

The Quotidian Life of Terror Trials in Delhi

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Mayur R Suresh's book *Terror Trials: Life and Law in Delhi's Courts* (2023) is based on an ethnographic study of terror trials in the Tis Hazari court across a period of 14 months over which Suresh followed 18 terror trials. The ethnographic method's investment into everyday lives in trial courts leads Suresh to ways in which terror defendants engage with the law. Despite the terror charges being an outcome of the prejudicial and disparate impact of the law, the terror defendants in Suresh's book are not defined by passivity and victimhood. Instead, they are persons who "find a footing in their trials" by experimenting with legal technicalities (p 14). Terror defendants' use of the law challenges the "state of exception" academic framework that is often deployed to understand terror laws as per which all law facilitates the use of sovereign force (p 18).

Terror Trials also reveals that legal technicalities are so intrinsic to the trial process that it offers a certain kind of autonomy to the law. The law then produces its own sociality in the courtroom which cannot be explained by social structures outside of it. The book demonstrates this sociality through ways in which defendants work with their lawyers and defendants in other terror cases and build relationships. Suresh's characterisation of the courtroom as an autonomous social space that cannot entirely be seen as an "extension of politics and society" marks a significant departure from the existing law and anthropology scholarship (p 29).

The book contains six chapters that follow the journey of a terror defendant in the criminal justice system starting with their interaction with the police. The conclusion is titled "An Acquittal?" because most terror cases result in acquittals (p 199). The question mark accompanying the title problematises

BOOK REVIEWS

Terror Trials: Life and Law in Delhi's Courts by Mayur R Suresh, New York: Fordham University Press and Hyderabad: Orient BlackSwan, 2023; pp 272

the meaning of acquittal for a terror defendant in the context of multiple years of incarceration often marked by extreme forms of torture and violence in custody. In Suresh's words, acquittals are a "moment of relief and doubt" (p 208). There is relief about freedom from the prison, but there is doubt about "what the future holds" (p 208).

Coexistence of Monstrosity and Intimacy

Chapter 1 complicates the relationship between the police and terror defendants to one that cannot be solely defined through the long-established lens of violence. Suresh shares examples from the field which revealed a strange intimacy between the defendants and the police personnel who were often responsible for their incarceration. Their relationship, therefore, could not be captured by the "vocabulary of victim and oppressor" (p 58).

One such example in the book is the interaction between Shahid (defendant) and Dharamveer (police official with the Special Cell) that left Suresh astounded. At the day of the hearing, Dharamveer identified Shahid in court as the man he had seen at the crime scene. However, moments before his testimony, Suresh also happened to observe Shahid offering condolences to Dharamveer about his son's death and Dharamveer inquiring about Shahid's education in prison. After what Suresh saw as Dharamveer visibly betraying Shahid by testifying against him, to Suresh's surprise, Dharamveer stopped before leaving the courtroom

after his testimony to whisper something into Shahid's ear. This was followed by Shahid bending to touch Dharamveer's feet. By his own admission, Suresh struggled to find a vocabulary to articulate such relationships encountered during his fieldwork and finally characterised them as "custodial intimacy" (p 87). The term captures relationships that are marked by the coexistence of monstrosity and intimacy.

Inhabiting the Law

Chapter 2 demonstrates the ways in which terror defendants grapple with the language of the law. Rather than seeing legal language as exclusive, alienating and one that represents state power, Suresh shows how terror defendants inhabit the space of legal language, and in turn, the law by trying to understand the law to use it instrumentally towards obtaining a certain result. While such engagement neither results in mastery nor guarantees a desired outcome, it allows defendants to see the possibilities that legal language offers. In fact, Suresh argues that making sense of the linguistic confusion is marked by mistakes and failed attempts. However, much like criminal law practice, the success and failure of these attempts feed into the legal strategy adopted by lawyers and defendants in other cases. Therefore, there occurs a recycling of knowledge, arguments, and strategies. In making sense of the legal language, terror defendants form "temporary communities of legal knowledge" where they come together to make sense of the law and share their "*anubhav gyan* or experiential knowledge of legal processes" (pp 30, 14). The "recycled legality" that Suresh then refers to offers an understanding of the law not as a "system of rules that demand obedience" but as something that people creatively engage with to produce legal meaning (pp 71, 78).

In Chapter 2, Suresh uses the example of Qayoom Bhat and his co-accused who used the Right to Information (RTI) Act, 2005 to gain access to documents that disproved the prosecution's chain of events in their case after a failed first attempt. As people proficient in Urdu but

with a limited understanding of Hindi and English, the defendants pooled resources to read, translate, and understand the case files. During this process, they understood the exact nature of charges against them and the version of the story that the police and the prosecution had presented. Given their engagement with the law, the defendants also realised that the paperwork maintained by the police needed to corroborate their version of the story for it to be accepted in the court. They made a request for the relevant documents under the RTI Act through which they were able to cast doubt on the truthfulness of the prosecution's case. Ultimately, this led the Delhi High Court to acquit Bhat and his co-accused.

Bhat and his co-accused used the law laid down (by the state) against the state by proving through the RTI responses that the police (agents of the state) had not followed their own law. In Chapter 3, Suresh builds on this idea of the state being vulnerable to its own law. He argues that the autonomy of the law partly derives from the fact that the state can be held accountable by its own "utterances" (p 96). An example of this is the requirement to seek sanction to prosecute under Section 45 of the Unlawful Activities (Prevention) Act, 1967. Filing terrorism charges against an individual requires the prosecution to follow two steps as per Section 45. First, it mandates a review of the collected evidence by an independent authority recommending prosecution. Second, an officer authorised by the government is required to review the aforementioned independent review that recommends prosecution. Suresh discussed cases where the prosecution had not followed its own law leading to the dismissal of charges against some defendants. But this strategy did not work in all cases. Besides, it was only a "temporary reprieve" because prosecution could refile charges in compliance with Section 45 (p 101).

Kagaz pe Kagaz

Chapters 4 and 5 demonstrate how different versions of reality were produced in the courtroom through paperwork. Anyone familiar with courtrooms and

adjudication is well aware that the truth is not what one knows but what can be established through evidence. Paperwork or "paper truths" as Suresh calls it are central to this process (p 137). The juridical reality is produced through paper and the practices that surround paper. However, given the "relative autonomy" of technicalities, the prosecution and the defendant alike are able to use paper truths to fabricate different versions of reality (p 26).

Relying on Masooda Parveen's case, whose husband was killed by security forces in Kashmir, Suresh shows how the army and the police deliberately lost the files leading Parveen to lose her case. Parveen had no files to produce her version of the reality. Maintaining files is a collective responsibility so no one officer could be held responsible for the lost files. Interestingly, Suresh shows how there were significant discrepancies between the army and the police's version of reality, including the time of victim's death. While this had no impact on the outcome, it highlighted how paperwork can be deployed to fabricate different versions of truth.

Claim-making, Self-writing, and Mourning

In Chapter 5, Suresh uses the example of his interlocutor, Mohsin, to show how letter writing was an inherent part of the engagement with the law for terror defendants. Mohsin was arrested in relation to an explosion in a car in South Delhi and spent 14 years in prison only to be acquitted by the trial court along with his 10 co-defendants. Suresh travelled to Mohsin's hometown in Srinagar, Kashmir to meet after his acquittal. In this meeting, Mohsin shared all the documents related to his case that he had stored in a trunk. A significant part of this paperwork was petitions that Mohsin had written to different authorities during his incarceration. According to Suresh, common to all these petitions that were written as letters by Mohsin and others were three elements. Terror defendants through these petitions made demands to different relevant authorities and in turn, expected a reply, thereby revealing to us how terror

defendants used legal language as a "mode of claim-making" (p 180). But as much as these petitions were about making demands, Suresh argues they were also about "reclaim[ing] an account of oneself for oneself" (p 181). In a context where terror defendants are locked away in prison and alienated from the world for years, petition writing allowed them to write the "truth of what happened" to them for themselves (p 191). Finally, in the process of claim-making and documenting one's own narrative for oneself, petition writing also functioned as an act of mourning. The persistent writing to authorities despite the "overwhelming epistolary silence" revealed a "piercing form of mourning" (pp 174, 192).

Reflections

While making an important contribution to the scholarship on criminalisation through terror legislations, the book is a testament to the value that the ethnographic method brings to such a scholarly inquiry. Understanding the state's use of terror laws by observing everyday lives in trial courts leads Suresh to findings that have remain unexplored in prior work on the issue. We are able to see beyond the exceptional violence and power of the state in terror cases. We see ways in which terror defendants use legal technicalities to negotiate with the law in the hope of a better future.

Despite the might of the carceral state being in full force against these individuals, the autonomy of legal processes created through technicalities and legal language allows terror defendants to not only actively engage with the law but also inhabit it. In doing so, the book reveals that the imposition of legal power is not unidirectional. Instead, it is fluctuating, making the law both oppressive and unguarded at the same time. In "bring[ing] human voice" into the law through the ethnographic method, *Terror Trials* also complicates the identity of terror defendants who refuse to fit within the fixed category of "victims" (p 208).

Importantly, in demonstrating the relevance of technicalities in terror trials, the book critiques the primary focus on substantive law in legal scholarship and

