Criminal Proceedings in India and the Question of Culture. An Anthropological Perspective

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Criminal Proceedings in India and the Question of Culture

An Anthropological Perspective

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The history of the Indian legal order shows an intricate construction of institutions and codifications which relate to the British legal system, to Hindu or Muslim traditions (partly reinvented), and, since independence, to various international interactions. The question of culture – local, religious, or national- has thus regularly been at the core of juristic concerns, whether to leave place to aspects of personal law according to more or less reified representations of culture, or to impose a reformist legal agenda. Scholarship in this domain has followed two main trends: one is the study of the cultural components of Indian law; the other is the study of the cultural use of the Courts. The present chapter aims at presenting another, less explored, approach, focusing on Court proceedings and how they tackle with the cultural components of the cases to be decided in practice.[1]

After a brief survey of the principal trends in the literature, the paper will discuss the interaction between the local society and the judicial system from the vantage point of criminal trials, presenting a few case studies.

The Culture in the Law, and the Cultural Use of Courts

Considerable scholarship has been devoted to the study of the sources of law since the pioneering works of Henri Maine in the XIXth century and the encyclopedic study by P.V. Kane in the first half of the XXth[2]. This approach of the relationship between law and culture, or more precisely of the cultural and religious components that may be identified in the fabric of law (for instance Sanskrit-based Hindu law, Islamic legal systems, or 'customary' law prevailing at local level), leads to considerations **/p. 194/** of how this multilayered system interacts with state law[3]. Much of this work has therefore focused on legal pluralism, in line

[1] This perspective is informing a four-year international project which we are coordinating and which is funded by the French Agence Nationale de la Recherche (ANR) on *Justice and Governance in Contemporary India and South-Asia* (*Just-India*) : http://www.just-india.net.

[2] Kane: Hindu Customs. See also Lingat: Classical Laws of India; Derrett: Hindu Law Past and Present; Derrett: Religion, Law and the State in India, and more recently Davis: Hinduism as a Legal Tradition.

[3] See for instance Menski: Hindu Law, who shares with Lingat and Derrett a similar caution towards the legal nature of the ancient texts of Hinduism and underlines the importance of local custom as a source of law. See also Lariviere: A Persistent Disjunction, and R.D.Baird: Religion and Law in Independent India. For a recent critical overview, cf Halpérin: Western Legal Transplants and India.

with the current focus on different normative orders by scholars working on post-colonial societies.

Anthropologists have been interested in the tactical possibilities offered by such legal plurality. A precursor is M. N. Srinivas with his study on village disputes: he introduced the idea of the "bi-legality" of Indian villagers, by which he sought to describe villagers' attitudes to using both 'indigenous' and official law in accordance with their own estimations of propriety and advantage.[4] This idea was developed by B.S. Cohn,[5] who considered the introduction of the Western legal system in India as producing a "direct clash of values of two societies", and who emphasized the villagers' attitude to manipulating the new situation and 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". In a similar vein, Galanter underlined the new opportunities provided by the official system for pursuing "traditional norms or concerns"; at the same time, he remarked, it helped to transform them.[6]

Galanter also underlined the disparity between law on paper and law in action. This is the case, for instance, in a domain where law explicitly takes into account the cultural and social reality of India and provides for reservation policies and "compensatory discrimination" in favour of members of socially stigmatised castes and tribes[7]. Other recent studies based on ethnographic fieldwork have highlighted the continued existence of local procedures of justice-making.[8]

These studies, for the most part, lay an emphasis on the contradictions and oppositions between an "alien" state" versus an "indigenous" custom. Such a perspective has been discussed by M. R. Anderson: referring to recent Indian medieval historiography, he criticises the fact that these studies insist on 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".[9] In a few other important studies, historians have suggested that justice and the subject of law should not be considered in terms of legal juxtaposition or hybridity, but **/p.195/** should be studied as elements of social and political interaction.[10] Indeed, there is a complex interplay between the official perceptions of South Asian various legal traditions and the everyday practice of justice-making in the courts, which is often informed by the pragmatic combination of older and newer legal procedures.[11] Recent socio-legal studies point out the intertwined legal frameworks that reshape and reconfigure the interaction between law and state.[12]

It is in this perspective that courtroom ethnographies can bring new possibilities of observing and understanding the actual place of culture in the judicial process leading to a judge's decision. The understanding of how the judiciary deals with the cultural reality of the people is all the more important as some of the commitments that India has made both at national and international level create a number of new situations. They may either create tension, conflicts or misunderstandings, whenever state commitment goes against local forms of relationships or local economic or political interests; or they can create reciprocal

[4] See Srinivas: A Study of Disputes.
[5] Cohn: Anthropological Notes on Disputes and Law in India, and Cohn: Law and Change in North India.
[6] See Galanter: The Aborted Restoration of 'Indigenous' Law in India.
[7] Galanter provides a detailed account of judicial doctrine in the matter, and of its social consequences in Deva: Sociology of Law.
[8] See Hayden: Disputes and Arguments Amongst Nomads.
[9] Anderson: Classifications and Coercions.
[10] See Mukhopadhyay: Behind the Mask; Singha: Despotism of Law.
[11] See Holden: Custom and Law Practices, and Holden: Hindu Divorce.
[12] See Randeria: The State of Globalization.

adjustments and adaptations whenever the state or society tries to seek alternative solutions or negotiations.

Indian Society and State commitments

India is of particular interest for studying the dynamics between (criminal) law and culture. It is a democratic multi-cultural and multi-linguistic country, with wide social contrasts due to the caste system. The state has shown a voluntarist approach in legal matters in order to transform society along the values of democracy, justice, equality, and secularism. India is in fact an important actor in the globalization process, engaged in international conventions and with extremely active human rights organizations. However, apart from a few of the country's megalopoles, Indian society remains essentially rural and relationships are still rooted in religion, genre, caste, and traditional local customs - all mechanisms of authority that can be very coercive at local level. Social elites are thus caught between the affirmation of their global modernity and their rooting in more traditional social and political networks. This tension between values presented as "universal" and local social realities finds an expression in the discrepancy between the political will of the state in its normative activity – which tries to conform with international law and ideals- and the everyday negotiation of kinship and other local ties.

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One first example concerns caste. On the one hand, Parliament enacted the Scheduled Castes and Tribes Prevention of Atrocities Act in 1989, which criminalizes any discrimination against castes of low rank. On the other hand, today caste discrimination remains very much an issue today. While marriages are usually arranged by the families within the same caste, and over the last few years cross-caste marriages have led to an increasing number of honor killings.[13] Furthermore, there are number of exploitative relationships -such as bonded labor or sexual harassment - which are embedded in caste relations.

Another example concerns domestic violence against women. Since the 1960s there has been a huge production of law acts forbidding dowry practices; this does not prevent the practice from actually being extended even to castes that did not respect it in the past. As a consequence, murders (or suicides, or murders presented as suicides or as an accident) are regularly committed because of the inability to respond to dowry demands.[14]

By promulgating these legal acts, the post-colonial state aims to outlaw social practices and relationships that are deeply entrenched in local society. Though legal acts do not circulate outside the circle of legal professionals, villagers may become aware of these laws through police activities, media coverage, or by their involvement as a witness in a court case. However, the local practices and relationships of power that have been criminalized by these laws may still be perceived (or implicitly claimed) by villagers as part of their "culture", and this may also be used to legitimate caste- or gender-associated relationships of domination.

Those who suffer from such abuse may be encouraged to file a case against their oppressors through a local lawyer or through women's rights or caste activists. Caste and

[13] Honor killings are often organized at village level, usually by the girl's parent and with the consensus if not the participation the local authority, or village assembly.

[14] What is called "dowry" generally indicates the entire assets transferred from the bride's family to the groom's family at the time of the marriage (Cf. Menski: South Asians and the Dowry Problem). One problem linked to this practice is what Srinivas calls the "new dowry", the money or property demands made to the bride's family by the husband or by his family after marriage. These demands, which may be protracted even years after the marriage, may end in the murder of the girl (presented as an accident) or her suicide..

marriage relationships are now often marked by the following contradiction: if, on the one hand, women or low caste people have the right to denounce domestic violence or caste discrimination, on the other hand, they are still economically dependent and they live in a local milieu where these relationships of power and domination are still partly legitimate or tolerated. One of the outcomes of this tension is that even when the case is filed by the police on the request of one of the parties, from the moment it is registered to the time of the trial, the parties may reach a private compromise, with the accused trying to convince the other party to withdraw the accusation.

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These private compromises will not be accepted by the court as such criminal cases are considered by the law as non-compoundable: they cannot be compromised out of court. Consequently in such cases, far from using social or cultural arguments in order to avoid conviction at the time of the trial, both the accused and the witnesses will merely deny that these facts ever happened or that the accusations were ever made - the witnesses will be then declared to have turned "hostile" by the prosecutor.

The negation of the facts is certainly the most frequent tactic employed by defense lawyers, who commonly try to show during the trial that the case in question is a sham, that the accused has been wrongly implicated by personal enemies and that the evidence has been completely fabricated by the police.[15]

With all the witnesses and the accused denying every fact brought before the judge by the public prosecutor, criminal trials take on a very technical nature, mostly focusing on proving the contradictions between the witnesses or on demonstrating the procedural mistakes committed by the police during their investigations[16].

In the following we will examine a case study to show how the relationship between state norms, the judiciary, and social practice may be studied through an ethnography approach to court cases. We will also see to what extent public discourse about the criminalization of local practices is referred to during the trial or in the judge's decision.

Cannabis Practices and Legal Evidence

The details of a case of cannabis cultivation observed during an ethnographic fieldwork in one District Court of North India (in Himachal Pradesh) illustrate the intricate relationships between public policies, local culture and relationships, and the functioning of the judiciary.

The cultivation of cannabis was officially authorized in India throughout the colonial period, and began to be criminalized in independent India in the early 1960s, when the government started signing international conventions (1961, 1971); under the last act of 1985, the Narcotic Drugs and Psychotropic Substances Act (from here onwards NDPS Act), cannabis cultivation is punishable by 10 years of imprisonment.

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In spite of this legislation, which is the outcome of the state's national and international commitments, the criminalisation of cannabis cultivation is not always well accepted by local people, especially villagers. People say that in this region of the Himalayas

[15] Unlike what Naguchi (see Naguchi: Criminal Justice) reports about criminal trials in Japan, where the rate of confession is very high, in Indian trials confessions are very rare. In most cases the accused, even if caught red-handed, declares himself innocent and will ask for trial.

[16] This is quite common in adversarial systems, although the technicality of the Indian trial is also accentuated by the absence of a popular jury.

cannabis has been traditionally used since ancient times, and that it is used to perform religious ceremonies, to prepare medicine, to produce shoes, bags and ropes and even to make some local dishes.

Newspapers show the form this discourse takes among villagers. For example in 2004, after the Narcotics Control Bureau destroyed cannabis plants at over 10 bighas[17] near Malana, one of the biggest areas for cannabis production, an article in *The Tribune* reported:

> "Villagers have described the operation as a direct attack on their only source of livelihood.… 'Cannabis has been grown here since time immemorial', said Mr Daulat Ram, Vice-president, Malana Panchayat. 'The bhog [food offerings] for devta [god] is made from the seeds of cannabis, and charas [hand-made hashish] has been used here for medicine over the ages' villagers said. …Villagers held a meeting today to work out their future strategy" (*The Tribune*, 1 October 2004).

As reported in a newspaper, villagers from Malana, a high altitude village that is famous for international drug trafficking, even claimed that the cultivation of cannabis is a decision taken by their village god, Jamlu devta 'Unless Jamlu devta tells us to grow other crops, we will only grow cannabis' *(The Tribune*, 28 July 2004).

It is not only villagers who hold this discourse, as shown by the following article, "Doctors call for change of law on cannabis":

> Doctors in India have called on the government to review the 10-year-old law that bans cannabis, on the grounds that it is not a public health problem and that it has medicinal uses. …Cannabis has been used in India for centuries. It is an important ingredient in many traditional herbal medicines and in some parts of the country it is socially acceptable for both men and women to consume cannabis during festive occasions...' Placing cannabis in the category of the more dangerous and addictive drugs was a historical error'" (*BMJ*, 17 August 1996).

These kinds of consideration were not deployed at all as an argument inside the court during the trial observed. Narcotics cases are considered extremely serious cases, and likely to be very severely punished. However, it is by taking into account this cultural context that we are going to present the case and the interactions that took place inside the court.

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As a matter of fact, in Himachal Pradesh, cannabis cultivation cases were very frequent and were tried at Session Court level, the court immediately below the High Court. For each of these cases, the prosecutor calls about 20 witnesses: partly from the village and partly from the police. But, even so, these cases almost always end up with the acquittal of the accused. The rate of conviction is very low, especially if compared with cases of contraband where the rate of conviction is very high and the punishment is comparatively is quite harsh.

This low rate of conviction for cultivation is a real concern for judicial authorities. This is shown by the fact that the NDSP act is one of the most frequent topics chosen by the local Judiciary Academy for their annual workshop, during which judiciary officers discuss in a more academic way the problems related to the cases they deal with inside the courtroom. The Chief Justice, judges, prosecutors, a few police officers or forest rangers participate in such workshops.

During the workshop organized in March 2010, narcotics cases were given an international dimension. Judges recalled that the problem comes from the outside: they spoke of "narco-tourism" (from Europe and Israel, in particular) and of "narco-terrorism". Drug

[17] 2,5 *bighas* = one acre

specialists and experts in narcotic trafficking were invited to make judges (especially freshly appointed judges) aware of the danger of drug consumption, and to inform them about international networks of drugs production and circulation.

At the meeting no reference was made to the cultural context and the local discourse on cannabis. The main concern was to discuss some points of the NDPS Act where, according to them, the judicial process gets blocked and where the prosecutor fails in proving the case. The judges saw the main problem as coming from the police at the investigative stage, so discussion was focused on improving police (and prosecution) work by giving advice on very technical points or strategy to avoid errors which could hinder the judge in convicting the accused.

At this last workshop, for the first time, a defense lawyer from the High Court specialized on cannabis cases was invited to discuss what he saw as the most common mistakes made during investigation. His paper was a kind of checklist of common police errors and was widely appreciated by the judges who suggested making copies of it to circulate among the police officers. While very pleased by the high praise he received, the lawyer told me that he was greatly amused by the situation: for he thought the meeting was completely useless. He was ready to reveal all his "weapons" (that is all the points around which he used to construct his defense) because he was sure that nothing would change; the police would keep on making mistakes and he would keep on winning the case.

In order to better understand the lawyer's skepticism and amusement, we will enter into the details of a criminal case that took place in Mandi District (Himachal Pradesh) in 2006. It concerns a man from a village where the police made a raid and discovered cannabis plants in his field. Such raids are not made **/p.200/** by the local police but by the Narcotics Control Bureau, an Investigation Agency whose investigations cover a larger area: Mandi falls within the Unit of Chandigarh, in Punjab (eight hours by car from Mandi). During such raids this narcotics team works in cooperation with the local police. However, without the intervention by the narcotics team, the local policemen would never take the initiative to register a case of cannabis cultivation. By contrast, once the narcotic team discovers a cannabis field, the case is left to the local police and they are obliged to pursue the investigations. The trial began with the presentation of the evidence, with the hearing of the Prosecutor's witnesses, the first of which was the *patwari*, the revenue officer who was in charge of the area where the cannabis plants had been found.

During his statement, the *patwari* supported the Prosecutor's case and stated that he went to the field along with the village president and the police and cannabis plants in the field of the accused. From that field the police collected the cannabis and put them in a parcel (the same parcel was exhibited there in the court). It should be said that the common perception villagers have of a *patwari* is that he is not really "a local" in the strict sense of the term, but is "a government person" or, especially in this context, "someone who goes along with the court system".

However, during the *patwari*'s statement, it emerged that the land where the cannabis had been found was registered as joint land which the accused shared with other villagers. The fact that the police had registered the case in the name of only one co-owner immediately appeared as a major obstacle in supporting the accusation. Co-owners are jointly responsible for cultivation, unless the land is physically demarcated. In order to do this, the law requests the presence on the field of one high-level revenue official, who is competent to legally certify this kind of demarcation. Now, though the law is very clear on this point, when the police go to the fields for an inspection they do not call this high level revenue officer. They go to the fields with the *patwari* who is not legally competent to carry out land demarcation. This appears to be a constant lapse on the part of the local police, which the defense lawyer

interpreted not really as a lapse, but as part of a system that allows the local police - especially when working with the narcotics team - to do its duty by registering a case while at the same time helping villagers evade being convicted by the court, in return for some compensation.

This was quite a common discourse made about local policemen: they are people with many local entanglements with villagers**,** because they may ask for money and because they may also belong to the same locality and therefore have a "double bind". As a lawyer said, they are "duty bound and locally bound". This leads them to frequently shift between what may be defined – to use the expression coined by Conley and O'Barr[18] - as a "rule-oriented" and "relation-oriented" attitude.

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On the second day of the trial it was the turn of the villagers to give evidence. Fourteen witnesses belonging to the same village as the accused, including the village president, were called to the stand as witnesses for the prosecution. At the time of investigations they had jointly signed a deposition at the police's request where it was stated that the field where the cannabis had been found was cultivated by the accused. In the Court, all the witnesses denied what was written in their statements that they had made previously. They said now that the land was jointly owned and that not a single plant of cannabis was cultivated there.

After hearing some of these witnesses, the judge understood that all of them were now in favour of the accused and he declared all of them "hostile witnesses" by dictating to the transcriber a standardized formula:

> At this stage learned PP (Public Prosecutor) states that the witness is suppressing the truth and that he will be allowed to cross-examine the witness. Request considered and allowed.

At the end of each of the witnesses' written evidence, and as a way to indirectly underline that the relationship the witness had with the accused could influence his statement, the judge added on their behalf.

> "it is incorrect that I [the witness] am telling a lie because of my relations with the accused".

This is another standardized formula added by the judge on behalf of a witness who turns hostile, without the witness being asked anything at all. The aim is to suggest the very contrary of what is affirmed. It is somehow the way in which the court tries to mention in the written version of the evidence that the witness was not confirming what he had previously said to the police due to the interference of some private negotiations at the village level. For example, when the turn came for the village president to give his statement, during which he skilfully gave the judge a rather detailed account of the story which perfectly concurred with the villagers' version, the judge added to the end of the document the formula

> "It is incorrect to suggest that I am deposing falsely in order to save the accused as a member of my *panchayat* [village assembly]"

evoking the possibility that the president was turning hostile because he wanted backing in the local elections. In fact the position of the village president is very different from that of both the *patwari* and the police who, being nominated by the state, have to show a certain

[18] See Conley and O'Barr : Rules versus Relationships.

collaboration vis-à-vis the court. By contrast, the village president is directly elected by villagers on the very grounds of his full commitment to them.

At the end of the evidence the defense lawyer was almost certain that his client would be acquitted, not because the facts were non-existent, but because the evidence collected in the courtroom was all in his favour. The lawyer knew that of course, the accused was cultivating cannabis plants. He himself and his family, he claimed, also cultivated some cannabis plants for domestic use." According **/p.202/** to him, villagers do not consider cannabis cultivation to be a fault (*pap*). So why will their people be sent to prison? This also explained for him why very simple men and women, some of whom had never been in a court before, could lie so easily before the judge.

In out-of-court conversations the accused (who was on bail) did not hesitate to admit that of course he was cultivating cannabis, that many other people in his village were doing the same (even the village president), and that the fact that on that day the narcotics team stopped in his field (and did not see the others) was certainly due to the influence of some planets. He then went on with the common discourse on the traditional use of cannabis in his village. And at the very end of the trial, when he would be given the right to say something in his defense, he said that he would say that he had never sown any cannabis and that the police had brought the plants from elsewhere.

The accused was eventually acquitted. In his judgment the judge underlined, on the one hand, the oversights in the police investigation; and on the other hand, the fact that neither the village president nor the village co-owners had supported the prosecution case. The judge supported his decision by referring to "the ratio of the law" and then he concluded in writing that in the present case, as well,

> With jointly-owned land and with no demarcation made by a competent official, and with all witness who have turned hostile the case of the prosecution falls like a house of cards.

Conclusion

All the cultural reasons concerning the "cultural" value of cannabis, which are amply underlined outside the court by the protagonists, are not mentioned at all during the trial, with most witnesses flatly denying that the accused had ever cultivated cannabis.

No cultural or social interpretation of the case is put forward either by the witnesses at the time of the evidence, or by the defense lawyer at the time of the arguments, or by the trial judge in his decision. The only reference to village or social dynamics hampering the judiciary process were the formulas used at the end of the cross-examination process, when the judge wrote in the evidence record the (possible) reasons why the witness was telling a lie.

Culture hardly appears as argument in criminal trials based on evidence and its refutation. This absence of cultural arguments is even more striking when we compare the Indian criminal proceedings with the ones in countries from where these proceedings were originally introduced. In trials in the U.S. or Europe (especially, but not only in the adversarial system) a cultural expert (often an an - **/p.203/** thropologist) may be called upon either by the defense or the prosecutor in cases involving immigrants who have committed an offence in their host country.[19]

Dundes Renteln shows, for example, how in a Canadian trial about a narcotics case involving a Sherpa from Nepal living in Canada the court accepted the cultural evidence put forward by anthropologist Sherry Ortner as an argument: as a an expert witness for the

[19] See Holden (ed.) : Cultural Expertise and Litigation.

defense. She argued that smuggling is part and parcel of life in Nepal, and agreeing to carry someone else's package without questioning its content is part of the duty and mutual trust on which people relationships are "traditionally" based. The trial judge in this case accepted the idea that the accused, "a relatively unsophisticated man...from a relatively unsophisticated culture", though caught smuggling, was not aware that he was carrying heroin.[20]

This kind of argument would not be used in criminal cases in India, which shows how cultural distance and the perception of an ethnic difference lies at the base of cultural defense. The absence of cultural arguments in Indian trials is not only evident in trials related to narcotics but also in cases related to social issues such as the "dowry cases" mentioned above. Here again, in contrast to the many psychological or cultural interpretations or speculations given by the protagonists outside the court, the accusations against the accused are just denied inside the court itself, at the moment of trial interactions.[21]

There is thus a stark contrast between the proliferation of cultural explanations outside the court, which may legitimate some forms of resistance in the protagonists' own eyes, and the court's desire to appear as non-cultural or, in other words, as a context within itself.

However, while culture is not instrumentally or strategically deployed by the parties during the trial, references to an "Indian culture", often reified, are frequently made in the rulings that High Courts and Supreme Court judges write at the end of the appeal, when they have to argue their final decision. This is particularly apparent in cases concerning aspects of social or family relationships which are now condemned by law. Here High Courts and Supreme Court judges are very much concerned with the notion of culture and sometimes, more specifically, with the notion of religion, since they refer to Sanskrit treatises. In cases concerning personal law, scriptural prescriptions may play a determinant role for the judge in deciding a case. However, references to Sanskrit religious texts are also important in criminal cases, and may be used by the judge in order to support his decision and, more broadly, to discuss about the issue in question.

In this judgment at a Bombay court in 1986, the judge had to decide a case related to an attempted suicide (section 309 of the IPC). After presenting the points **/p.204/** of view regarding suicide in different religions such as Buddhism or Jainism, the judge moved by quoting on to Kane's History of Dharmashastra:

> Parasara (IV. 1-2) states that if a man or woman hangs himself or herself through extreme pride or extreme rage or through affliction or fear, he or she falls into hell for sixty thousand years. Manu V. 89 says that no water is to be offered for the benefit of the souls of those who kill themselves. The Adiparva (179.20) declares that one who commits suicide does not reach blissful worlds. Vas. Dh. S. (23.14-16) ordains "whoever kills himself becomes abhisasta (guilty of mortal sin) and his sapindas have to perform no death rites for him". *Maruti Shripati Dubal Vs. State of Maharashtra, 1986.*

In a Supreme Court's judgment on a case registered under Section 498a, where due to dowry pressure a woman had committed suicide after killing her young daughter, the judges described the facts as "another case of two young lives sacrificed and nipped at bud for the demonic culture of demand of dowry" before giving their interpretation of the suicide notes that the woman wrote to explain the reason for her decision:

> These letters reveal the true nature of Indian women. In India right from Vedic period,woman is described or compared to mother earth and called as 'Kshamaya Dharitri' i.e., to say, she is like the mother earth, who bears all the atrocities committed on her and still pardons. But even

[20] Dundes Renteln : The Cultural Defense, p.85
[21] See Berti : Hostile Witnesses.

> as is the case of the mother earth, when the volcanoes explode resulting in the death of atrocities on her go beyond bearing, the such women. This is what exactly happened in the present case. *B.N. Vijayakumar And Ors. vs State Of Karnataka By Dsp, Cod on 1/7/2005*

At this level of judiciary proceedings and discourse, then, culture is explicitly invoked in the legal reasoning, be it in support of it or, as in the latter case, in order to condemn some of its aspects (e.g. "dowry demands") in reference to an imaginative and literary discourse about cultural traits valid across time, such as the character of India's women.

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