



Taking Nature to Court in India

A joint project run by the Centre for Himalayan Studies and the Centre for South Asian Studies
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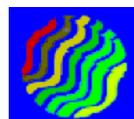
Monday, 7th March 2016
Room 640, 6th floor
190, avenue de France 75013, Paris

This is the second of a set of three workshops on the project *Taking Nature to Court: Development projects, protected areas and religious reform in South Asia*. The project follows up an idea initially developed in the ANR programme *Justice and Governance in Contemporary India and South Asia* (<http://just-india.net/>) according to which the study of court cases might help our understanding of crucial social and political stakes. In this new project we focus on how certain issues related to nature and the environment, and which also involve ritual practices or religious notions, are brought before the court and how they take on a legal expression. Environmental issues and the relationship between religion and ecology have been extensively studied, especially in Indianist works. However, the originality of our approach lies in addressing these questions through the study of court cases, investigating the logic of legal files, and the discourses employed by actors in these petitions, both the official and legal discourses and their unofficial aspects. Although some cases, such as the Bhopal disaster or pollution of the Ganges have been analyzed, we wish to focus our attention on less well-known examples, less national in scale, on more local situations which combine jurisdictions at different levels ranging from international law to customary rights. In the cases studied, the concept of 'nature' takes on particular importance. It becomes not only the object of a legal definition in the court but also in the discourse of the persons concerned, a question of 'cultural and religious heritage'.

full project: <http://ceias.ehess.fr/index.php?3365>

first meeting: <http://just-india.net/?q=node/252>

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Programme

9.30 a.m. Coffee and Welcome

10.00 a.m. – 12.30 p.m.

The Mark of the Beast: Identifying, Hunting and Conserving 'man-eating' big cats in India

Nayanika Mathur, (University of Cambridge)

Discussant: Frédéric Landy (University Paris-Ouest Nanterre)

'The Water, Forest, and Land Belong to Us.' Caste, Property, and India's Forest Right Act

Ananda Vaidya (University of Bergen)

Discussant: Jean-Luc Racine (CNRS, CEIAS)

Buffet lunch

2.00 p.m. – 4.30 p.m.

De-exceptionalising disasters: a Central Himalayan flood in historical and political context

Radhika Govindrajan (University of Washington)

Discussant: Anthony Good (University of Edinburgh)

Finding a just place for Gods: Debates on culture, ecology and economic growth in Indian courts

Manju Menon (Centre for Policy Research, New Delhi) and Kanchi Kohli (Independent Researcher)

Discussant: Jean-Claude Galey (EHESS, CEIAS)

Abstracts

The Mark of the Beast: Identifying, Hunting, and Conserving ‘man-eating’ big cats in India

Nayanika Mathur, University of Cambridge

This paper is centred upon the act of identifying and hunting down big cats in India from the early days of the British Raj up till the present moment. Specifically, it discusses those big cats that are termed “man-eaters” due to their proclivity for human flesh. It demarcates two distinct historical epochs: from the mid-19th century till the late 1960s when a total ban on big cat hunting was imposed in India; and the period subsequent to the passage of the Wildlife Protection Act in 1972 when it became a legal offence to kill the now-protected big cats. This paper asks how the act of hunting down a specified man-eater is dispensed with in a landscape in which several big cats co-exist; most of which are not man-eaters? How is certain knowledge of the guilt of a big cat arrived at anterior to its killing? Colonial and post-colonial officials openly expressed their doubts over the culpability of tigers and leopards and questioned “native” intelligence even before the global spread of wildlife conservationism. However, this situation has acquired particular poignancy in the period after the passage of the Wildlife Protection Act which legally dictates that hunters can only kill the guilty big cat. In the present moment, the guilt or innocence of specified, named big cats becomes a topic of national debate. Through fieldwork conducted with hunters, poachers, conservationists, wildlife biologists, foresters, and victims of attacks by big cats in contemporary India, and on the basis of the hunting of 4 famous man-eaters in recent times, this paper explores the diverse manners through which this (impossible) identification is arrived upon.

"The Water, Forest, and Land Belong to Us": Caste, Property, and India's Forest Rights Act

Anand Vaidya, University of Bergen

In September 2011, a forest village in Uttar Pradesh named Ramnagar was destroyed. The village had been settled four years earlier by landless members of lower castes who had faced not only economic deprivation, but also caste-based exclusion and violence as a result of their landlessness. They cut down a forest to claim land, citing the landmark Forest Rights Act, a landmark 2006 law that recognizes the property rights of India's millions of forest dwellers. The higher caste men from a neighboring village who attacked Ramnagar in 2011 were, however, able to cite the same Forest Rights Act as they destroyed the village's huts and fields. This paper looks at the readings of the Forest Rights Act that went into the settlement and destruction of Ramnagar to examine the place of property – understood as the ability to exclude others from the use of a thing – plays into caste identifications and caste relations. The settlement of Ramnagar was in part inspired by an Ambedkarite reading of the relationship between caste and class, and I conclude with an engagement with this reading. I further argue that the juridification of politics in India -- including the reorientation of forest politics towards laws such as the FRA -- needs to be understood in its historical specificity. Far from being an inevitable process, I argue that juridification accompanies bids for hegemony in spaces or among constituencies where the state lacks hegemony. As such, juridification entails a destabilization of laws' meanings, as they are made available to hegemonic contestation.

De-exceptionalising disasters: a Central Himalayan flood in historical and political context

Radhika Govindrajan, University of Washington.

In 2013 the Central Himalayan state of Uttarakhand in India was ravaged by floods and a series of landslides after days of unrelenting monsoonal rain and a few cloudbursts. Although natural disasters associated with the monsoon are a chronic problem in this region, the 2013 floods attracted national and international attention because of the colossal loss of life and property at Kedarnath, one of India's most visited Hindu pilgrimage sites. As the state and relief agencies scrambled to respond to the calamity, journalists, environmentalists and citizens across the country tried to decipher the ecological and political dynamics of the disaster and aid efforts, raising questions about deforestation, mining, dam building, rampant and thoughtless construction, and political maneuvering in the wake of the floods. However, local residents of the state read both the nature of the disaster and humanitarian responses to it in light of a historical discourse of state neglect of mountain people. For instance, a number of villagers described the events at Kedarnath, a shrine dedicated to the Hindu god Shiva, as a show of strength by local deities, displeased at the long-standing neglect of their devotees. Many people argued that a High Court decision restricting the practice of animal sacrifice in the region had angered the gods. In this paper, I employ narratives of this genre, both of villagers and local state officials, to argue that the idea of the natural disaster as an exceptional moment conceals the ways in which local understandings of and responses to disasters draw on congealed histories of complicated relationships between the state and its citizens, and between region and nation.

Finding a just place for Gods: Debates on culture, ecology and economic growth in Indian courts

Manju Menon, Centre for Policy Research, New Delhi, and Kanchi Kohli, independent researcher

The legal procedures for 'good' environmental decision making for large infrastructure projects were established in India in the 1990s. However, contrary to leading to better decisions, these procedures have been fraught with challenges through street protests and litigation for over three decades. Such cases are understood to be the result of the tensions between the notion of secular environments in environmental law and policy and the popular understanding of nature that include spiritual and cultural attachments. While the former views the project sites as spaces of economic resources, ecology and biodiversity that can all be rearranged, the latter resists such 'desecration'. As more and more such cases reach the judiciary, courts and environmental tribunals grapple with ways to resolve these conflicts. By analysing the legal debates in two recent court cases on the grant of forest diversion and environmental approvals by the Indian government to a hydropower project and a mining project, the authors propose to show how the Supreme Court and the National Green Tribunal draw the connections between culture, ecology and economic progress within the scope of their respective institutional structures. Both these judicial arenas vary widely in terms of their jurisdiction, composition and legal procedures. The comparative analysis of these two cases, one that invoked popular mythology from mainstream Hinduism, and the other that sought to establish the 'sacred' in/advansi /tradition, allows us an opportunity to understand how the judiciary understands 'cultural environments'. These cases also help us understand how judicial outcomes are shaped and influenced by cultural politics at the local, national and international scales. The conclusions will draw from the analysis of case papers, popular campaign materials related to the projects and interviews with lawyers and petitioners involved in environmental litigation.