CHAPTER SIX

OUT OF PLACE IN AN INDIAN COURT

Notes on Researching Rape in a District Court in Gujarat (1996–8)

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In this chapter, I reflect on the experience of conducting fieldwork on rape trials in the rural District and Sessions Court in Ahmedabad (Gujarat) over eighteen months between 1996 and 1998. The experience of inhabiting the field illustrated how judicial hierarchy and social discourses make rape survivors, complainants, experts, women lawyers, or women generally feel out of place in a court. This out-of-placeness which is productive for male judicial hierarchy, has a thin threshold of tolerance for difference. The vignettes that follow describe how the performance of shame and decency were critical to the *doing* of the fieldwork. I describe the sensory and emotional out-of-placeness of the field that acquired different intensities over time for me.

I am unlettered in law, not having formally studied at a law school. Not having a law degree produced a specific kind of out-of-placeness, for neither did I have the kind of access to a court that wearing a black gown might provide nor did the practice of criminal law always resemble what was written in law books. I learnt criminal procedural and evidentiary law in conversation with lawyers, reading paper books, observing trials, and spending time reading law digests in the court library. I gained proficiency in Gujarati and criminal law

* This essay is a revised and expanded version of excerpts from *Public Secrets of Law: Rape Trials in India* (Baxi 2014). Thanks to Lynette J. Chua, Mark Fathi Massoud, and all the contributors to this volume for their engaging and thoughtful comments. Thanks also to Mouykh Chatterjee, Ghazala Jamil, and Janaki Abraham for very helpful feedback.

simultaneously. Medico-legal and forensic vocabularies used in courtroom speech required a working familiarity with how evidence is analyzed and recorded in hospitals and laboratories. I learnt that what one may learn in a law school or by memorizing a legal digest was out of place in a courtroom, for it was the socio-legal practice of law that taught me how precisely illegality sits at the heart of state law. Illegality was not out of place – rather it was folded into legal discourse in specific ways (Baxi 2014).

I had to learn how to inhabit the court, for the monumentalization of judicial hierarchy itself produces an out-of-placeness. Doing ethnography in a court was more complex negotiation than a question of certification or expertise, or whether I was adopted as an insider or treated as an outsider. It meant embodying judicial hierarchy in an everyday sense. Judicial hierarchy was foundationally sexist, barely tolerant of women in law. Doing fieldwork in court meant wearing the color of law. Fieldwork meant learning how to walk purposively, who to speak to and who to avoid, where to sit and where to converse. It meant refusing certain kinds of access to victims where power was indifferent to causing further trauma to survivors. It meant recognizing the directions in which male desire was inserted in the place of law.

Feeling "out of place" was borne by the encounter with moral discourses about how women should speak about sex, sexuality, and sexual violence in public. It indexed how texts recording violence are consumed voyeuristically and move into the realm of the pornographic that sanctions rape. It signals towards the unspoken and unwritten that shadows the ethnographic text – the nightmares that followed writing; the frozen memories of certain scenes in the courtroom; attachments with children I met briefly; and the memory of the trials as these shaped my affective life long after formal closures to fieldwork and writing up. The life of the field as it persists, after the publication of the ethnographic text, after two decades, presents a peculiar challenge, especially in times of the lockdown and the pandemic. For the sensorium of law marks ethnographic imagination long after fieldwork is over.

FINDING THE COURT

I reached the city of Ahmedabad to begin my fieldwork on rape trials during the hot summer of July 1996. I began my research with feminist frameworks, and in conversations with feminist activists and journalists. I got in touch with women's groups in Ahmedabad and Baroda.

https://doi.org/10.1017/9781009338219.007 Published online by Cambridge University Press

Within a couple of days, I had travelled to another small town to participate in an anti-rape protest. I met activists, journalists, and lawyers to get a sense of the debates and interventions on violence against women in the state. In Ahmedabad, I tried to get permission to work on the cases of rape that went through one of the oldest women's organizations in the state and interviewed key activists there. However, I had to abandon this plan as the organization's leadership was not too keen on this idea.

I was fortunate to meet younger lawyers, who were excited about my research project and introduced me to senior lawyers of the Gujarat High Court. A well-known human rights lawyer introduced me to an eminent judge at the Gujarat High Court known for pro-poor and human rights friendly judgments. He gave me permission to work in the record room of the court. I was introduced to Mr. B who then helped me sift through case files, to find rape cases filed along with cases of bootlegging, anti-social activities, riots, and murders.

Over a few months, I made a list of 150 cases dating back to the 1980s, an archive that I thought might be useful to reflect on the legal history of rape in Gujarat. Beginning fieldwork in a record room seemed like the first step, since the world of law is a world of files (Latour 2009/2002; Riles 2006; Holden 2008; Taneja 2017; Ghosh 2019). Today, one can read many judgments synchronically and diachronically through a web search, even for trial courts. Not only are orders and judgments available online, but also the legal file itself is thought of as a hypertext (Suresh 2016, 2019). In the 1990s, computers were only recently introduced and the digitization of judgments an unimaginable possibility. Yet the smell of legal power in the record room was dusty, and afflictions with allergies and fevers followed me through different courts.

The Gujarat High Court was then located in a building that was said to be a hospital building; it has since moved to a new multi-story building further away from the city center. It was a congested court. Women often dodged male bodies. To reach the courts and offices of the court, one had to walk past a corridor which opened into male bathrooms which were always in use. The strong stink of the male urinals inscribed the maleness of the space in olfactory normalcy. It felt like masculine sensory gatekeeping that had to be endured to access the life of the court.

The court was not built with separate stairways and passages to allow a separate movement for judges between courtrooms. I was taken aback

https://doi.org/10.1017/9781009338219.007 Published online by Cambridge University Press

when the *sheristadar*, a court official in a ceremonial costume who escorts judges, made way for a judge in the crowded corridor of the court, swinging a baton in the air as lawyers and litigants flattened themselves on the wall to make way for the judge (see Baxi 2014, also see Khorakiwala 2020). I almost caught the baton aimed at me by reflex but avoided contempt of court by imitating the lawyers who made way for the judge. Legal ethnography is done in the shadow of contempt of court (see Dembowski and Korff 2011). Out-of-placeness is in awareness of law's violence.

This was not the only court where I worked. I also visited the two district courts in the city. Eventually, I was to research the district court which had jurisdiction over the rural district of Ahmedabad. Although I got permission from the Commissioner of Police, Ahmedabad City, I was unceremoniously thrown out of a couple of local police stations, whereas a few police offices, such as in the Crime Branch, consented to give me interviews. I managed to spend a day in the Forensic Science Laboratory in Ahmedabad, conduct interviews with forensic experts and doctors in the Civil Hospital. A single day could be busy going from a court to a hospital, police station, or a lawyer's chamber on public transport up and down the city in hot sweltering summers.

PERMISSION

A senior lawyer in the High Court of Gujarat told me that a law student would not find anything of interest in studying the rape trials and surmised that I was perhaps interested in following rape trials because I was a sociologist. When I told him that law students do research rape trials in other jurisdictions, he wondered out loud: *What would they possibly say*? Similarly, lawyers in the trial courts often told me that I should research appellate courts, since most rape cases were "compromised" in trial courts. It is not legal to compromise rape cases, however pressure, terror, settlement, or an offer to marry the woman causes witnesses and victims to routinely turn hostile to the prosecution's case. Such cases were seen as "garbage" cases without any doctrinal or precedential value. And hence, even as a site of research the trial court was not considered worthy of legal research by lawyers. "Compromise" cases were out of place in serious legal research. Locating the research project in a trial court was out of place for law students.

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In 1996, as I began my fieldwork, High Court lawyers were animated by conversations about an allegation of rape against the Inspector General of Prisons by a woman student of sociology. It was alleged that the nineteen-year-old woman, daughter of a retired mill worker, was given permission by the Inspector General (IG) Prisons to enter the Sabarmati Jail as part of a conspiracy to organize a prison break of "notorious criminals" who included alleged "Pakistani spies" and "Anti-Nationals."[1] The allegation was that the young woman conversant with "martial arts etiquette and arts of conversation" acted as a "courier" to help the incarcerated "spies" escape from the prison. The Addl. Inspector General (Prison) was accused of rape and abuse of office, as well as conspiracy. The court order noted that the woman "revealed the conspiracy only when she was given full protection by the Anti-Terrorist Squad (A.T.S.)," and charges were brought against twelve accused. In February 1997, the case was handed over to the Central Bureau of Investigation, as the Addl. Inspector General (Prison) denied these charges as politically motivated. During my fieldwork, the coverage of this case folded into everyday conversations in the court. The lawyers felt that the accused was being framed due to political considerations, and the rape allegation was politically instrumentalized, or that the woman was a victim of blackmail by antisocial elements to malign the accused by levying a false accusation. At the same time, this framing of sexual violence within the context of state security produced suspicion of all women researchers.

In the High Court, I was repeatedly told I would not get permission to sit in on rape trials that were normally held in camera, because this case proved that it was unsafe to allow women (ostensibly trained in the "art of conversation") to research courts or prisons. I approached a High Court judge, a friend of my jurist father, who put in a word for me with the presiding judge in the District and Sessions Court. The District and Sessions judge granted me permission to research in camera trials, but he advised me not to reveal that I was a student of sociology. I was asked to maintain the fiction of being a law student, to gain more legitimacy in the court, in this discursive context where a rape allegation was exceptionalized.

[1] Bijal Revashanker Joshi *vs.* State of Gujarat (1997) 2 GLR 1147, https://indiankanoon.org/doc/466263/.

https://doi.org/10.1017/9781009338219.007 Published online by Cambridge University Press

SCOLDING AS A PEDAGOGY

I was often scolded for researching rape. It was also out of place for the woman clerk in the Gujarat High Court's administrative wing to talk about rape trials: "women should not do work like this. It is only when you have misconceived ideas of bringing change that you do work like this. It simply means inviting trouble. It is partly women's fault that they are raped. I have learnt a lot from practical life. Women are helpless. We have no power. I can tell you all of this." The clerk believed that it was dangerous for women to reveal such public secrets. For her, researching rape meant refusing to know "what not to know" (Taussig 1999, 3). The stigma and danger attached to a rape survivor's public revelation of sexual violence was given the quality of contagion: it attached a certain kind of gaze on the researcher. This framing of my research was iterated during my fieldwork in different ways, and inflected discussions after the work was published.

The very project of researching rape trials typically produces social anxiety or even excitability that marks the production of public secrecy. Such forms of anxiety surfaced repeatedly when I mentioned my research topic, whether hostile or laudatory. Typically, I would be asked "but why did you take up this topic? Why could you not research 306 (IPC provision on abetting suicide) or something else? It is difficult to talk about it." When I asked why talking about rape was so problematic, I was repeatedly told that it was difficult, especially for male lawyers, to talk to me since I was an "unmarried" woman – male lawyers often said, "I cannot be free with you." Not surprisingly, I was expected to script shame and embarrassment in my interviews. This motif of shame was accompanied by the idea that the act of witnessing rape trials wounds women. One lawyer advised me not to document the circulation, witnessing and recitation of narratives of sexual violence. He said, "you see, your work will affect you. You see varieties of men in the court. You have already seen a lot. It will have a psychological effect on you." For him talking about rape did not offer the possibilities of transformation or that "meanings, in as much as it is established in a chain of signifiers, can always slide, producing new meanings" (Aretxaga 1997, 20). Rather, he meant that my inner life would be so wounded that I would be repulsed by marriage.

I do not wish to suggest that lawyers do not know that the testimony of rape survivors, who are silenced or on whose behalf men speak, is more than a confession or merely coming out. They know that

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testimony "works as an act, a reclaiming of history, and does so in a particular manner which asserts the fragility of the silence which counters it. In this way, testimony is a coming to voice, an insistence on speaking and not being silenced or spoken for" (Feldman 1993, 17; also see Herman 1992). Every lawyer knows that women's testimonies are distorted, disciplined, and misrepresented in rape trials. Defense lawyers talk, sometimes boastfully, about how courtroom speech routinely converts the testimony to rape into a confession of consensual sex. Judges know that courtroom talk in rape trials typically titillates, excites, and provokes. We know that legal records freeze this drama of sexualizing the raped body in stylized ways. Even when a trial results in a conviction, the law addresses a phallocentric notion of society, or deploys male standards of injury, thereby causing injury to survivors testifying against rape.

Researching rape offers many provocations to the social and legal mechanisms of silencing women from speaking out against rape. Talking to male lawyers as an expert (and even as an equal) meant transgressing social boundaries, wherein transgression itself is an experience of alterity. Transgression is not alterity in the sense of being a subversion of that which it violates (Jervis 1999). Instead, it implies the interrogation of the mechanisms of power and authority that articulates the limit, while at the same time engaging with its complicity in that which it prohibits. Marcus suggests that we must move away from thinking of complicity as a "partnership in evil," rather links complicity to the sense of being "complex, or involved" (1997: 100). In this sense, the very process of conducting ethnographies of rape trials, to an extent, is complicit in the making of the public secret. Such ethnography of rape trials offers pictures of the social and political process that script research as shameful, shape out of court negotiations, traffic in inducements, bargain with terror, and purchase dignity. Equally the process of research brought an uncanny awareness of out-of-placeness of feminism (also see Basu 2012, 2015) .

THE NYAYA MANDIR

The district court, at the time still under construction, was set apart from the street that led into a bustling market in the walled city, by a large court compound and an imposing flight of stairs. The Indian flag and a signboard marked out the court building as the Nyaya Mandir, which literally means temple of justice, in Gujarati and Hindi. The

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noisy court compound comprised a parking lot where police vans of prisoners were a common sight, and usually was crowded with typists, touts, and litigants. The building had eight floors, with the ground floor comprising spaces for lawyers to work. Scores of lawyers worked on chairs and tables, placed close to each other, and tied to each other with iron chains to secure each workstation. The court canteen was located at the other end. The first floor opened into the District and Sessions judge's courtroom at one end, and the Additional District and Sessions judge's courtroom on the other. The second floor housed the Assistant District and Sessions judges' courtrooms. The public prosecutor's office was located here. The upper floors were allocated to the magistrates of various ranks, the rank decreasing in the hierarchy, from the lower floors to the upper floors.

Goodrich (1990) points out that the ritual character of legal proceedings is marked by the ceremonial dress donned by the legal actors or the features of address and procedure, which are highly systemized. On my first day in the courtroom, I remembered Peter Goodrich's words:

> The day in court is likely to be experienced in terms of confusion, ambiguity, incomprehension, panic and frustration, and if justice is seen to be done it is so seen by outsiders to the process. Nor is justice likely to be heard to be done by the participants in the trial. The visual metaphor of justice as something that must be visible and seen enacted has a striking poignance in that it captures the paramount symbolic presence of law as a façade, a drama played out before the eyes of those subject to it.
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> (1990: 191)

The noisy, busy, and sweaty courtroom with simultaneous hearings was unfathomable. On that unforgettable first day in a courtroom, I made many mistakes. The court was yet to begin its session. I looked around and sat down on a comfortable chair reserved for lawyers and was at once chastised. Abashed, I walked to a bench, which was reserved for the accused. Yet again I was scolded. Then I walked to the first row of chairs, to be told again that this row was reserved for witnesses. As days passed by, I managed to mark a chair with a broken armrest nearest to the witness box as my place in the court. Sometimes when I was lucky, I could secure permission from the court to sit at the lawyer's table from where I could hear the proceedings better.

Even from the first chair (towards the witness box) reserved for the public, it was difficult for me to hear what was being said. The accused

separated spatially cannot hear most of what is being said but views the proceedings from a distance. I agree with Goodrich that the court is an auditory space organized on the principle of "visibility of justice rather than its audibility" (1990: 191). I noted that the greater the audibility the closer is an individual to privilege. More often than not, depending on the viewing and listening positions of the actors in a courtroom, the courtroom is experienced as "theatrical autism with all actors speaking past each other" (Carlen cited in Goodrich 1990, 193). This sense of speaking past each other, and not being able to hear legal proceedings, kept legal order in place.

FOLLOWING THE PROSECUTOR

After a few days of sitting in the courtroom, a middle-aged male lawyer who knew about my work, gestured to me to follow him. Hesitantly, I followed him to his chamber not knowing he was one of the five Additional Public Prosecutors (hereafter, APP). The APP, whom I call Hirabhai,[2] asked me many questions about my research and social background. Soon I was incorporated as a researcher amongst his juniors, mostly women. Two APPs allowed me access, but I worked predominantly in Hirabhai's office.

Hirabhai's office was a small room with a desk and two chairs, separated from other offices by a wooden partition. Hirabhai was named my "guide" by one of the judges whose courts I used to observe. Over time, I was situated like one of the juniors, as if I too had to be trained in the art of prosecution yet learn to observe judicial hierarchy. When I left the field, the presiding judge in whose courts I sat regularly wished me luck and remarked that I had become a part of their "family."

One of Hirabhai's junior lawyers, Beenaben, became a confidante and defended the validity of my research, which was keenly contested by lawyers (both men and women) in the court. In the chamber, my research was characterized as courageous. Hirabhai's journalist friend wanted to do a story on my courage. When a woman clerk said that I was shameless to do research like this, Beenaben stoutly defended me and refused to talk to her. Later she added, "do not be discouraged. These people are very narrow-minded. They do not know how

[2] In all these cases, I have fictionalized the identities of the victims and their families, witnesses, accused, prosecutors, lawyers, police officers, and medical experts in order to protect the identity of the rape survivor or the complainant.

courageous you are. Women, like you and me, are very few. We are different." The support by the prosecutor's office in pursuing the research, although the topic was considered shameful, was built on friendships with women lawyers especially. These friendships were forged through confidences and secrets about work and life. Beenaben drove me to court through an eerie curfew in the old city following a local riot on her scooty so we could be in time for a hearing; and another time, I skipped an important hearing to attend her marriage to her partner in the face of familial disapproval of an inter-caste marriage of a Rajput woman with a Brahmin man. Without this support and friendship, I would have probably not been able to do my fieldwork.

In the trial court, each case had to be photocopied, compiled, and indexed by sifting through dusty bundles of miscellaneous judgments, wrapped in red cloth. The record room yielded some information about ongoing cases, however I was entirely dependent on each prosecutor's office to help me enumerate how many rape cases were listed during the fieldwork. I could barely read the illegible handwritten cause lists announcing the daily roster of cases pasted on the board outside the courtrooms.

Twenty cases of rape, abduction and/or kidnapping were assigned to Hirabhai. Not all twenty cases were heard during this period. I could not choose which rape trials to follow. I followed six cases over a period of one and a half years, over a hundred hearings. I followed five cases prosecuted by Hirabhai. I followed one case with the assistance of another APP, Mr. Rajput. These cases concerned complaints of statutory rape (involving children below sixteen years), and rape, abduction and kidnapping of minors (applicable to girls below eighteen years). In the book, I chose to write about four case studies of the six trials. Two of these trials went on appeal to the Gujarat High Court. Sufficient time had elapsed, between the trials and the appeals, for these cases to be written about.

I combined my notes on what was spoken in the court with the court record of what was dictated to show how courtroom speech was not transliterated in court records. Rather, the court record of the testimony by the victim or the witness was translated and standardized by the judge or other actors in the trial such as the prosecutor or the police officer. The juxtaposition of courtroom speech and court records, alongside interviews in each case, made for the ethnographic retelling of each case.

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OUT-OF-PLACE INTERVIEWS

This was tedious and painstaking work, just as sitting in the courtroom over 100 hearings had been. Makhija (2019) describes the experience of litigants as marked with boredom as "waiting for something to happen." Often complainants, victims, and witnesses would complain of the sheer discomfort of squatting in the court lobby or sitting on broken chairs with nothing happening in court. The sense of time weighing heavily on litigants, victims, and witnesses along with the heat of the summer produced a soporific sense of time. Lawyers and even judges caught a catnap during the proceedings, at times. I sat in the prosecutor's office waiting for trials to be heard in the courtroom, and when the prosecutor was busy, I loitered in court corridors, sat in the courtrooms, or read in the lawyer's library. I met experts, police officers, victims and their families in the prosecutors' office or the court lobby. Although I had permission to follow trials, and over time, I was incorporated in the chambers of the prosecutor, I negotiated feeling out of place in the court building on an everyday basis.

Although the District and Sessions Judge had granted me permission to document in camera trials, I secured consent from the complainant in each case to follow the proceedings. Trials could take a long time to complete, and it was very difficult to follow all hearings in one case even over a period of eighteen months. Many cases that came to court were filed by parents who opposed their daughters' sexual or romantic choices of inter-caste and inter-faith relationships. These cases were usually prosecuted under the rape, abduction, and kidnapping laws. The criminalization of love by using these laws sometimes meant jail terms for both men and women, as undertrials (those who are under investigation or charged with a crime) are routinely incarcerated in India. Love was not seen as out of place in criminal trials of rape, for women's consent to intimate relationships was seen as mediated by paternal authority, caste, and community.

Consent for me did not mean the routine ways of securing informed consent but was based on full disclosure of my own location in the world and my specific work (see Baxi 2014). The interviews were difficult in the absence of support services for victims, or their families. In the case of statutory rape, the anxiety generated by the legal proceedings, and fear of harm to the children precluded the possibility of ethnographic interviews. However, I found that the parents perceived talking to a stranger therapeutic, while revealing that what happened

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to the extended family was perceived as a source of stigma with long-term deleterious consequences for the child's future. Rapport then was not a measure of the amount of time spent with the person interviewed, nor did it remain a given as the case unfolded over time. I was present in the courtroom during their testimonies, yet we would never meet again or keep in touch.

Most interviews with the complainants and their families happened in court corridors in ongoing cases in the prosecutor's office. The lack of privacy posed a problem as time went by. I was nicknamed 376, after the section on rape in the Indian Penal Code (IPC), by some male lawyers, posing an indexical relationship between my presence and the topic of my research. Once when I was interviewing a father – whose ten-year-old daughter had been raped – four male lawyers who were passing by, stopped. They pointed to his daughter, "this is the one, look at her, so small and she has been raped." I asked the men to leave and stopped the interview. The fact that I was seen in their presence directed a gendered gaze on the child – I struggled with this attention for the court corridors afforded no privacy to the survivors and their family.

Interviews with witnesses, or the families of survivors happened in the court lobby. I remember being scolded by a lawyer for squatting on the floor outside the courtroom next to a *panch* witness: the independent lay witnesses in trials who certify rather mechanically that the police had seized evidence as per procedure. Sitting on the floor with a working-class witness was seen below my status; and as someone who worked in a prosecutor's office, blurring class and gender boundaries. It was out of place in court hierarchy for me to squat on the floor. However, it was not out of place to make a witness, or a victim sit on a dirty floor while waiting for her turn to testify.

I interviewed five sitting judges of the Gujarat High Court, either in their office or at home. The experience of interviewing a judge was unique. While the interviews were not hostile, it seemed to me that they were not used to being asked many questions by a non-expert, and the slight annoyance that crept into their responses was despite the tone of curiosity rather than interrogation. I had many curiosities and less time. I realized that judges have a monopoly over the judicial habit of asking questions rather than being questioned. I learnt how to interview judges differently from lawyers as the protocol of how one speaks to a judge even in an academic setting is seeped with the extension of judicial aura and sacrality. It was

better to ask fewer questions slowly while communicating exaggerated deference and respect.

BEING SCHOOLED TO "FIT INTO" THE SCENE OF THE LAW

Researching rape itself was unsafe, attracting the charge of indecency, sexist comments, and even sexual harassment. Conversations about sexual affairs between lawyers marked every other lunch in chambers, while rumors about sexual harassment abounded. I recorded several stories of women lawyers resisting sexist comments, even in open court – in one instance, a woman lawyer slapped a male lawyer during court proceedings. In this predominantly male space, lawyers often swapped stories about rape cases in other courts in Gujarat. One such conversation took place in Mr. Rajput's chamber when his colleague, a defense lawyer, joined our conversation. He had just won an acquittal in a rape case by citing case law on how women with bad character lie about rape. And in another case, he was kicked that the victim was so scared of his cross-examination that she did not return to complete her testimony. Such shared mirth between prosecutors and defense lawyers when humiliating rape victims during a cross-examination was routine and indicative of what some male lawyers in Delhi call a "rape" bar.

Initially no one was willing to speak to me about the ongoing rape trials. I had yet to learn the vocabulary of how to speak about rape in the court. Just as I had begun to despair, Hirabhai introduced me to a young woman, in a statutory rape and kidnapping case that he was to prosecute. He then took me to the courtroom where he made a request to the bench clerk for the case papers. We sat at the lawyer's table, and he turned to the medico–legal aspects of the case. Turning to the accused's medical certificate, in his usual booming voice which echoed in the half empty courtroom, Hirabhai said "you know what a man's primary sexual organs are, do not you?" A little taken aback, I nodded.

Then he turned to the victim's medical certificate. After going over the other details about bodily development and superficial injuries, he asked me, "do you know what a hymen is?" I responded in the affirmative. Rather theatrically, he drew a vagina on small piece of paper to explain the technical terms for injury on the labia minora or labia majora. The discussion carried on in the chamber where he instructed Beenaben to explain "it" to me. After he had left, she said, "Pratiksha, do you know that a man cannot rape a woman by simply touching her, or

kissing her." I nodded even more puzzled and curious now. She carried on "well, how do I explain how a man rapes?" I replied, "Beenaben, do you mean partial or complete penetration?" She nodded in relief.

In performing a specific revelation of the public secrets of rape, Hirabhai directed my attention to the vocabulary by which I could research rape. In insisting that medical jurisprudence separates, the social from the clinical, Hirabhai maintained that a "decent" legal practice could coexist with frank discussions on the topic of rape. The route to generating this "frank" space initiating the research, as he put it, was enabled through medico–legal vocabulary. I was taught that I already knew. This pedagogy was out of place.

In so many ways, Hirabhai and his junior Beenaben made it possible for me to undertake this research. Hirabhai, whom I called "Sir," unlike other women juniors who addressed him by fictive kin terms, was like a "teacher" instructing me in the ways of the court. He did not hesitate to reprimand me on many occasions. I was taught what constituted "decent" modes of dress, appearance, gait, posture, and speech. I was instructed who to speak to and told who to avoid. I stopped wearing bright colors to the field, preferring the lawyer's garb of white and black.

More recent ethnographies by women researchers also record how they had to mute the colors they wore, even if the lawyer's gown was worn. Khorakiwala, a lawyer who conducted fieldwork on court architecture and judicial iconography in three High Courts also narrates her experience of feeling out of place in the Calcutta High Court thus:

> On one day I wore a blue and white striped shirt and a black jacket under the gown, and people repeatedly told me that I was incorrectly dressed and must leave the courtroom. A slight change in the white color of my shirt and I was chided by lawyers in court by saying that either I should leave the courtroom or not wear the band and gown. This situation occurred enough times for me to re-check the Bar Council of India Rules, 1975 that prescribe the dresses or robes to be worn by advocates. These rules are written for advocates who intend to appear before the court. As I was not appearing before the judges, the rules being imposed seemed out of place.
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> (Khorakiwala 2021, 99)

The daily instructions of how to look, walk, and talk, which were linked to access to the court, verged on alterity. The awareness of being on the verge of alterity was acute. As if aware of this, Hirabhai would reassure me without any stated cause for such a reassurance, "Baxi, you are safe here." When I was leaving the field, almost reflexively,

Hirabhai said to me, "I do not know why Baxi, but I never looked at you with that kind of gaze (*nazaar*). I liked you because you work so hard. Do invite me to your wedding." In other words, women were out of place in hyper-masculine and sexualized chambers of prosecutors. This ability to desexualize a woman researcher, who was located outside the framework of kinship, appeared to surprise Hirabhai.

The complicity with adopting medico–legal vocabulary as the modality of talking about rape was deeply problematic. I did not ask sexually explicit questions. For instance, I could not ask direct questions about what lawyers and prosecutors meant when they said that women are habituated to sex. I knew that the determination of whether a woman is a habitué follows a clinical test, which doctors conduct routinely. This test, popularly known as the two-finger test, is used to determine the absence or presence of the hymen, and whether it is distensible or not. If the doctor finds that the hymen is broken and there are old hymeneal tears, s/he may write that the rape survivor was habituated or used to sexual intercourse in the medico–legal certificate (MLC). When a prosecutor or defense lawyer reads a medico–legal certificate, which declares a woman to be a habitué, often they conclude she has lied about being raped. Minimally, a defense lawyer uses such a MLC to establish past sexual history. I wanted to know why prosecutors, who purportedly represent the victim, exploit the category of the habitué.

Towards the last phase of the research, I decided to ask direct questions, which may have been thought of as talking about secrets men do not share with women as equals in a professional setting.

These secrets "appear in ethnographic texts as signs of alterity" (Jong 2004, 257). I cite here a discussion with Mr. Rajput who argued that women could not be raped unless there is grievous violence; and women who were habituated to sex without marks of injury frequently lied about rape. This was not an uncommon view in the court. He pursued this question in the privacy of his chamber to explain to me why he thought that 'habituated' women were liars. He asked me to sit in a chair besides him and lowered his voice so that his colleagues could not overhear him, through the wooden partitions that separated the chambers of the public prosecutors. And he spoke in English.

R : That day you were saying about habituated. I did not say anything because other people were around. A woman cannot really be raped.

PB : Why?

https://doi.org/10.1017/9781009338219.007 Published online by Cambridge University Press

R : It becomes quite large. The opening in a habituated woman therefore becomes quite large therefore habituated.
PB : You mean the vaginal canal?
R : Yes, that's why two fingers go in quite easily.
PB : But that's what I was discussing with Dr. B (a forensic expert) – that is, the finger test is quite unreliable. What about masturbation?
R : That is there. But see if two fingers go in easily (mimicking such penetration with his fingers) it means that she is habituated, the entire hole, that's why I say a woman cannot really be raped.
PB : But that was not my point of view. I was trying to say that why must her past sexual history be linked to her credibility?
R : But it must.
PB : Why? Why should it be considered against morality?
R : Because it is. Because with married women rape is not possible, and in our society sex before marriage is not allowed.
PB : Why do women have to experience rape as worse than death or shameful that they will kill themselves? I am arguing for another point of view.
R : But a woman cannot be raped . . . how do I explain? Do you know what secondary sexual organs are? Do you know why doctors write secondary sex organs are well developed?
PB : I mean . . .?
R : The organ develops after a woman has an erection, that's why they are well developed, that's how they find out she is habituated. How do I explain this to you?
R : The woman becomes wet. The penis cannot go in unless the woman is not willing. She cannot be willing unless she is wet – like a machine – a rod cannot go in without lubrication (and then he demonstrated with his hands how a rod penetrates a machine).
PB : But what about cases in which there is partial penetration?
R : I have not found such cases, they all claim complete penetration, that is why I am saying that a woman cannot be raped.

MR. Rajput stopped when a colleague walked in. He added:

> You see, I am MSc in Biochemistry. We were taught all of this. I have worked in a hospital for one year. Come again we will discuss this.

I did not go again to his chambers.

This lesson in "biochemistry" was a lesson in alterity – of how men experience pleasure while talking about rape and women's bodies. Desire is inserted in the very way prosecution is architected – or in the place of law. It is directed at the victim on the stand and at the researcher in talking about how the prosecution is erected, literally. The prosecutorial body itself becomes a desiring body inserting in talk about rape male passions to possess and objectify. During a trial, a survivor knows that her testimony gives men pleasure and experiences the questions put to her as unbearable humiliation, yet since such talk is staged in a court of law, the process is imbued with the values of objectivity and such talk is classified as evidence. The survivor is then made to feel being out of place when male desire inserts itself in the place of law.

Courtroom research demanded a threshold of toleration of sexism and sexual harassment, while having to calculate how to keep oneself safe. I did not share information about where I lived in the city. I told my uncle who lived in the city about my whereabouts if I was anxious about an interview. The lawyers constantly talked about how to regulate danger and safety in the court. Whether or not this was a discursive way of keeping women in their place, it meant using intuition to judge what felt safe or not. The need to keep oneself safe from physical violence became a part of doing the research. And later I was to tell my doctoral students that it was alright to leave if that field encounter felt unsafe.

Inhabiting academia after fieldwork was written up heightened feelings of isolation or being marked. I was perhaps unreasonably hurt when a colleague told me at a seminar at my university that many people did not come to hear my paper because they assumed that the talk was about sexual violence. Being considerate to what people want to hear was a constant thing for many academics simply did not want to talk about sexual violence because "It's depressing." Another time, I was surprised when a senior professor in Germany told me that I read my paper on the medical jurisprudence clinically as a "weatherman" would. Although the comment was meant to communicate admiration, it made me uncomfortable. Not displaying emotions or vulnerability (which is often wrongly equated with weakness) was perhaps seen as out of place. I was speechless when an eminent German professor in Berlin said to me, "it is not important to ask why men rape women, rather the more important question is why I might not rape you" (also see Baxi 2016). Not only was one's work

often essentialized as if sexual violence is not a cultural aspect in the West, but this sexualized and racialized 'question' was meant to put a brown woman back in her place.

CONCLUDING REMARKS

The embodiment of fear, disgust, and anger through frequent episodes of illness were part of the field experience and the writing thereof. The experiences of conducting fieldwork seemed relevant to me only to highlight the narratives of survivors in court and describe courtroom culture. Anger and grief experienced in the field was deferred to writing. I could not talk to anyone after I returned from the field, nor leave my home for days. Once I was able to go to my department, I felt I was not in my own skin. I was out of place in the university and home felt unfamiliar. Images of the sexual humiliation witnessed in court were part of daytime afflictions and nightly nightmares. I got used to these, as I wrote. The pace of writing was slow, and its tone strove for a distant intimacy with the emotional and sensory memories of the field. The immediate aftermath of the fieldwork also meant having to overcome a brief period of repulsion for any intimacy. Law had interpolated the intimate in ways that I was unaware of. To cope with the field was to accept periods of anger, silence, lack of articulation, morbidity, and chronic affliction. But it also meant not losing the ability to love.

This invitation to reflect on the question of how to cope with fieldwork is to acknowledge the work of intellectual and political companionship throughout. Profound gifts of solidarity, kindness, and love made fieldwork and its writing possible. I learnt how to live with the field by recognizing how law's attachment to cruelty marked the self. If law's attachment to cruelty marked the self, then the ability to love and be in solidarity is the necessary condition for living with the field.

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https://doi.org/10.1017/9781009338219.007 Published online by Cambridge University Press