits themselves use this argument when they are involved in cases filed against them. However, as the case presented by Jaoul in this volume shows, victims may be persuaded to look for an out-of-court compromise in order to settle the case, paradoxically making the court a site of resistance against the antidiscriminatory legislation that it is supposed to implement.

These examples show how judicial procedure has to contend with social dynamics.⁷ However, as presented in the next section, law also constitutes a crucial modality of participation in state governance, reconciling the legislative process and the activism of civil society representatives.

Law and the Public Sphere

Legal reforms in South Asia have led to vibrant debates and discussions among litigators, legal practitioners such as police officers, judges, and lawyers, civil society institutions, and political leaders. The dialogue that has emerged around legal and constitutional processes has a long history in South Asia and can most recently be located in efforts towards writing a new constitution in Nepal; judicial activism in Pakistan; law **/p.14/** reform in India, Public Interest Litigation, and the passing of new legislation have been motivated to a large extent by the efforts of social movements. The dialogue, political activities, and the relationships that have been formed around the law and practices of legality have led to the constitution of public spheres.

The Habermasian notion of a public sphere—where people come together to engage in rational critical dialogue and where a person's argument rather than their social position determines the course of dialogue—has been assessed in several ways, particularly in terms of who has access and can participate in the public sphere (Frazer 1990; Warner 2005). The way in which scholars have critically engaged in a Habermasian notion of the public sphere raises two sets of questions about the publics that are constituted around legal processes in South Asia. The first set concerns those who have access and can take part in these publics. How do people develop the competencies to become involved in

debates and discussions around legal and constitutional reform? Who ends up excluded from these forms of engagement? The second set of questions pertains to how new ideas and dialogues that emerge from the implementation of laws, Supreme Court directives, or constitutional amendments circulate and are revised in different localities? How do people revise and resist new ideas, particularly those that criminalize existing social practices? How does constitutional law and judgments passed by higher-level courts impact practices at police stations and district courts, and the attitudes of legal practitioners, political leaders, litigators, and litigants?

The themes and issues that emerged around the protests following the gang rape of a girl on a bus in December 2012 shed light on the link between social movements and the law. During these protests men and women came together to demand stricter laws pertaining to violence against women, specifically reforms in the rape law and better implementation of the law. Along with an overwhelming turnout at public protests, a large number of ‘concerned citizens,’ were actively involved in debates both during the protests and on the inter-net, in newspapers, on the television, and radio about intricacies of the rape law and its implementation, the death penalty, marital rape, and women’s safety in the city. The language and ideas about legal reform that accompanied these protests are rooted in the campaign, protests, and advocacy of the women’s movement since the 1980s /p.15/ that has addressed the laws and legal practices legitimizing women’s subordination. Over the last three to four decades, women’s groups have campaigned for the revision of laws or advocated for new laws pertaining to crimes against women, including rape, sati, dowry, domestic violence, and sexual harassment at the workplace. The social mobilization and campaigns around legal reform set a precedent and created a discourse in the public sphere about violence against women and gender inequality, which shaped the contours of the debates and dialogues around the

2012–2013 protests and the events that led to the passing of new anti-rape laws.

Within the women's movement there has been a vibrant debate about whether focusing on mobilization around legal reform enables the participation of women from different backgrounds. For example, critics have noted that the anti-rape protests in Delhi in 2012 were limited to the concerns of women in urban areas and that forms of political action were not framed in ways that address sexual violence faced by lower-caste, Dalit, and tribal women. These criticisms point to broader questions and issues: whether focusing on legal reforms restricts participation in the public sphere; the actual efficacy of implementing progressive legislation; and whether the latter can be applied to other social movements. In the context of the Dalit movement and the environmental protection movement, scholars have shown how the centrality of legal reform and court activism restricts people's engagement in the public sphere and also co-opts political activism into the agenda of the liberal state (Rao 2009; Sundar 2009; Sivaramakrishnan 2011). Some of these scholars have simultaneously noted how legal reforms have changed the discourse in the public sphere and how a larger number of people now participate in protests, campaigns, and the making, passing, and implementation of the law (Sundar 2009; Sivaramakrishnan 2011).

As mentioned above, in this volume, Jaoul describes the interactions and networks between Dalit activists, Dalit lawyers, and judges with respect to the Scheduled Caste and Scheduled Tribe Prevention of Atrocities Act. While the conviction rate of those accused under this act may be low, the political mobilization and social activism around cases that are being tried under the Atrocities Act provide a momentum for Dalit activism. For example, Jaoul notes how local activists encourage villagers to file complaints and ensure that the police record them so that the offenders can be challenged in court. Furthermore, activists /p.16/ link specific cases of atrocities against Dalits to the demands

made during protests that include dharnas (sit-ins) and gheraos or sequestering lower-level courts. Litigators are often integrated into the movement and in some cases they assist Dalit lawyers. Jaoul's contribution shows how ideas and discourses pertaining to atrocities against Dalits that animate court interactions are then channeled through the networks and associations that are formed between activists, police officers, and lawyers. This process is facilitated when Dalit activists themselves become lawyers and by the presence of Dalit judges.

While cases involving atrocities against Dalits provide a moral dimension that enables a particular kind of mobilization around the 'atrocities' category, the focus of cases pertaining to violence against women is often about charting the best course of action that will ensure institutional and family support for individual cases. In the wake of legal reforms pertaining to violence against women, government and non-government organizations, activists, and ad-hoc groups have emerged, which may or may not be associated with the women's movement, and which address family disputes and cases of violence against women. Individuals linked to these organizations mediate between disputants and legal practitioners at the police station and at court. Basu's contribution demonstrates how a range of organizations in Calcutta, whether affiliated to the then ruling left party or to autonomous women's groups, assist women by providing counseling services and, as mentioned above, strategizing on how to address cases most effectively by drawing on both criminal and civil law. For years, the rule of the Communist Party of India (Marxist) in West Bengal created a situation where the concerns and commitments of women's groups were shaped by the priorities and commitments of the CPI (M) (Ray 1998). Basu shows that organizations which provided mediation services for people at court were often either directly linked to the CPI (M) or were able to draw on resources and connections with party members in order to assist disputants. However, together with party ideologies,

the circulation of the ideas underlying legal reforms regarding violence against women, for example criminalizing domestic violence, was also crucial to informing the everyday practices and strategies employed by various organizations that assisted women in the court (Basu, in this volume).

Legal reforms and constitutional amendments have led to a circulation of new ideas and concepts in the public sphere. The activities of **p.17/** social movements, lawyers' movements, NGOs, and political parties provide networks and channels of communication that facilitate how new ideas circulate and are employed by different institutions. For example, Redding demonstrates how the Supreme Court in Pakistan responded positively to litigation prepared by a group of lawyers and concerned individuals who sought to protect the rights of transgendered individuals. The terms used to describe these individuals changed from the more colloquial term 'hijra' used in the report following the police raid to the more gender-neutral term 'unix' in the Supreme Court petition. The shifts in terminology impacted the groups of people who were actually categorized as 'hijra' and 'unix,' thereby also changing the meaning and political implications of what these terms imply. Redding's contribution demonstrates how the languages and ideas of the state and the law revise and re-shape the meaning of concepts and terms in ways that may not have been previously anticipated by social movements.

The contributions to this volume also demonstrate how new concepts and languages that emerge from the Supreme Court and constitutional directives are interpreted locally, and how criminal cases also become an arena where actors resist new state policies and constitutional directives. Letizia's contribution about a person accused under the Arms and Ammunition Act in Nepal, and who was also suspected of being a part of a Hindu fundamentalist underground association, is framed in a larger context of ideas emerging from a newly declared secular state. The direction that the

case took was shaped by the ways in which right-wing Hindu groups mobilized public sentiments of fear among some members of the Hindu majority who were also uncertain about what secularism entails. Letizia shows how these sentiments of fear were articulated by police officers and lawyers who admired the courage of the person accused in standing up to the policies of the secular state, thereby leading to a light sentence, given the nature of the evidence produced.

All the contributions in this volume in some way demonstrate how criminal cases shape public opinion. The discourse around a criminal case reflects existing ideas in the public sphere and a case can also shape the ideas and languages around specific issues. The manner in which a criminal case leads to the formation of public opinion around new issues or reinforces widely held biases and prejudices depends on two **p.18/** inter-related factors. First, activists, lawyers, and judges are able to use political ideology and public commitments arising out of new laws and constitutional directives to build networks and public opinion around a particular case, which often shapes the direction the latter takes. Second, police officers, lawyers, and judges reflect widely held biases and prejudice regarding gender, caste, and religion. They use their authority to resist and to revise the issues arising from specific cases and legal practices, and court documents can reinforce existing biases and prejudice. There is therefore a disjuncture between, on the one hand, the ideas and values underlying new laws, constitutional amendments, and state policies, and on the other hand, histories of accumulated institutional practices and the training and preparation of police officers, lawyers, and judges.

Mediation and the Production of Authority

The contributions to this volume reveal how there is a discrepancy between the legal procedures outlined for example in the Code of Criminal Procedure and the Indian Penal Code and ‘law as process’ or the everyday practices of different legal institutions. This discrepancy manifests itself in the ways in which local realities, community norms, individual concerns, and histories of accumulated institutional practices motivate each stage of the legal procedure. Negotiation and mediation between, on the one hand, police officers, lawyers, and magistrates and on the other hand legal practitioners characterize legal practices; for example, the way in which local leaders exercise control over how to police officers gather evidence and register a case, or how activists instruct disputants on what kind of testimony they should deliver in court. The contributions in this volume refer to how legal practitioners in different regions of South Asia explain to ethnographers how and why negotiation is an unavoidable aspect of the legal procedure. In some instances they refer to the constraints they face in their work as a result of the deficiencies and glitches in the ways institutions work. In other cases legal practitioners assert that communities and various groups of people are incapable of adhering to the legal procedure, for example, by not providing adequate evidence and testimony.

Legal practice that consists of negotiation is commonly viewed as a corruption of the ideals of the law and of the proper legal procedure /p.19/ where unmediated face-to-face interaction between legal practitioners and disputants is seen to ensure impartial fact finding, evidence gathering, and passing a verdict. In India the practice of relying on local leaders and community-based institutions for everyday governance has been central to forms of state-making since the colonial period. Colonial officers relied on village panchayats, landlords, and headmen for governing

communities that were seen as vast and impenetrable. These forms of everyday governance varied from one region to another and depended on specific conceptions of people and place. For example, in his work on jungle mahals or the frontier regions of Bengal, Sivaramakrishnan (1999) demonstrates how the colonial state drew on a 'discourse of frontiers', depicting certain areas as intractable and 'zones of anomaly' that shaped ideas of intransigence and difficult-to-administer places in order to justify relying on headmen and landlords for everyday governance. Such analyses reveal how mediation and negotiation, rather than an aberrant or anomalous ruptures to otherwise rule-bound practices, were crucial to state-making practices during the colonial period.

Local leaders, middle men, and activists milling around the police station and the court perform a number of different roles. Mediators bring different parties to the police station and the court, confer with police officers and lawyers, and carry information back and forth between legal practitioners and litigators. They make the law accessible; they are capable of bending legal procedures; they act as go-betweens explaining the intricacies of a case to the police and lawyers; and they translate and simplify the law and legal procedures for disputants. Local leaders and activists who act on behalf of disputants organize meetings between legal practitioners and litigants, strategize about the best course of action, and they prepare and train people, including witnesses, on how to respond to lawyers in court. These leaders also facilitate negotiations in and around the police station before a case is registered, and during the trial's proceedings they may facilitate out-of-court agreements or may attempt to coax the accused into pleading guilty. In some cases what is at stake for disputants are the networks and associations that emerge during the interactions and negotiations between leaders and legal practitioners, rather than the court verdict or achieving justice.

Social scientists have pointed to the intentions of local leaders, middle men, brokers, fixers, and 'big men' who assist people in accessing resources, negotiating with state officials and legal practitioners, and in /p.20/ addressing neighbourhood and village disputes (Hansen 2001; Eckert 2004). These leaders wield power and influence in their communities and often draw on their vast network of connections and associations at critical moments, for example at the time of elections. The contributions to this volume demonstrate similar intentions among leaders who become involved in the work of mediation in the context of legal institutions. Bordia's analysis (Chapter 6 in this volume) of the events around a murder case among Girassia tribals in Southern Rajasthan demonstrates how tribal leaders assist villagers involved in a case in order to gain authority in villages. Tribal leaders gain visibility by establishing associations and networks with other leaders in different villages and by demonstrating their connections with police officers and lawyers. Therefore, the direction that a case takes depends on whether tribal leaders are willing and successful in undertaking negotiations with other tribal leaders, panchayat leaders (or leaders of the village council), and legal practitioners. As mentioned above, Jaoul and Basu reveal different processes around mediation and negotiation pertaining to progressive legislation for Dalits and women respectively. In such instances, activists and social workers draw on litigation to mobilize people around issues of violence against women and atrocities against Dalits and involve litigants in wider social movements.

In some cases in the South Asian context, police officers, lawyers, and judges also often perform the role of mediation. Headley (Chapter 7 in this volume) demonstrates the case against panchayattars or panchayat leaders who were accused of meting out unfair punishment to a woman in the context of a matrimonial dispute. The judge did not convict the panchayattars but condemned their practice in the harshest terms. He also convinced the woman to withdraw her case

against her husband and in-laws. Headley reports that while reflecting on the court proceedings, the judge stated that he conducted a panchayat between the husband and wife by making them reach a compromise. By describing the court proceeding as a panchayat, the judge echoes popular ideas that are reflected in short stories, films, and other descriptions of village life, where panchayat leaders understand their community, personally know disputants, mediate between the people involved in a dispute, and above all attempt to arrive at a compromise in order to ensure village harmony. Such forms of justice are perceived as different from state law where the focus is on objectivity; the judge delivers a verdict, and there **/p.21/** are winners and losers. When judges describe court practices or verdicts as ‘panchayati justice’, they justify mediation and compromise within the court room and deviation from statutory legal practice by evoking forms of justice that are often represented as the ideals of community life in India as in the case above. In other instances, commentators have used the phrase ‘panchayati justice’ to condemn a particular verdict as ⁸partial and catering to the sentiments of specific communities.

The forms of mediation that are associated with a criminal case depend on popular perceptions about different legal systems and how various communities are seen to access either state law or non-state law. Cases outlined in this volume reveal how legal practitioners believe that particular groups of people are incapable of providing sufficient evidence, of adhering to court procedure, and are better governed through their own customs and panchayat institutions as the latter are more equipped to understand the sentiments of a community. Litigators often believe that police and court practices are dense and complicated and that they can only navigate these procedures with the assistance of mediators and community-based leaders.

Contributions in this volume demonstrate that legal practitioners describe their work in terms of ideas of

objectivity, impartiality, neutrality, and equality. And yet they claim that local constraints and social contexts prevent them from actualizing these values in everyday practices at the police station and the court. Litigators and mediators seldom expect to encounter these ideal values of the law when they access legal institutions. People are well aware that police- and court-specific procedures have been shaped by local history, culture, and politics, and litigators and mediators must attune to these procedures in order to navigate these institutions.

Notes

1 . One remarkable exception is the work of Pratiksha Baxi which focuses on the ethnography of rape cases in Gujarat Session courts (Baxi 2014). Jayanth Krishnan recently headed a comparative study on the function of District Courts in three Indian states (Krishnan et al. forthcoming).

2 . Aside from social science literature on Indian justice, there are numerous Indian jurists and university professors of law who regularly publish material in specialised journals devoted to Indian legal studies. The number of socially /p.22/ committed studies of this kind has recently increased with a number of recent works exploring the social, political, and socio-legal implications of legal texts, judges' decisions or other judicial reports, with the intention of denouncing either social injustice or the dysfunction of the system in order to suggest possible ways of improving it. This commitment to socio-legal activism tends to blur the distinction between jurists and committed social scientists, for instance in debates on a unified civil code versus personal law, or on the reservation policy, gender inequality, human rights, or environmental protection (Sathe 2002; Baxi 1982; Agnes 1999; Larson 2001; Menski 1998).

3 . Tag questions are often preceded by a statement that makes the answers almost irrelevant (Conley and O'Barr 2005: 26).

4 . Furthermore, the passage from speech to writing is most often a shift from the vernacular language to English, a language that most people involved in the case—the victim, accused, witnesses—do not even understand.

5 . Nowadays, the practice of transcribing verbal interactions in court does not seemingly depend on the difference between common law and Romanist procedures as was the case in the past where Romanist procedures stipulated that all the evidence be compiled into a full written report (Shapiro 1981: 38).

6 . Similarly to what happens during Anglo-American trials, this implies that when the case goes to appeal everything has to be done all over again (Bouillier in this volume).

7 . See Baxi (2003) and Guha (1989). For an historical analysis of these theories see Wardhaugh (2005), Ludden (2001), and Sivaramakrishnan (2008).

8 . This was the case when Rajeev Dhawan described the judgment on the Ayodhya issue as 'panchayati justice' as he said that it takes away the legal rights of Muslims and converts the moral sentimental entitlements of Hindus into legal rights.'

See: <http://www.thehindu.com/todays-paper/tp-national/panchayati-justice-that-takes-away-legal-rights-of-muslims-r-ajeev-dhavan/article805552.ece>.

References

/pp.22-26/

- Agnes, Flavia. 2004. *Law and Gender Inequality: The Politics of Women's Rights in India*. Delhi: Oxford University Press.
- Anderson, M. R. 1990. 'Classifications and Coercions: Themes in South Asian Legal Studies in the 1980s', *South Asia Research*, 10(2): 158–177.
- Annoussamy, D. 1996. 'La justice en Inde', *Les cahiers de l'IHEJ*, 3: 1–34.
- Atkinson, John M. and Drew, Paul. 1979. *Order in Court: The Organization of Verbal Interaction in Judicial Settings*. London: Macmillan.
- Bauman, R. and Briggs, C.L. 1990. 'Poetics and Performance as Critical Perspectives on Language and Social Life', *Annual Review of Anthropology*, 19: 59–88.
- Baxi, Pratiksha. 2014. *Public Secrets of Law: Ethnography of Rape Trials in Gujarat*. New Delhi: Oxford University Press.
- Baxi, Upendra. 2003. 'The Colonialist Heritage', in P. L. Munday and R. Munday (eds), *Comparative Legal Studies: Traditions and Transitions*, pp. 46–75. Cambridge: Cambridge University Press.
- Benton, Lauren. 2002. *Law and Colonial Cultures. Legal Regimes in World History, 1400–1900*. New York: Cambridge University Press.
- Berti, D. 2011. 'Courts of Law and Legal Practice', in Isabelle Clark-Decès (ed.), *A Companion to the Anthropology of India*, pp. 355–70. Delhi: Blackwell.
- Chang, Y. 2004 'Courtroom questioning as a culturally situated persuasive genre of talk', *Discourse & Society*, 15(6): 705–22.

- Chatterjee, Partha. 2004. *The Politics of the Governed: Reflections on Popular Politics in Most of the World*. New York: Columbia University Press.
- Cheirézy C. 2009. 'Crainte et dépendance: le pouvoir sur les corps en Toulousain au XIIIe siècle', in Maria Eugenia Albornoz Vasquez, Matteo Giuli and Naoko Seriu (eds), *Les archives judiciaires en question, Centre de recherches historiques*, CRH Electronic Journal, Accessed 9 July 2013 (<http://acrh.revues.org/1537>).
- Cohn, B. S. 1987 [1965]. 'Anthropological Notes on Disputes and Law in India'. In Bernard S. Cohn (ed.), *An Anthropologist among the Historians and Other Essays*, pp. 82–122. New Delhi: Oxford University Press.
- Cohn, B. S. 1987 [1959]. 'Some Notes on Law and Change in North India', in Bernard S. Cohn (ed.), *An Anthropologist among the Historians and Other Essays*, pp. 79–93. New Delhi: Oxford University Press.
- Cohn, E. J. 1955. 'The Board of Review. A Novel Chapter in the Relations between Common Law and Civil Law', *The International and Comparative Law Quarterly*, 4(4): 492–507.
- Comaroff, John L, and S. A. Roberts (1981). *Rules and Processes: The Cultural Logic of Dispute in an African Context*. Chicago: University of Chicago Press.
- Conley, John M., and O'Barr, William M. 1990. *Rules versus Relationships. The Ethnography of Legal Discourse*. Chicago: University of Chicago Press.
- Conley, John M., and O'Barr, William M. 2005 [1998]. *Just Words: Law, Language, and Power*. Chicago: University of Chicago Press.

- Das, V. 'Sexual Violence, Discursive Formations and the State', *Economic and Political Weekly*, 31(35/37): 2411–23.
- Drew, Paul and Heritage, John. 1992. *Talk at Work: Interactions in Institutional Settings*. Cambridge: Cambridge University Press.
- Dupret, Baudouin. 2006. *Le Jugement en action. Ethnométhodologie du droit, de la morale et de la justice en Égypte*. Geneva: Librairie Droz.
- Eckert, J. 2004. 'Urban Governance and Emergent Forms of Legal Pluralism in Mumbai', *Journal of Legal Pluralism*, 50: 29–60.
- Eckert, J. 2006. 'From Subjects to Citizens: Legalism from below and the Homogenisation of the Legal Sphere', *Journal of Legal Pluralism*, 53–4: 45–75.
- Farge, A. and Cerutti, S. 2009. 'Introduction' in Maria Eugenia Albornoz Vasquez, Matteo Giuli and Naoko Seriu (eds), *Les archives judiciaires en question, L'Atelier du Centre de recherches historiques*. CRH Electronic Journal, Accessed at <http://acrh.revues.org/1476> on 9 July 2013.
- Farge, Arlette. 2011. *Un ruban et des larmes. Un procès en adultère au XVIIIe siècle*. Paris: Éditions des Busclats.
- Frazer, N., 'Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy', in Craig Calhoun (ed.), *Habermas and the Public Sphere*, pp. 56–80. Cambridge, M.A: MIT Press.
- Freitag, S. B. 1991. 'Crime in the Social Order of Colonial North India', *Modern Asian Studies*, 25(2): 227–61.
- Galanter, M. 1972. 'The Aborted Restoration of 'Indigenous' Law in India', *Comparative Studies in Society and History*, 14(1): 53–70.

- Galanter, M. and Baxi, U. 'Panchayat Justice: An Indian Experiment in legal Access', in Mauro Cappelletti and Bryant Garth (eds.), *Access to Justice, Vol. 3: Emerging Issues and Perspectives*. Milan: Guiffre.
- Galanter, Marc and Khosla, Dinesh. 1987. *Myth and Reality of the Protection of Civil Rights Law: A Case of Untouchability in Rural India*. Delhi: Hindustan.
- Galanter, M. and Krishnan, J.K. 2004. 'Bread for the Poor: Access to Justice and the Rights for the Needy in India', *Hastings Law Journal*, 55: 789–834.
- Garnier, G. 2009. 'Le recours aux archives judiciaires pour étudier les habitudes de sommeil', in Maria Eugenia Albornoz Vasquez, Matteo Giuli and Naoko Seriu (eds), *L'Atelier du Centre de recherches historiques CRH Electronic Journal*, accessed at <http://acrh.revues.org/1554> on 9 July 2013.
- Ginzburg, Carlo. 1983. *The Night Battles: Witchcraft & Agrarian Cults in the Sixteenth & Seventeenth Centuries*. Baltimore, Md.: Johns Hopkins University Press.
- Ginzburg, Carlo. 2004. *Ecstasies: Deciphering the Witches' Sabbath*. Chicago: University of Chicago Press.
- Giuliani, F. 2009. 'L'écriture du crime : L'inceste dans les archives judiciaires françaises (1791–1898)', in Maria Eugenia Albornoz Vasquez, Matteo Giuli and Naoko Seriu (eds), *L'Atelier du Centre de recherches historiques*. CRH Electronic Journal, accessed at <http://acrh.revues.org/1582> on 9 July 2013.
- Gnisci, A. and Pontecorvo. C. 2004. 'The Organization of Questions and Answers in the Thematic Phases of Hostile Examination: Turn-by-Turn Manipulation of Meaning', *Journal of Pragmatics*, 36: 965–95.

- Guha, R. 1989. 'Dominance without Hegemony and its Historiography', in R. Guha (ed.), *Subaltern Studies VI: Writings on South Asian History and Society*, pp. 210–309. Oxford: Oxford University Press.
- Hansen, Thomas B. 2001. *Wages of Violence: Naming and Identity in Postcolonial Bombay*. Princeton: Princeton University Press.
- Hansen, Thomas B. and Stepputat, Finn (eds). 2001. *States of Imagination: Ethnographic Explorations of the Postcolonial State*. Durham and London: Duke University Press.
- Hayden, R. M. 1984. 'A Note on Caste Panchayats and Government Courts in India: Different Kinds of Stages for Different Kinds of Performances', *Journal of Legal Pluralism*, (22): 43–52.
- Hirsch Susan F. 1998. *Pronouncing & Persevering: Gender and the Discourses of Disputing in an African Islamic Court*. Chicago: The University of Chicago Press.
- Krieken, R. V. 'Law's Autonomy in Action: Anthropology and History in Court', *Social & Legal Studies* 15(4): 574–90.
- Krishnan, J. K., Kavadi, S.N., Girach, A., Khupkar, D., Kokal, K., Mazumdar, S., Nupur, G., Panday, A., Sen, A., Sodhi, and Takale Shukla, B. 'Grappling at the Grassroots: Litigant-Efforts to Access Economic and Social Rights in India', forthcoming [published 2014 as 'Grappling at the Grassroots: Access to Justice in India's Lower Tier'], *Harvard Human Rights Journal*, 27.[pp.151-189]
- Larson, G. J. (ed.). 2001. *Religion and Personal Law in Secular India: A Call to Judgment*. Bloomington: Indiana University Press.

- Lazarus-Black, M. and Hirsch, Susan F. (eds). 2010. *Contested States. Law, Hegemony and Resistance*. New York, London: Routledge.
- Ludden D. (ed.). 2001. *Reading Subaltern Studies: Critical History, Contested Meaning, and the Globalisation of South Asia*. New Delhi: Permanent Black.
- Marcus, Robert, and Marcus, Anthony (eds). 2006. *On Trial: American History through Court Proceedings and Hearings II*. New York: Brandywine Press.
- Matoesian, Gregory M. 1993. *Reproducing Rape: Domination through Talk in the Courtroom*. Chicago: University of Chicago Press.
- Menski, W. (ed.). 1998. *South Asians and the Dowry Problem*. New Delhi: Vistaar.
- Moore, Erin P. 1998. *Gender, Law, and Resistance in India*, Tucson: University of Arizona Press.
- O'Barr, William M. 1982. *Linguistic Evidence: Language, Power and Strategy in the Courtroom*. New York: Academic Press.
- Philips, S. U. 1998. *Ideology in the Language of Judges: How Judges Practice Law, Politics, and Courtroom Control*. New York: Oxford University Press.
- Rakshak. 2013. Fighting Barriers to Justice and Equality. An Investigative Report. Accessed at <http://www.498a.org/contents/Publicity/498aBooklet.pdf> on 22 July 2013.
- Ray, R. 1998. 'Women's Movements and Political Fields: A Comparison of Two Indian Cities', *Social Problems*, 45(1): 21–36.
- Rao, Anupama. 2009. *The Caste Question: Dalits and the Politics of Modern India*. Berkeley, Los Angeles, and London: The University of California Press.

- Richland, Justine B. 2008. *Arguing with Tradition: The Language of Law in Hopi Tribal Court*. Chicago: University of Chicago Press.
- Rosen, Lawrence. 2008. *Law as Culture: An Invitation*. Princeton: Princeton University Press.
- Sathe, Satyaranjan P. 2002. *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. New Delhi: Oxford University Press.
- Sharafi, M., 2010. 'The Marital Patchwork of Colonial South Asia: Forum Shopping from Britain to Barod', *Law and History Review*, 28(4): 979–1009.
- Shapiro, Martin M. 1981. *Courts. A Comparative and Political Analysis*. Chicago: The University of Chicago Press.
- Singha, R. 1996. 'Making the Domestic more Domestic: Criminal Law and the 'Head of the Household', 1772–1843', *Indian Economic Social History Review*, 33(3): 309–343.
- Singha, Radhika. 1998. *A Despotism of Law: Crime and Justice in Early Colonial India*. Oxford: Oxford University Press.
- Sivaramakrishnan, K. 1999. *Modern Forests: Statemaking and Environmental Change in Colonial Eastern India*. Stanford, California: Stanford University Press.
- Sivaramakrishnan, K. 2008. 'Some Intellectual Genealogies for the Concept of Everyday Resistance', *American Anthropologist*, 107(3): 346–355.
- Sivaramakrishnan, K. 2011. 'Environment, Law and Democracy in India', *The Journal of Asian Studies*, 70(4): 905–25.

- Srinivas, M. N. 1964. *A Study of Disputes*. Delhi: University of Delhi.
- Stiles, Erin E. 2009. *An Islamic Court in Context: An Ethnographic Study of Judicial Reasoning*. New York: Palgrave MacMillan.
- Sundar, Nandini. 2009. *Legal Grounds: Natural Resources, Identity and the Law in Jharkhand*. New Delhi: Oxford University Press.
- Svongoro, Paul. 2011. *Linguistic Features of Courtroom Discourse. A Zimbabwean Study*. Saarbrücken: Lambert.
- Wardhaugh J. 2005 'The Jungle and the Village: Discourses on Crime and Deviance in Rural North India', *South Asia Research*, 25(2): 129–40.
- Warner, Michael. 2005. *Publics and Counterpublics*. New York: Zone Books.
- Yang, A. A. 2003. 'Indian Convict Workers in Southeast Asia in the Late Eighteenth and Early Nineteenth Centuries', *Journal of World History*, 14(2): 179–208.