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Daniela Berti

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- 1 Historians have long used judicial files to access information concerning aspects of people's everyday life which they cannot find elsewhere.<sup>1</sup> Compared to other kinds of written sources, they see judicial files as a way of getting closer to the "spoken words" of people whose voices would otherwise be inaccessible to them. Farge (2009), referring to eighteenth-century French court archives, even wondered about the possibility of bringing these documents alive through fiction "to revive men and women from the past—some of whom can be likened to heroes of novels" (Cohen and Savart N.d., writing about Arlette Farge's book *Le Goût de l'Archive*, 1997). At the same time, though attracted by the "dramatic" and "realistic" intensity that comes forth from this kind of source, historians do not regard them as a reflection of reality. In fact, they have long engaged in an epistemological reflection on the nature of these particular sources, on what kind of voices they reproduce and on the proper way of dealing with them. What appears to them as the specificity of judicial documents resides not only in their being incomplete or distorted by the "silence and lies which complaints and accusations always involve" or by emotional factors such as shame or fear (Cohen and Savart N.d.). A judicial document also appears as an object that has already been formatted by a juridical language and by the institutions and rules that have produced it (Cavazzini 2009). By considering them as written traces of originally-oral exchanges, historians have also focused on the role played by those in charge of their legal production, pointing out the importance of considering these archives as social constructions that come from and thus firstly evoke organs of control and social regulation—public administrations, courts (Seriu 2009).
- 2 The process of creating documents in court has equally been studied by socio-legal scholars, particularly those who deal with the conversational approach (Atkinson and Drew 1979; Conley and O'Barr 1990; Drew and Heritage 1992; Gnisci and Pontecorvo 2004), and by anthropologists, who are also concerned with the need to compare court documents not only with trial interactions but also with the out-of-court discourse of the people involved in the case. Interestingly, while historians initially turned their attention

to court files to find “fragments of life” (Farge 2013:99), anthropologists have looked at the way the construction of legal evidence deviates from the real world. Latour, for example, in his study on the Conseil d’Etat shows how bringing a conflict to the court entails the need to transform the emotional aspects of the complaint—rage, indignation, scandal, anger, sadness—into a legal claim. He points to the “immense labour of shaping and formatting evidence which alone allows for the Council to carry out its task efficiently” (Latour 2010:75). For him, in order to achieve a more direct, richer and active contact with reality, the researcher would need, at some point in time, “to put the file to one side and go and see what’s happening for [himself],” he would need to “question the witnesses, forget the pathetic arguments of the lawyers and escape from the straitjacket of this paper world, which is unable to capture reality” (Latour 2010:208). Though from a different perspective, Stiles (2009:34) has also looked at the process by which the law in Zanzibar’s court transforms the way in which litigants narrate troubles as well as what courtroom staff do with these narratives—‘how are clerks and judges deciding what information to include, and what to leave out’ in the process of creating court documents.

<sup>2</sup> Similarly, authors working on immigration have shown the many inaccuracies introduced by officials in recording interviews with asylum seekers in Europe, basically due to their reliance on inappropriate cultural stereotypes; to the need to reduce semantic ambiguities and multiple voicing to a univocal statement; to distortion of the content in the shift from speech to written statement (Jacquement 2009). On the same line, Good (2011) has shown how UK asylum-applicants are required to narrate their stories of persecution, and has pointed out the constraints which may prevent those narratives from being effectively given or properly understood.

- 3 The importance of considering the way records are framed according to legally-oriented conventions of story-telling has been a particular focus in recent years for authors working on suicide, who have sometimes pointed to the problem they face in relying merely on official and legal sources for their research. Atkinson (1978:140–41), for instance, has shown how coroners and their officers in the United States “are engaged in analyzing features of the deaths and of the biographies of the deceased according to a variety of taken-for-granted assumptions about what constitutes a ‘typical suicide.’” He has also shown how officially generated data tend to “ignore the complexities of the interactions which lead to the official categorizations as well as the possible meanings which the actors involved may attribute to their own actions and the actions of others” (Atkinson 1978:47).
- 4 While acknowledging the role of legal officers in generating theories of “suicidality” through the investigative and reporting process, Widger has more recently showed how state-generated theories (Widger 2015) on suicide coexist with ordinary villagers and townsfolk-generated narratives. In his work based on an ethnography of suicide in Sri Lanka, he argues that folk and state suicide stories do not exist independently but are to be taken as “mutually generative” in the sense that the “representations they produce cycle between one another” (Widger 2015:49). Drawing from Widger’s argument, I focus in this paper on particular kinds of texts that are sometimes found in court files on suicides and which are commonly known as “suicide notes,” that is notes which have supposedly been written by a person who has allegedly committed suicide and who wrote down the reason for their decision to take their own life. Unlike most of the voices that emerge from a court file which, as shown by the works mentioned above, end up being mediated by a legal or judicial instance—the police, the court or the lawyer—suicide notes

are not supposed to have undergone this legal and linguistic formatting. In fact—unlike other kinds of court documents which, in spite of being written in the first person in the voice of the witness, are a professional transcription of an oral statement—the content of a suicide note is supposed to have been originally produced in writing, and the person who is referred to in the note as “I” is supposed to be the author of the note. One of the main issues raised by these notes in court is however their authenticity. We are in fact dealing here with writings that appear to be spontaneously written (Samraj and Gawron 2015) but whose authenticity is often challenged either by the prosecutor or by the defense lawyer—depending on what is written in the note.

- 5 The interest these notes have for the anthropologist is therefore twofold. On the one hand, they provide a version of the suicide which is not directly produced by the coroner or court officer but is supposedly written by the person who committed suicide, or, if they have been fabricated, by the victim’s family or in-laws. On the other, these notes are subjected to judicial scrutiny and interpretation; so, whether they are real or fictional, they produce a court discourse, and sometimes they even appear to have been written with the judicial outcome in view. I will therefore look at these notes both as a lens which can give access to the deceased’s last thoughts, or to those of her entourage if the note is fabricated, and as a lens used by judges themselves to arrive at a decision.

## A multi-case approach

- 6 The first time I came across what is commonly called a “suicide note,” I was sitting in the typist’s office in Shimla District court, going through the files of criminal cases that were scheduled to be heard in court in the coming week. The note—I will present its content in detail further on—was carefully written in Hindi on one page of a diary and was signed “Anjana.” Writing in the first person, Anjana complained that her husband and in-laws had made her life a misery and that she no longer had any reason to live.
- 7 When reading Anjana’s handwritten note for the first time, I was struck by the document’s potential to give access to the woman’s inner thoughts and feelings in a way in which, I thought, she would have hardly expressed them in public during her lifetime. After following the case in court, however, I was surprised to notice that no reference was made during the trial to the content of the note. Quite the contrary. The intimacy of the feelings and desperate thoughts conveyed by Anjana’s note strongly contrasted with the apparently unemotional determination with which Anjana’s father and other members of the family denied that the young woman was unhappy with her husband or that she had ever complained about her in-laws—which was, as the judge repeatedly recalled during the trial, apparently in contradiction with what they had previously declared to the police.
- 8 When I came back from the field, I started looking at various legal cases on the internet to find out whether similar kinds of suicide notes were reported in judicial decisions and how they were dealt with by the court. Most of the cases I found had been registered by the police, as in Anjana’s case, under section 306 (abetment to suicide) and under section 498-a (subjecting her to cruelty) of the Indian Penal Code. A common scenario in these cases was that after discovering the alleged suicide, the woman’s husband and in-laws were accused by the woman’s relatives of being responsible for her death and were immediately arrested by the police on suspicion of having harassed their daughter-in-law with repetitive dowry requests or having beaten her and subjected her to other forms of

mental or physical violence, which had driven the woman to commit suicide. In some cases, the alleged suicide was suspected of being a murder which had been staged as a suicide. The victim was thought to have been beaten to death or strangled and then hanged, or to have been set on fire and then locked in a room allegedly closed from the inside so as to look like a suicide. In the cases selected, a suicide note had been found by the police or by family members at different stages of the procedure and had been reported by the judge in the judgment.

- 9 By examining the various cases reported in court decisions I realized the importance of looking at them not in isolation (case by case) but by taking into account their variety and multiplicity. Contrary to previous work (Berti 2016) where I focused on an in-depth case-study based on ethnographic fieldwork, I here adopt a multi-case approach by relying on various judgments available on legal websites. Since most of my analysis here (except for Anjana's case) is based on court decisions rather than on ethnography, this paper presents some limitations insofar as my understanding of the case depends on the information that is given in the judgment—which is sometimes fragmentary or unclear. My focal point here, however, is not so much the understanding of the case itself or the veracity of the versions reported in the judgment but, instead, the way suicide notes are dealt with by judges and the issues they raise in court. Far from being considered as the unequivocal voice of the dead person, the content of the suicide note is commented upon and scrutinized by the judges in their written decision.
- 10 Before presenting these cases I will give a short overview of the general discourse that surrounds these notes as found in the media and in other public venues.

## Women's Suicide on the net

- 11 Since various amendments have been enacted by legislation in the 1990s with the aim of preventing several dowry-related offences, a very widespread, virulent controversy has opposed groups of feminists, lawyer-activists and academics on the one hand and associations for the protection of husbands and in-laws on the other. While the first have vigorously stressed that, according to some reports, “one woman dies every hour in dowry-related cases,” the others, referring to other reports, say that “in every 9 minutes a married man commits suicide in India due to alleged misuse of dowry legislation” (Kumar 2017).
- 12 It is not my aim here to enter into this controversy or to review the numerous historical and sociological works that have been published on the dowry issue.<sup>3</sup> One point that may be worth pointing out however and which many of these works have highlighted, is that the primacy given to the registration of a case as a dowry-related violence case may sometimes conceal various other reasons for the abuse that women suffer (Agnes 1995; Palkar 2003). Vindhya argues, for example, that despite legal recognition of the criminal nature of non-dowry harassment, the judiciary perception of the institution of marriage and womanhood “reinforces the view that violence against women in the home is a matter that belongs to the ‘private domain of the family,’ which perhaps the state should not enter too often.” (Vindhya 2000:1104). She also shows how, if it is proved that the woman has committed suicide for any other kind of harassment which does not concern economic demands, she will be defined by the court as “emotionally over reactive,” and “prone to suicide at slight provocation”—all sorts of expressions which will also be evoked in some of the cases examined below. My intent in this section is merely to give

some context to these suicide notes by giving a rapid overview of the public discourse that is available in the media and online around such cases and which is likely to be shared by both the people involved and by judges and lawyers who handle them in court.

- 13 In addition to the controversy about the use and misuse of dowry legislation, another major issue that crops up in urban and elite milieus is the discourse about the dowry problem or domestic violence—thought to be related to maintaining “old traditions” or involving uneducated or “underprivileged” people. Although official reports indicate that the number of dowry cases is on the rise especially among the wealthy and that, according to right-wing activists, there are 900 dowry deaths per year in Delhi alone (Virmani 2012), the urban elite and media always express consternation whenever such cases occur among urban and educated people. For example, a recent case that was widely covered by the media concerns the death of a 26-year-old woman politician, Satyam Yadav, a Congress councilor from west Delhi, who in 2012 was found hanging from the fan at home with her one-year-old daughter lying near her, dead from strangulation. The woman’s relatives filed a lawsuit against her husband, a college teacher, her father-in-law, a politician, and other in-laws who were accused of mentally torturing her with dowry demands. In a television debate organized by NDTV (New Delhi Television Limited)<sup>4</sup> with the participation of a government minister (Kiran Walia), an activist-cum-actor (Nandita Das) and a law academic (Flavia Agnes), the question the journalist raised was how someone who “would have been seen as an empowered woman in the Delhi municipal corporation, who fought an election... yet at home... [was] so helpless?” In answer to the journalist’s question, Kiran Walia said that it was “shocking and agonizing,” that “we have not yet overcome some of our past habits, traditions, prejudices against women” and that “social changes are so difficult to be brought about,” that “even educated women have to go through this kind of harassment.” Agnes pointed out, however, that the problem was much more complex, that “you cannot attribute everything to giving and taking dowry, [as] there are other value systems,” other kinds of pressure that can make a woman depressed: the pressure of not giving birth to a son, of not being allowed to work outside, and of not having another alternative to an unhappy marriage than to commit suicide. Along the same lines, Nandita Das noted that it is mostly amongst the most affluent and educated people that the sex ratio (number of women compared to number of men) is dropping; this is also, she argued, because the middle classes and the upper-middle classes “are so shrouded with so much silence”; it is only when someone from this milieu commits suicide that people wake up, “we want to talk about it, when it comes out in the open ... and you can’t blame anybody because in a way everybody is part of that patriarchy and trying to find their own space...”
- 14 Two other high-profile cases of women’s suicide concerning domestic harassment and abetment have recently captured the public imagination, that show how suicide stories may be understood as deriving from multiple causes and as being surrounded by multiple interpretations.
- 15 One case concerns a 22-year-old air hostess, Geetika Sharma, who left a suicide note accusing a Haryana politician, Gopal Kanda, and his senior executive of harassment. Based on the suicide note the police registered a case and the two accused were taken into custody. Six months later Geetika’s mother also committed suicide and left a note in the same place her daughter had left hers. She blamed the Haryana politician, Gopal Kanda, for Geetika’s suicide. In her suicide note she also said that she missed Geetika and hoped her relatives would look after her grandson. This case not only received a lot of

public attention but it has also been made into a popular TV series in Hindi, *Crime Patrol*, which is accessible online. This is a reality television series whose motto is “Crime never pays” and which presents a dramatized version of criminal cases revolving around harassment, kidnapping and murders which take place in India. The series’ claims to open the audiences’ minds, to make them aware of “the dreadful incidences around them” while focusing on police action during the investigations. It also sets out to look into the ‘why’ behind a crime—both from the victim as well as the criminal’s side.

- 16 Another much mediatized court case, which is still pending, is the alleged suicide of the Bollywood actress Jiah Khan. In 2013 Jiah was found hanging from a ceiling fan in her Mumbai home. Five days after her death, Jiah’s sister discovered a six-page suicide note, which the actress’ family then shared with the public via scanned images, and which was published in many online newspapers. In the note she accused her boyfriend, the popular (25-year-old) Bollywood actor Suraj Pancholi, of being responsible for her unhappiness and for her decision to take her life, for “returning her love with cheating and lies.” In conclusion to her note she wrote:

I wish you had loved me like I loved you. I dreamt of our future. I dreamt of our success. I leave this place with nothing but broken dreams and empty promises. All I want now is to go to sleep and never wake up again. I am nothing. I had everything. I felt so alone even while with you. You made me feel alone and vulnerable. I am so much more than this (Bhattacharya 2015).

The actor was taken into police custody and charged by the CBI (Central Bureau of Investigation) of abetment to commit suicide under Section 306 of the Indian Penal Code.<sup>5</sup> He was later released on bail and the case is still pending at the trial court.<sup>6</sup> The publication of the actress’s note not only incriminated the actor for abetment to suicide; it also threw the case into the public eye with people (reporters, analysts, readers, audiences, Twitters, Facebookers) giving their own opinion about whether or not it was right to incriminate her boyfriend for what was, particularly in the eyes of Western commentators, a love story with a tragic ending.

- 17 While high-profile cases involving politicians or Bollywood stars are widely covered at various stages by national TV channels, cases involving more anonymous people may also attract public attention. For instance, NDVT covered and posted online news concerning the case of a farmer’s daughter in Maharashtra who, in January 2016, committed suicide “to save [her] family from dowry.” The girl left a suicide note addressing her father first and then the moneylender.

Papa I only see sadness in your face. You are tense because you have to get two daughters married. We are poor but now you don’t have to be tense over my marriage. Request moneylender: don’t trouble my father. My father is honest and will return your money. Papa I am now going to heaven, Goodbye my family I love you so much.<sup>7</sup>

- 18 Stories of women who have decided to disclose their pain and sorrow in writing before putting an end to their lives are sometimes posted online, not only by national or state broadcasting companies but also by local channels or even at the initiative of the woman’s relatives who are keen to give public resonance to their affair. Posting a report on YouTube may indeed be a way for the woman’s relatives to make their daughter’s story known to the world at large and may even provide an alternative forum to the courtroom. Thus, TV9 Gujarat posted on YouTube the story of a married woman from Mumbai who, as is written in the note accompanying the video “committed suicide as she was tortured for dowry by her in-laws.” In the suicide note that she had allegedly left she

mentioned how “she was locked up in a small room and was tortured physically as well as mentally.”<sup>8</sup> The video starts with a picture of the woman wearing her wedding dress, then a close-up of her face, and then her handwritten suicide note, all to the accompaniment of a nostalgic melody. The story is told by voice-over narration while pictures of her married life alternate with the picture of the suicide note which is superimposed over her face. The story is then told through the eyes of various people involved in the case: a policeman and some members of the woman’s family who were asked to give the studio audience their account of the events.

- 19 In the two examples mentioned above the woman who committed suicide is presented in a positive light: in the first case she appears like a martyr who has sacrificed her life in order to protect her family from financial pressures; in the second she is presented as a victim of the cruelty and avidity of her in-laws. In both cases, the visibility and easy-access the internet provides, helps to transform the woman’s anonymous and personal story from a “mode of remembering” into a shared destiny and “public memory” in Casey’s sense, which is “both attached to a past (typically an originating event of some sort) and acts to ensure a future of further remembering of that same event” (Casey 2004:17; see also Özyürek 2007).
- 20 Yet the discourse on suicide in India is rather controversial, particularly in judicial milieus. In a court ruling passed by the Madras High Court in 2014 suicide is defined as an act of cowardice and it is argued that merely because a person’s name has been mentioned in a suicide note one cannot conclude that there has been abetment to suicide (*V. Venkataraman* 2015:§39).<sup>9</sup> In the same year however, the Parliament decided to decriminalize the “attempt to suicide” by deleting section 309 from the Indian Penal Code, which punished “attempt to suicide” to one year in jail and a fine. The decision followed a Law Commission report which presented the attempt to suicide as the “manifestation of a diseased condition of mind” that needs treatment and care rather than punishment.
- 21 Some Indian lawyers also saw the abolition of section 309, “decriminalizing suicide,” as connected to section 306 concerning abetment to suicide. One woman lawyer for example, who writes in online law journals, Anjali Pare, criticized the decision of the government to delete section 309 without also deleting section 306, related to abetment to suicide, pointing to the injustice of some cases in which this section had been applied as “sometimes the person, who is alleged of such cases under section 306 goes under the social stigma during the investigation and trial period” (Pare 2015).
- 22 The idea of the unjust consequences of section 306 that would put the burden of someone’s psychological or sentimental problems unfairly on an innocent person is also closely linked in this discourse to the dowry issue and, more specifically, to the controversy raised by section 498a (anti-dowry harassment law), mentioned above. For instance, the government’s decision to reform section 498a, the other dowry-related section commonly used along with section 306, has been largely criticized (*Indian Express* 2015). This reform process had already started in 2014 when the Supreme Court, noting increased misuse of section 498a had stopped police in all the States from “automatically” arresting the accused in dowry harassment cases without recording the reasons (*Arnesh Kumar* 2014:5). Similarly, in March 2015 the government planned to amend section 498a from non-compoundable and non-bailable (where the accused is immediately arrested) to compoundable, allowing parties to reach a compromise. While this move was justified by some on the grounds of what was perceived as the increasing

misuse of section 498a, it was criticized by others as a way of “diluting” the anti-dowry provision of the law. Maneka Gandhi, in particular, then Union Minister of Women and Child Development in Modi’s government, opposed the proposed amendments to the anti-dowry Act saying that the legislation was “women-friendly” and should remain unchanged. The minister has been supported by women activists who argue that dowry harassment is one of the most under-reported crimes (Dhawan 2015).

- 23 In the light of this public debate that surrounds the problem of women’s suicide in India and which is particularly fueled by high-profile cases, I am now going to focus on suicide notes which are allegedly left in some of these cases and on how they may be used as evidence in a court of law. Apart from one case, which I followed in the field, the cases I have selected are both from Session Courts and from High or Supreme courts which I found online in judicial databases. A first set of the cases that will be presented here illustrates situations where the authenticity of the note has not been challenged—which does not necessarily exclude the possibility that the note had not been written by the person who committed suicide. Although in most of the cases the details of the circumstances in which the note has been found are not mentioned in the judgment, the existence of the note, in these cases, has not raised any doubt about its authenticity.

## Different readings: Laxmi

- 24 The first case shows how, even though the authenticity of the suicide note has not been questioned by the court, the content of the note led to different interpretations by the district and appeal judges. The case concerns Laxmi, a woman who was married in 1992 to Ganesh (called “the accused” in the judgment), and who after a year of marriage was found hanged at her father’s house. A suicide note was discovered near her body. In the note she first addresses her husband who, as she explains, suspected her of infidelity, and then her father:

Ganesh today you have suspected me without any reason as no act of mine is wrong. Papa I cannot live without him as he has turned me out of his house today. If something happens to me, [may] my dead body be sent to his house. My last wish is that I be cremated only by my husband. A dying person never tells a lie. Till the last moment. I say that there is no fault of mine. I am leaving this world without doing any wrong. My last wish should be honoured. I wish to God that if I am reborn, I should be his wife although he has pained me much. I am angry only because he has suspected me without any basis. There is in my heart no body except him—there was none before and nor will there be any in future. I am also pained that Ganesh has taunted me today for the dowry. Today Ganesh has beaten me badly for the first time. Papa your unfortunate daughter Laxmi (*Smt. Rani* 1995:\$2).

- 25 The rather romantic feelings expressed in the first part of the note, where it is said that she wants to be cremated only by her husband and that if she would reborn she wanted to be his wife again surprisingly contrast with the second part of the (same) note in which she says that Ganesh has beaten her and taunted her about the dowry.
- 26 The relevance as well as the content of the note were evaluated differently by the Sessions judge who conducted the trial at the district level and by the High Court judge who decided on the appeal. The Sessions judge emphasized the second part of the note where the woman says that her husband had beaten her and that her in-laws had taunted her about the dowry. By basing his ruling on this note as well as on the dowry harassment

allegation made by the woman's mother and aunt, he convicted the husband and some in-laws under section 498a and 304b of the Indian Penal code.

- 27 During the appeal that was filed by the in-laws alone, the High Court quashed the district judge's verdict by relying, among other evidence, on what the woman had said in the first part of the note concerning the husband's suspicions about her infidelity and on the romantic way she expressed her love for her husband. He considered this information as more relevant from a legal point of view than the allegations made by the woman's relatives during the trial which were, as he wrote, "quite vague and do not give any date or the nature of any dowry demand (*Smt. Rani* 1995:§4). The High Court judgment also highlighted that, without putting into question the authenticity of the note, the accuracy of its transcription made by the trial judge could be contested:

The Sessions Judge has, however, wrongly noted in the order that in the suicide note, it was further mentioned that her husband has again teased her for the dowry [which therefore suggested that he had teased her in the past].<sup>10</sup> There is no mention of the word again in the suicide note and it appears that this word has been inadvertently supplied by the Sessions Judge (*Smt. Rani* 1995:§3)

- 28 The High Court judge also noted how the Sessions judge had "totally misconstrued the suicide note by adding the words 'and by the in-laws' to the sentence 'she has been beaten and teased for dowry and also treated with cruelty by the husband'" which, he said, was also not mentioned in the suicide note. Thus, the Sessions judge, perhaps interpreting the note in the light of the testimony given by the woman's mother and aunt during the trial (that Laxmi had complained in the past of dowry harassment), somehow adjusted the content of the note so as to make it consistent with the witnesses' oral evidence. On the contrary, for the High Court judge the note meant what it said; it was a "trace" which just like other pieces of evidence (a rope, a knife) could not be altered. For him, the main emphasis of the suicide note was on the husband's suspicion about the woman's fidelity and the cruelty had to be seen as linked to this issue. While the trial judge was prompt to accept the woman's allegations of being harassed by her husband and in-laws to the point of making the suicide note consistent with the oral words pronounced in court by her own family, the High Court judge was more prone to consider the psychological or sentimental reasons for the woman's decision. "A plain reading of the note," wrote the judge in the judgment, would show that "the main allegation which hurt the deceased most, was a suspicion by the husband about her character and she has tried to point out that there was no other person in her life except the husband" (*Smt. Rani* 1995:§3).
- 29 Two passages of the note were also referred to in the judgment and used to support what may be considered as two common ideas frequently found in such deaths, where abetment to suicide or dowry requests are in question. One is the mention made in the note that "Ganesh has beaten me badly for the first time" which for the judge ruled out the idea of a dowry harassment situation which would suppose the existence of previous and more regular demands. "There is no history of any demand for dowry or allegation of such a demand by the husband or from any of the relations of the deceased," he wrote. The other frequently met theory, also reproduced in the note, is that "a dying person never tells a lie." This idea is found in court cases about declarations made by a dying person, where it is repeatedly said that "a person on the verge of death is not likely to tell lies" (*Prem Kumar Gulati* 2014:§2). Although, technically, a suicide note is different from a declaration made by a dying person (which has to have been recorded by a competent magistrate), the High Court judge refers to Laxmi's note as the victim's "dying declaration" which would imply the veracity of her words—that Ganesh had beaten her

for the first time and that “the only reason for maltreatment was suspicion in the mind of husband about wife’s fidelity” (*Smt. Rani 1995:§3*). The content of the “dying declaration” was thus presented by the judge as the truth and as being opposed to the version given during the investigation by the aunt and the mother:

I am of the opinion that when there are two versions available, one is narration from the deceased on what happened to her, and the other is the version of aunt and mother, which was recorded in the course of investigation subsequent to the death. The version contained in the dying declaration cannot be relegated to a place inferior to that of aunt and mother, at least at this early stage of the case. Cause for death is suicide admittedly and cause for suicide has been disclosed in the dying declaration, wherein only the husband Ganesh has been mentioned and there is no mention therein of any role having been played by the present petitioners. The death had taken place at the residence of the deceased’s parents. The possibility of the mother and aunt exaggerating the facts in their version cannot be ruled out. Their version is vague and lacks any specific particulars. For these reasons, their version does not merit any preference over the dying declaration (*Smt. Rani 1995:§4*).

The appeal was therefore admitted, and Laxmi’s sister-in-law and brother-in-law were acquitted.<sup>11</sup>

- 30 On the one hand, the suicide note provides the court here with a narrative concerning the personal relationships the woman had with her husband, such as the fact that she felt unfairly accused of infidelity or that despite being beating by her husband she still wanted to be reborn as his wife. On the other hand, the woman’s discourse, such as it appears in the note, seems to draw from and be directly related to court-generated theories (Widger 2015:38) such as the “lack of history” of dowry demands or the fact, frequently found in court orders related to such cases, that “a dying person never tells a lie.”

## Plausible Reason: Amita

- 31 The circularity between lay perspectives and legal perspectives as regards the representation of suicide (Widger 2015:177) is also revealed in the next example that I am going to present, and which was tried at a District Court in Delhi in 2010. The case concerns a woman called Amita who some months after her marriage in 1998 was found hanged in her husband’s house. A case had been filed on the basis of the allegations made by the woman’s relatives according to which, some time after the marriage, Amita’s husband and mother-in-law (who had in the meantime died) had started “harassing her continuously till she died on account of an insufficient dowry” (*State v. Pradeep Srivastava 2010:§1*). The suicide note is addressed to the husband, Pradeep, who is presented in the judgment as “the accused.” Passages of the note are translated and reported by the judge in his judgment:

She [Amita] is committing suicide in view of she having no attachment with the world; she has loved the accused with true love as also still truly loves him and will keep on truly loving him; ... also send this message to her mummy and papa; she loves him; she loves him; she loves him; people should not term [consider] her death as a suicide but as taking leave of worldly possessions (samadhi) on her part; with lots and lots of love to Pradeep (accused/husband); his wife Amita Rinki. Dated 10/07/1998. (*State v. Pradeep Srivastava 2010 :§6*).

- 32 This reason given in the note that the woman no longer had any attachment to the world is accepted by the judge as a plausible reason for her to commit suicide. This was also explained by the judge in view of other letters sent by the woman to her relatives and where apparently there were “not even a hint of the allegations of the prosecution against the accused.” According to the judge, the content of the note as well as the fact that there were no “specific demands for dowry alleged against the accused” but only “bald [meager] allegations” (*State v. Pradeep Srivastava* 2010:§9) were enough to acquit the accused.
- 33 In most of the notes reported in this paper, save Laxmi’s suicide note mentioned above, the woman makes some kind of accusation. In Amita’s case no particular complaint is made in the note concerning her entourage. The emphatic message of love that she asks to convey to her parents and husband appears somehow to contradict the idea that she committed suicide because nothing bound her to the world any more.
- 34 It is worth reading the judge’s decision to uphold the authenticity of the suicide in the light of the fact that the trial took place twelve years after the woman’s death by a so-called “fast track court.” This is a kind of court that was set up in 2001 to help tackle the backlog of cases and especially to deal with those concerning women (rape and domestic violence). The effectiveness of these fast-track courts is often questioned in the media, particularly by lawyers. Colin Gonsalves, for example, a senior advocate at the Supreme Court of India, points to the declining standards of these courts; due to the “unrealistic targets of cases to finish” they have been given, they have been told not to get involved in “too much technicality,” and that “if the judge gets a feeling that a person is guilty, then declare him guilty and if he is innocent, then declare him innocent” (Gallo 2013). The problem of judging cases for which a trial has been pending for years is not specific to fast-track courts, particularly in dowry cases where, by the time the hearing takes place, the parties have often already reached an agreement and the evidence is then difficult to assess. Contrary to the assumption that the suicide note is truthful because, as in a dying declaration, a person who is about to die is not likely to tell a lie, the fact that the death here occurred 12 years ago may certainly have the effect of attenuating the heuristic value that the suicide note may gain in the court’s handling of the case.<sup>12</sup>

## Implicit scenario: Smita

- 35 The expression of “love” as mentioned in the suicide note examined above can also take a different turn. In the case of Smita, a girl from Delhi, suicide is presented in the note as motivated by her desire to punish her in-laws and especially her husband for having betrayed her. According to the statement given in court at the trial by Smita’s parents, reported in the judgment (*State v. Vipin Jain* 2010), some time before committing suicide in 2005 the girl had revealed that she was in love with a boy, Vipin Jain, and that they had even secretly married at the Preet Vihar Mandir, in Delhi. On hearing about this, Smita’s father then, as is mentioned in the judgment, tried to arrange a meeting with the boy’s father, but in vain. The boy’s family apparently had other plans for their son. In fact, some days later Smita discovered that Vipin had celebrated his engagement with another girl, who had been chosen by the family.
- 36 The girl, as reported by the judge referring to Smita’s mother’s statement, “could not bear that shock and committed suicide” (*State v. Vipin Jain* 2010:§1). That very night she

went to her room, took her meal and watched TV. The next morning her father found her hanging from a hook on the roof. In a suicide note which, as the judge wrote, “was allegedly written by deceased” (*State v. Vipin Jain* 2010:§13), Smita blames the boy and his father for her death:

I, Smita Rohtagi, [am] compelled to commit suicide because I have been cheated in love and after marriage. My parents do not have any hand in the same. My mother, father and my brother love me too much. Hence, I request that after my death, my mother, father and brother should not face any trouble because they will be, otherwise, in the state of shock. Vipin Jain is responsible for my death. He married me on 20.04.2005 at Preet Vihar through Pandit Om Prakash Tiwari. Now, he has denied the same and he is going to marry for the second time on 27.11.2005. I had spoken to his father ... but he rebuked me and got copy of my hand-writing and got written some fake letters and they are black-mailing me and for that reason, they are getting him married at the earliest (*State v. Vipin Jain* 2010:§13).

In the note, she explicitly asked that the boy and his parents be severely punished:

Vipin Jain and his parents must get the severe punishment, so that, they do not spoil the life of another girl. My mother, father and brother should not suffer any harm. Please, they love me too much and I need justice after my death. I need justice then only my sole [soul] will rest in peace. [Thumb impression] (*State v. Vipin Jain* 2010:§13).

Not only does the woman demand justice, thus referring to the legal consequences her death might have, but she also insists that the note she wrote should not be considered a fake, as though she were aware of the major problem this kind of notes poses to the court.

Don't think that the letter is written by my parents. This letter is written by me Smita Rohtagi before my death, therefore, I am putting my thumb impression. Delhi Police, please get Vipin punished for his acts. Brother, take care of my parents and yourself. ... I do not want to give you sorrow but I am not able to live I am dying every moment. Take care. Good Bye Forever. Smita Rohtagi. Smile always because life never stops. Honey Love U all Mummy, Pappa & Bhaiya & Miss U. (*State v. Vipin Jain* 2010:§13).

The question then for the judge was to decide whether there was evidence on record that could prove that Smita had been abetted to commit suicide by Vipin, who had been accused under section 306. In the judgment, the judge focused on the definition of the term “instigation” which, as emerging from previous rulings, was “to incite or to do some act which normally one would not do.” He argued that although “circumstances against the deceased may be held to be aiding her to commit suicide” these circumstances were not “so grave [as to leave] no opportunity for the deceased to remain alive but to commit suicide.” He noted that Smita had never “lived in the family of the accused person for even a single day,” that there was no evidence on record “that any quarrel has taken place between the deceased and the accused,” (*State v. Vipin Jain* 2010:§32) and finally that there was no trace (photographs or paper) of her marriage and that the priest who had allegedly performed the marriage had denied everything and “he turned hostile towards the prosecution” (*State v. Vipin Jain* 2010:§21). The judge eventually acquitted the accused and concluded that:

It is one of the unfortunate case, where the innocent life was lost but the fact remains that there is no legally recognizable instigation proved on record against the accused persons, which proves that accused persons had instigated the deceased Smita to commit suicide (*State v. Vipin Jain* 2010:§35).

The reference to the loss of “the innocent life,” which portrayed the girl as a victim in spite of the offense she had committed by her decision to end her own life,<sup>13</sup> could be taken as a sign of the judge’s understanding of the sociological and cultural background which could have led the boy to change his mind—such as the widespread social

condemnation of “love marriage” and the family pressure for an “arranged marriage.” However, no reference is made in such judgments to the cultural causes that overshadow such events—here that the boy’s family wanted their son to enter into the marriage they had arranged for him (according to caste or other criteria). This version, although presented as a subtext (Nuckolls 1991) to the judgment (when reporting for example about the girl’s parents’ efforts to come to terms with the boy’s family) did not explicitly emerge in court because the accused, although “denying the prosecution evidence and claiming their innocence” decided “not to lead any evidence in his defense.”<sup>14</sup> Besides, quoting precedents, the judge appeared to implicitly point out the supposedly “hypersensitive nature” that would be characteristic of women from a certain milieu, an argument that is frequently used in cases related to abetment to suicide:

If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences, were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged for abetting the offence of suicide should be found guilty (*State v. Vipin Jain* 2010:§25).

The psychological reading of the case, as made by the judge, seems more in line with what Taylor sees as the Western way of regarding suicide as a “monologue act,” involving “a final attempt to escape from persistent painful affects such as despair and feelings of abandonment” (quoted in Widger 2015:7). If we look at Smita’s suicide note, however, what emerge are rather the cultural and social reasons behind her decision to die—namely here the system of arranged marriage as opposed to love marriage. Smita’s case may be compared with what Marecek and Senadheera (2012) and Badami (2014) have respectively shown in their work on “self-harm” and suicide among women and farmers in Sri Lanka. Unlike monologue suicides, where individuals simply wish to die, in dialogue suicides “the self-harming individual is clearly seeking to make some kind of point” (quoted in Widger 2015:8). As Marecek and Senadheera’s work points out, monologue and dialogue intentions may often coexist as is also shown in Smita’s case where, though the suicide appears to be an act of despair, it also has “dialogical intentions”—because the woman clearly addresses the police, asking them to ensure that the boy and his parents are punished.<sup>15</sup> Unlike the cases studied by these authors, however, where girls who commit self-harm do not necessarily wish to die but to renegotiate social relations (Marecek and Senadheera 2012:77), in Smita’s case as in other cases analyzed here the woman is clearly not going to survive, and therefore has no hope of improving her situation. In fact, demands that justice be done even after death are relatively common in this kind of suicide note as is shown in the next case where the trial took place during my fieldwork.

## Lack of Evidence and Moral Opinion: Anjana

- 37 While in her suicide note Smita complained about the practice of arranged marriage, Anjana, as mentioned in the introduction, complained about the suffering she had to endure as a consequence of having accepted marriage with a person she did not like.
- 38 Anjana, a young married woman with a one-year-old daughter, died in 2007 burnt alive in her in-laws’ house, a method of suicide which in India is seen as a “stereotypical instance of a ‘dowry death’” (Parry 2012:171).<sup>16</sup> According to the in-laws’ version of the event,

Anjana had allegedly locked herself in her bedroom, locking the door from the inside, had poured kerosene over her body and had set fire to herself. After her death, a case was registered by the woman's father who accused the husband and mother-in-law of maltreating his daughter and of harassing her with incessant dowry requests. During the investigation, the police found a diary in the woman's bedroom where the woman had written some notes about the problem she had with her husband and her in-laws, and also referred to her decision to die. The diary was sent to an expert and was later certified as having been written by Anjana. Here are some passages from Anjana's diary which were included in the file. In her note she addresses a man named Sunny, whom she calls "brother" and who was in the police force:

My marriage is a lie. A relationship based on lies will always remain a shame. I could never have imagined that I would end up marrying a person who is a drunkard and a bad man. Neither his presence nor his absence from the house makes a difference. Since remaining an obedient daughter to my parents is my duty, I obeyed them, I got married and stayed with a man with whom even animals would refuse to stay. He used to say such things at home that fights were inevitable. While he always got off lightly and I would always be considered guilty by the others... Sunny, if you consider me your sister, then leave my daughter with my parents or with the Orphanage House ... I am amongst those girls who teach others how to survive in the world, but my mother-in-law alleges that I am having an affair with my father-in-law. What do you think of that? Do you think that I could be? My jethani (sister-in-law) is always with my devari (younger brother-in-law) and what did I do? I helped them in their relationship. But one day my jethani had an abortion, and when I told my mother-in-law about this, my jethani got angry with me and started to make allegations about me, that I had a relationship with my father-in-law. My mother-in-law got angry with me. So, one day she accused me of having a relationship with a 60-year-old man (court file; the corresponding case is *State of HP v. Neelam Safri 2009*).

In another page of the diary dated some months later she wrote:

I see no point in living, and I pray to God that he will send me back and I will take my revenge. You are in the Police, so I hope you will render justice. I did not complete the Santoshi Mata's Fast and in order to do so, I will come back (into the world) (court file, *State of HP v. Neelam Safri 2009*).

When the trial took place in 2009 Anjana's father, with the mediation of the defense lawyers, had in the meantime reached a compromise with the accused's family. Called to the bar by the judge to repeat what he had told the police after his daughter had died two years before, he repeatedly denied what he had previously said .... although spontaneously informing the judge that he had reached an agreement with the other party. Since the sections under which the case was registered were non-compoundable<sup>17</sup> (the case could not be withdrawn), the father was declared hostile by the court. On the one hand, the judge and the prosecutor started to cross-examine him in order to put on record, through a common writing procedure, the accusations that he had previously made to the police and that he was now denying point by point before the court (Berti 2016)—that Anjana's husband and mother-in-law "harassed her to such an extent that she was helpless and thus she poured kerosene over herself, set light to herself and tried to end her life." On the other hand, during the defense lawyer's cross-examination, the story that the father had given to the police at the time of the investigation (about Anjana's harassment by the in-laws) was transformed into a version according to which Anjana was a bit hypersensitive and used to react exaggeratedly to rather normal problems she could have with her husband.

39 According to what the lawyer told me after the trial, Anjana, who “was a very beautiful girl and quite well educated,” was not happy with her husband. “She had married with a person who was not looking good and did not have any education,” he said, and “due to this superiority complex she was under depression also because the husband’s status was not going to improve.” Although the lawyer was of the opinion that Anjana had voluntarily committed suicide because she was frustrated that “she could have a much better partner than her husband,”

I wanted to give a twist to the facts, ... so I wanted to make the court understand that there was no beatings or abuse, that this was normal routine, she got offended, she got short tempered, she took the decision to end her life (field notes).

Since there were no longer any accusations, the judge acquitted the accused on the grounds that all the woman’s relatives had turned hostile and had supported the defense version of the story. After the hearing I went to see the judge in his chamber. He started talking about the case and about the reason for Anjana’s suicide. “They must have maltreated her,” he said, referring to what she wrote in her diary: “according to her behavior she was compelled to commit suicide” (field notes). He led me to understand, however, that it would have been difficult to convict the accused. “Morally we are convinced that this is like this. But we must be convinced legally. There must be legal evidence before the court to convict the accused; legal evidence means recognition by law,” he told me. The judge eventually wrote in his judgment that the victim’s diary did not prove the allegations of dowry demands but that “she was feeling frustrate[d] with her marriage with [the accused]” (*State of HP v. Neelam Safri* 2009:§22)

40 Anjana’s case shows how multiple explanations for the suicide are given by the various actors involved in the case: of it being due to “dowry harassment” as put forward during the investigations by the woman’s father, possibly after being instructed to do so by the police; to the woman’s frustration over married life and to her hypersensitivity in dealing with family relations; to the fact that she had in fact been maltreated by her in-laws as the judge himself was inclined to believe; and, lastly, to all the problems Anjana had to face in her marital home as listed in her suicide note. The case also shows how, here again, the legal and popular versions of the suicide are strictly interconnected, inform one another, and “loop” (Widger 2012:241). We have seen, for example, how the police’s habit of registering under dowry-related sections women’s cases of burning themselves alive may have influenced the father’s preliminary version of the story, a version which was again transformed at the time of the cross-examination by the lawyer’s version in which the suicide was the consequence of the woman’s hypersensitive nature. On the other hand, although in his judgment the judge eventually adopted the defense lawyer’s “frustration argument,” in his oral statement he appeared to be personally convinced of the maltreatment allegations Anjana made in her suicide note.

41 In the previous cases, although the content of the suicide notes and their legal implications might have been interpreted differently by judges at various levels, their authenticity was not questioned. I am now going to examine some cases where the authenticity of the suicide is questioned by the court.

## Diverging notes: Sumita

42 Sumita was a young married woman from a rural area in the state of Maharashtra. In 1993 she died from poisoning at her father’s house. Sumita’s father and sister accused the in-

laws of having harassed her with dowry demands. They said they had already given 5,000 rupees as a dowry at the time of the wedding, but the husband's family was demanding 10,000 to open a "pan shop." Sumita's sister said during the trial that, as Sumita was maltreated, their mother had told Sumita to reside with them (her parents). During the police investigation, "when the blouse and brassiere of the deceased were opened" a suicide note was found (*Deepak S/O Bhimrao Bharne* 2004:§2). In the note allegedly written by Sumita, she explicitly demanded that her husband and mother-in-law be punished for the way they had treated her. The note is reported in the judgment, translated into English:

Though Diwali was over no one from my house was coming to take me. Hence, I myself also went to Ghatanji (name of a place) to see as to why they were not coming. On 2-1-1993 when I had gone there at Ghatanji, my mother-in-law, my husband and my sister-in-law caught hold of my hand and pushed or drove me out of the house, the brother of my mother in law beat me. ... Thereby my mother-in-law and my husband should be punished and hanged. This is my only wish (*Deepak S/O Bhimrao Bharne* 2004:§6).

Based on the content of the note as well as on the statement made by the woman's relatives, in 1994 the trial judge convicted the husband and some of the in-laws of abetment to suicide and of dowry harassment. At the appeal, made only by the in-laws and which was decided in 2004, the High Court overruled the judgment of the trial court. The judge argued the decision by pointing out that one of the arguments on which he based his decision was that the content of the suicide note which had been presented to the court was not the same as the one that had been recorded by the police at the time of the investigation. As he noted in the judgment:

There is remarkable variation between the two versions. ... The portion "... to see as to why they were not coming. On 24.11.1993 when I had gone there at Ghatanji. My mother in law, my husband and my sister in law caught hold of my hand and pushed or drove me out of the house. The brother of my mother in law beat me. My mother and father were..." is the additional portion appearing in the chit at exhibit 34 [the note produced in court]. These words do not appear in the description of the document given in the seizure memo [the note found during the investigations]. (*Deepak S/O Bhimrao Bharne* 2004:§11)

The judge therefore concluded that "it is obvious that in order to rope in all the appellants in the offences, exhibit 34 has been prepared" (*Deepak S/O Bhimrao Bharne* 2004:§11). As there were also contradictions in the witnesses' statements, the High-Court judge argued that "it appears to my mind that leaving of a suicide note is a made-up story and the prosecution story cannot be believed" (*Deepak S/O Bhimrao Bharne* 2004:§12).

- 43 Independently of the question of establishing which of the two versions is the original, the case shows the extent to which the question of the authenticity of a suicide note may involve not only the family members concerned with the case but also the police or legal officers who may either intentionally contribute or be somehow responsible for the (substantial or procedural) irregularities referred to by the High Court judge—the one coming from the police for providing the court with two divergent notes; the one coming from the trial judge, for having neglected the divergence. Although in this case the two divergent notes were both in support of the prosecution's case, the fact that one version contained an additional paragraph that was detrimental to the accused in fact resulted in casting doubt on the authenticity of both notes.
- 44 Another problem related to the suicide note was that the police had not sent it to a writing expert for analysis; instead they had certified the authenticity of the note by

asking panch witnesses<sup>18</sup> who, when cross-examined in court, said that they were unable to read or write—this was used by the defense lawyer to fuel doubts about the veracity of the accusations. The judge eventually attributed less evidential value to the suicide note and considered that the accusation of “cruelty due to dowry” was not based on primary or direct evidence but on hearsay.

- 45 The case shows how the version given in the note does not end with the woman’s death. Either the sentences were already there, and the police did not mention them, or the note had been replaced by an “exaggerated version,” the victim’s alleged voice being altered with the intention of having some effect on the court’s decision.

## A concocted case: Rosy

- 46 The question of the authenticity of the suicide note also emerges in a case tried in Delhi District Court concerning Rosy, a married woman who was found hanged in her in-laws’ house in 2006. After her death, Rosy’s sister (who was also her adoptive mother) registered a case under section 498a and other dowry-related sections against Rosy’s husband, her mother-in-law, father-in-law and sister-in law accusing them of cruelty and harassment “for or in connection with demand of dowry.” She accused the in-laws of murder, of having “killed her and then hanged the body from a hook of roof” (*St. v. Ashish Vohra* 2010:3).
- 47 Various members of Rosy’s family had reported in court that a number of demands for money or goods had been made by her husband and that he had threatened to beat her if the demands were not met. The judge noted in the judgment that “every member of the family had his separate independent demand and Rosy was being subjected to mental and physical torture when demands were not fulfilled.” For example, one of Rosy’s sisters, along with her spouse, “arranged Rs. 50,000/- by friendly borrowing and gave that money to the in-laws ... pleaded with them that whatever they had they had paid to them and they (in-laws of Rosy) should not harass Rosy.” Another witness told the judge how Rosy “told complainant that she was being abused by her in-laws every day and her husband was beating her by fist and kick blows. He would treat her in a manner as a vulture would the prey its animal”. (*St. v. Ashish Vohra* 2010:3)
- 48 It is reported in the file that, during the investigation,

[the] room as well body of the victim was searched and no document or any other incriminating article had been recovered. ... search of the body was taken up by a female behind a curtain and she then told Naib Tehsildar that nothing was seen on the body of the deceased except marks on the neck there was no other injury mark on the body. (*St. v. Ashish Vohra* 2010:8)

The body was then wrapped in a sealed cloth and stored in a cold chamber. After a few days, when the doctor opened the sheet to carry out the postmortem, a suicide note fell out. The content of the suicide note was read out in English by the judge:

I Rosy, I am committing suicide. I spent two years in matrimonial home by bearing patience, but I am unable to bear any further patience. In two years period I faced and heard lot of taunts and abuse, but I am now unable to bear it any more. Now Ashish has started beating me physically. Ashish, now ask your mother to find out a girl who brings a lot of dowry, as much as your mother had brought and as much as you had given to your sisters. I am unable to bear mental torture any further. ... My last wish and will is that none of my in-laws as well my husband should touch my body. My body be handed over to my sister Shika Sharma and she would perform

last rites. Deedi, do not take any of my belonging/article from this house. (*St. v. Ashish Vohra* 2010:4)

The style of the note is sober and explicative. The points made were legally relevant: the continuity and repetitiveness of the demands and of the abuse: “in two years I faced and heard lot of taunts and abuse”; the presence of physical violence: “Ashish has started beating me physically”; and the husband and mother-in-law’s habit of demanding more dowry: “ask your mother to find out a girl who brings a lot of dowry.” In stark contrast to the note, Rosy’s husband said to the judge, as reported in the judgment, that “he and deceased had a happy and usually peaceful matrimonial life” but that “suddenly victim became depressed and she was being constantly consoled by this witness and his parents.” He said that Rosy had also been taken to see a gynecologist as she had not fallen pregnant and she was given medical prescriptions (provided to the court) to treat her depression (*St. v. Ashish Vohra* 2010:9).

- 49 While the judge did not seem to question the authenticity of these prescriptions he agreed with the defense’s argument that the suicide note must have been put there by someone else. According to the defense lawyer, the suicide note was in fact “created evidence as during inquest proceedings ...no such suicide note was actually found” (*St. v. Ashish Vohra* 2010:9). As reported by the judge:

if doctor deposed that suicide note was found underneath the brazier [bra] of deceased the possibility of it being planted where the pharmacist and another attendant of mortuary were there present in mortuary when postmortem was conducted could be there. If such a possibility could not be ruled out, then the defense contention gets probabilized [becomes probable] and suicide note cannot be taken in to consideration for deciding the issue of the dowry death. (*St. v. Ashish Vohra* 2010:10)

Even supposing that the accusations were true and that Rosy had actually been harassed with dowry demands, the fact that a suicide note had unexpectedly appeared in the cold chamber was not considered to be plausible by the judge who agreed with the idea of the defense that it had been put there by someone. He therefore concluded that

A reasonable sufficient doubt is created in this document from the above referred evidence. This evidence i.e. the suicide note also does not provide a support to the prosecution charge as suicide note has not been duly proved to have been written and left behind by the victim deceased. (*St. v. Ashish Vohra* 2010:16)

## The lost note: Sushma

- 50 While in Rosy’s case a suicide note had surprisingly appeared in the cold chamber, in the case of Sushma the suicide note which had been found by the police during the investigations mysteriously disappeared from the file by the time of the trial. Sushma was the daughter of an advocate of Allahabad, who in 1987 had married Pankaj, himself son of an advocate and with whom she had a daughter. In 1989, at the time of the Durgashtami festival, Shushma was reported to have set fire to herself. Her father-in-law reported to the police that “his son Pankaj woke up with the cries of the child at 3.30 in the morning. He then got up to find that Sushma was not in the bedroom. ...They then found that the store room of the house was closed from inside. They thereafter used torch to find that in the store room Sushma was lying dead” (*Ram Vishnu Gupta* 1999:\$5). Sushma’s father had lodged a report against her daughter’s husband and her in-laws where he had stated that “they were not happy and satisfied with the marriage function and for that reason they tormented and treated Sushma with cruelty” (*Ram Vishnu Gupta* 1999:\$6). The father

accused them of having killed his daughter by setting fire to her or by tormenting her to the point that she committed suicide.

- 51 In the police report mention was made that a suicide note had been found underneath the pillow of Sushma's bed and that in the note it was written: "I am committing suicide at my own will and no one should be held guilty for the same." When the trial took place however the suicide note had mysteriously disappeared. As the judge reported in the judgment:

Prosecution alleges its disappearance to the accused and the accused criticized the prosecution for suppression of such vital piece of evidence which according to them would have conclusively established the suicidal death of the deceased. (*Ram Vishnu Gupta* 1999:§11)

The story given by the defense lawyer was that on the night when Sushma died she had insisted that her husband take her outside to see the festival illuminations but the husband, tired and seeing that the child had a fever "refused to take her in the night for outing." The husband and wife started quarreling and "it appears that in the night when all the members in the house were sleeping she [Sushma] went inside the store room, closed it from inside and burnt herself to death by committing suicide." The lawyer tried to present the woman's act as being due to her unhappiness at the "change in life style," noting that the woman "having come from a different family background ... was particularly unhappy because she was not permitted to move out of the house all alone." However, as the lawyer argued in court, "it cannot be said that the accused treated the deceased cruelly," and "there was no intention to cause her any mental or physical pain" (*Ram Vishnu Gupta* 1999:§25).

- 52 In 1994 the husband and in-laws were convicted by the trial judge who, based on the witnesses' statements and on the medical report, came to the conclusion that Sushma

was first given a beating and when she fell unconscious was put to fire in the store room. In order to make out a case of suicide, Ram Vishnu Gupta [her father-in-law] who is an Advocate practicing on the criminal side got the door of the store room closed from inside by operating its bolt from outside and made a false report to the police of a suicidal death. (*Ram Vishnu Gupta* 1999:§14)

During the appeal the High Court judge wrote that he was "not at all impressed by the argument advanced on behalf of the accused." Interestingly, he dismissed the appeal on the grounds of various details that had been given in court which, according to him, revealed the tension between the two families—like the fact that the accused had not attended the wedding of Shushma's real brother or that he had asked Sushma to leave her family house immediately after the ceremony. These were all signs that the woman "was not being treated with respect, love and affection." The judge also qualified as unbelievable the explanation that the accused gave about the reason for the quarrel which would have occurred the night before Sushma's death, noting that "if her child was in fever it was most unlikely that she would have insisted on the husband to take her out long with the child for seeing illumination." Based on the medical report the judge also wrote that "the injuries found on her body in the post-mortem also go to show that not only she was mentally tortured but was physically beaten" (*Ram Vishnu Gupta* 1999:§31-34).

- 53 The idea of the storeroom bolted from the inside, an argument that is frequently used in similar cases to support the version of a suicide, was also dismissed by the judge who described the experiment allegedly performed by the scientific expert during investigation as "highly imaginary and not reliable since the experiment was not

conducted in the presence of any independent Panchas [elected members of the local council] and no Panchnama [attested documents written by the Panchas] was prepared.” He reminded the court that the woman’s father-in law was “an Advocate and also practices on the criminal side” and that “he had full knowledge of the legal implications of their acts and conducts” (*Ram Vishnu Gupta* 1999:\$44). He added that:

The other accused is owner of a lodge and run a furniture mart. It was not difficult for them to close the bolt on the door of the storeroom by operating it through the ventilator from outside. There was enough time for the accused to plan closing of the door of the store room with a dead body inside and preparing a suicidal note to be kept underneath the pillow of the deceased (*Ram Vishnu Gupta* 1999:\$44).

The judge admitted that there was “no doubt [that the] disappearance of that note [was] a mystery” (*Ram Vishnu Gupta* 1999:\$41). He agreed however with the trial judge that with or without the suicide note the evidence and circumstances on record indicated that the victim had not committed suicide, but had been murdered.

- 54 Although from a legal point of view the suicide note had no implications here, since according to the judge the victim had been murdered, from the point of view of the present contribution the case shows how the “disappearance” of the suicide note— independently from who was responsible for it—could be presented by each party as a strategy to cast doubt on the opposite party’s credibility.

## A technical doubt: Sudha

- 55 The last case I have selected concerns a judgment about which I was able to obtain firsthand comments from the High Court judge who decided the case in appeal, showing the reasoning process behind his decision. The case concerns a young woman, named Sudha, a law graduate from Lucknow University, who was found hanged in her husband’s house in 2001. The husband took her to the hospital where she was declared dead on arrival. He handed the doctor a suicide note that he said he had found near his wife. In the note it was written that none of her family members were to be considered responsible for her death. Sudha’s father, however, registered a case against the husband and the in-laws saying that they had tortured his daughter by locking her in the house and pressuring her to bring more dowry. In fact, the medical report showed that Sudha’s death was due to injuries received before the hanging, which implied she had been beaten beforehand. The police and the prosecution were then of the opinion that it was a case of murder, which had been covered up as a suicide. The police then filed a murder case against the woman’s husband and, as an alternative, they also filed a case under section 498a.
- 56 At the trial which took place in 2003 the accused was acquitted. The existence of the suicide note, which a laboratory had certified as having been written by the victim, had led the trial judge to give the accused the benefit of the doubt. Nine years later, in 2012, the High Court overruled the verdict and sentenced the accused under section 498a to seven years’ imprisonment. In his judgment the High Court judge first of all questioned the authenticity of the suicide note by referring to the abnormal behavior of the husband who “was not supposed to carry the suicide note with him to the hospital when his wife, according to him, was in a serious condition. Carrying of suicide note by the accused in his pocket is abnormal human conduct” (*State of Himachal Pradesh v. Sanjay Purwar* 2012:\$48).

- 57 The High Court judge also told me that after examining the file, he and his “brother” (the other judge on the bench) were “mentally/personally convinced” that the accused had committed murder, as there was evidence against them, beginning with the medical report.

To be honest, if the suicide note was not there we would have sent them down for murder. Both of us were convinced in our minds that it was murder but what was standing in our way was the suicide note she had written. In fact, it may also be that the doctor had not done his job properly ... Now when there is a doubt, when a suicide note exists... If there is a suicide note it cannot be murder. My brother (the other judge of his bench) and I, we kept discussing this matter. We discussed it many times. It took us two weeks to deliver the judgment, which is unusual in my court. So, I said, OK [let it not be murder], but we won't let them both get off scot-free. In the ruling we have come to the conclusion that it was not murder but suicide, and that the note was written under coercion. As there was also a case about dowry demands, we got them for a dowry death, which is seven years whatever the provision ... You see, these are cases where we have to think a lot. We thought that if we sentenced them for murder and then the suicide note worked at the Supreme Court [that is if the suicide note was again taken as an element of doubt] then they would be acquitted even for dowry death because no one will raise that issue there, so we thought it better to opt for a lesser crime. This is the way we work.<sup>19</sup>

The presence of a suicide note had raised a doubt in the judges' assessment of the situation. However, at least as far as the High Court judges were concerned, this doubt appears to be of a more technical than psychological nature as both the judges of the bench were convinced that Sudha had not committed suicide but had been murdered.

- 58 It is worth noting that the High Court judge who wrote the judgment in this case was a particularly progressive individual and was fully committed to the fight against dowry practices and the harassment of women. This is also apparent in the judgment where in order to undermine the argument put forward by the defense lawyer (i.e. that in some letters sent by Sudha to her parents after her wedding she did not mention any problem) he wrote:

It is difficult for a girl to write anything against her husband and in-laws in the letters knowing well that it may lead to further complication. This is a sensitive matter. The girl generally projects in her communication that she is happy with her in-laws though she may be harassed and tortured to bring dowry. She has always given a very rosy picture in order to keep her parents in good humor (*State of Himachal Pradesh v. Sanjay Purwar* 2012:§59).

Given his commitment in the fight against dowry harassment and the evidence on record, the judge tried to shun the procedural doubt that the suicide note cast on the case by putting aside his personal conviction (i.e. that it was a murder) because of the possibility that the alleged suicide note would be accepted by the Supreme Court. Far from influencing the judges' state of mind, here the suicide note proved to be a technical obstacle which the judges had to strategically overcome.

## Final remarks

- 59 As the final words allegedly written by a person about to take their own life, the suicide notes discussed above are a delicate source of information and need to be handled with care. At first glance, when taken one by one, these notes appear to provide insight into the intimate thoughts and feelings of oppressed women who, before their desperate act,

decide to air their opinion about the social pressures, physical violence or psychological distress that have allegedly pushed them to commit suicide. Although this may be true in some cases, the advantage of a multi-case approach is that it presents these notes as a genre of self-writing which, although providing access to an out-of-court discourse, is strongly linked to the court's handling of the cases. In these notes, the expression of emotions or of personal sorrow appears to be intermingled with concern for the legal consequences that the woman's death will have on her family, husband and in-laws. We have seen how suicide itself is presented in these notes not only as a way of putting an end to the woman's suffering but also, and sometimes even more importantly, as a way of punishing or taking revenge on those she considers to be responsible for her death.

- 60 At the same time, given the relevance these writings may assume in the judicial decision, suicide notes may also become fictional evidence, strategically produced either by the woman's family to inculcate the in-laws or by the in-laws to exculpate themselves. Although the idea of "concocted evidence," an expression commonly found in court rulings, may be part of the defense or prosecutor's argument to support their respective version of the case, the fact that in some cases two opposite versions of the suicide note are included in the file or that a suicide note mysteriously appears (or disappears) in a case suggests that the possibility that a suicide note has been written by someone else cannot be overlooked. In such cases, far from being the final emotional release and a form of public vengeance for a married woman, the suicide note becomes a tactical tool used to support a legal argument.
- 61 As the examples presented here show, judges adopt different approaches to the suicide note depending not so much on the level (trial or appeal) of their court but, as a judge told me once, on their personality and "social background"—their own way of perceiving genre relations, dowry practices, domestic violence. Nevertheless, because it provides an alternative and "extra-judicial" version of the facts (compared to the version witnesses give to the police or to the court), and a version whose alleged author is no longer alive, suicide notes are likely to sow doubt in the judge's mind. While in some cases they may be determinant in tipping the scale, in other cases, as explained by the judge in the last example presented here, the existence of a suicide note may introduce some uncertainty even in a well-proven case.
- 62 Finally, and somehow independently of the question of the authenticity of these notes, we see how judicial documents not only provide insight into some aspects of social relationships and the way these relationships are brought before the court, they also constitute a "self-writing genre" (Mbembe 2001, MbodjPouye 2013) which allows us to compare these suicide notes both from the point of view of their content and from the point of view of the ways in which their evidentiary value is assessed by the court.

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*Smt. Rani and Another v. State*, The High Court of Delhi on October 12, 1995 [1996 CriLJ 1026]

*St. v. Ashish Vohra & Ors*, Delhi District Court on May 18, 2010, Session Case No. 79/2006

*State of Himachal Pradesh v. Sanjay Purwar*, High Court of Himachal Pradesh on September 11, 2012, Cr. Appeal 194/2004

*State of HP v. Neelam Safri and Susheel Kumar*, Sessions Court Shimla, on July 31, 2009, Sessions trial 17-s/7 of 2008)

*State v. Pradeep Srivastava & Anr*, Patiala House Court, New Delhi, on January 29, 2010, Session case 43/2008

*State v. Vipin Jain & Raj Pal Jain*, Karkardooma Courts, New Delhi, on January 12, 2010, Sessions case 34/08.

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## NOTES

1. I am thankful to Stéphanie Tawa-Lama Rewal and to the anonymous reviewers of SAMAJ for their comments and suggestions.
2. For a court ethnography approach in India see Baxi (2014), Berti (2016).
3. There are many works on this topic. See for example Srinivas (1984), Bénéï (1996), Menski (1998), Oldenburg (2002), Majumdar (2004).
4. See the video "Tough Law, but then Why are Dowry Deaths on the Rise?" (NDTV 2012).
5. According to Section 306 of the Indian Penal Code ([1860] 1995), "If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."
6. Following a new report from a UK-based forensic doctor provided in 2016 claiming that Jiah's hanging was staged the prosecutor added the murder charge (NDTV 2016).
7. <https://www.youtube.com/watch?v=KQsjsle2f4U>.
8. <https://www.youtube.com/watch?v=qz5YM8fcdgE>.
9. The ruling was related to a case where a 14-year-old student from Chennai who committed suicide had written a suicide note saying that another student was responsible for it. As the judge Devadass mentioned in the judgment, mere abuses or a casual remark or words uttered in a fit of anger could not be termed as 'abetment' and people named cannot be arrested and jailed (V. Venkataraman 2015:\$43–45).
10. The term "teasing" is often used in judicial documents in reference to mild dowry requests. The other word frequently used is "harass," which indicates more violent demands.
11. I could not determine via the internet whether the husband had filed an appeal separately, and no reference is made in the judgment as to why he was not included in the present appeal.
12. We may note in this respect that in a recent ruling, the Bombay High Court ruled that a suicide note alone is not enough proof to charge someone with abetting a suicide, although the issue remains highly contentious in legal milieus (Arvind 2016).
13. Although decriminalized later on, in 2014 it was still considered a crime according to the Indian Penal code.
14. This often happens in criminal cases in India where the high rate at which prosecutor witnesses turn hostile leads the accused not to present any defense (Berti 2010).
15. Marecek and Senadheera note that the "canonic narrative of suicide in Sri Lanka is a dialogue suicide; most self-harm episodes take this form. They are rarely carried out in isolation; rather they are thoroughly embedded in interpersonal crises" (Marecek and Senadheera 2012:60).
16. This case is discussed in detail in Berti (2016).

17. The case was registered under section 306, i.e. abetment to suicide and 498a, i.e. domestic violence which are non-compoundable, that is no private compromise is allowed and the case cannot be withdrawn. In spite of the fact that there was no clear reference to any dowry harassment, the case could have been brought to the court as a case of cruelty by taking advantage of a 1983 Supreme Court ruling which redefines the category of “cruelty,” by including in it mental as well as physical harassment.

18. According to section 45 of the Indian Evidence Act ([1872] 2000), handwriting must be sent to an expert. However, it is also specified (section 47) that “the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed ... is a relevant fact”. In this case the police had requested that so called *panch* witnesses (respectable persons) verify the authenticity of the handwriting. The definition of who qualifies as an expert is, however, a rather loose one and it frequently happens that those who have been called to certify the authenticity of a handwriting sample say in court that they do not know how to read.

19. Interview, October 12, 2012.

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## ABSTRACTS

In this paper I focus on particular kinds of texts that may be found in court files on suicides and are commonly known as suicide notes, that is notes supposedly written by a person who has allegedly committed suicide and who wrote down their reason for taking their own life. Unlike most of the “voices” that emerge from a court file, which are always mediated by a legal or judicial representative—the police, the court or the lawyer—suicide notes are not supposed to undergo this legal and linguistic formatting. In fact, unlike other court documents, which in spite of being written in the first person by the witness are an official transcription of an oral statement, the content of a suicide note is supposed to have been originally produced in writing and the person referred to in the note as “I” is supposed to be the author of the note. One of the main issues raised by these notes in court is their authenticity. We are in fact dealing here with texts that appear to have been spontaneously written but whose authenticity is often challenged either by the prosecutor or by the defense lawyer—depending on what is written in the note. The interest these notes have for the anthropologist is therefore twofold. On the one hand, they provide a version of the suicide that is not directly produced by a court officer but is supposedly written by the person who committed suicide or, in the case where it has been fabricated, by the victim’s family or in-laws. On the other hand, these notes are subjected to judicial scrutiny and interpretation; therefore, whether they are real or fictional, they produce a court discourse and they sometimes even appear to have been written with the view to the judicial outcome. I will therefore look at these notes both as a lens which can give access to the deceased’s last thoughts—or to those of her entourage if the note is fabricated—and as a lens used by judges themselves to arrive at a decision

## INDEX

**Keywords:** suicide notes, courts of law, dowry deaths, judicial writing

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