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/p. 111/

Gods' Rights vs Hydroelectric Projects.
Environmental conflicts and the Judicialization of Nature in India[a]

Daniela Berti[b]

The aim of this paper is to show how questions related to the environment and religion may sometimes overlap in Indian judiciary practice. Courts in India are sometimes called upon to make a ruling about writ petitions which involve promoters of public works (hydroelectric projects, dams, tourist resorts, etc.) whom villagers accuse of not only spoiling a natural environment but of damaging a place where a village god allegedly lives. I discuss one example of these writ petitions that I followed up during my fieldwork at Himachal Pradesh High Court in Shimla. The case concerns the building of a water tank near a natural source supposedly inhabited by jogni *(powerful feminine beings). Based on ethnographic material and court files, the paper shows how nature is presented in these petitions both in ecological terms, as a resource with an intrinsic value that has to be regulated by law, and in terms of a place over which gods have specific rights.*

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[b] CNRS, Centre d'Études Himalayennes.

Recent studies on development projects and the management of natural resources in different regions of the world have highlighted the increasingly important role played by the courts in cases involving environmental protection. This trend has often been presented as the result of a judicialisation of politics, a process that Hirschl (2006: 721) defines as the "ever-accelerating reliance on courts and judicial means for addressing core moral predicaments, public policy questions, and political controversies". In political sociology this process has been interpreted as an extension of the jurisdiction of the court at the expense of politicians or the administration (Commaille *et al.* 2010; Commaille and Kaluszynski 2007). Couso *et al*. (2010), for example, showed how judges in Latin America have begun to take on the role of human rights defenders in recent years. The result is that today crucial political issues, such as conservation and resource management, take on legal forms. But use of the law to define the relationships that people have with their natural environment does not come only from the milieus of professional. Indigenist movements, as well as individual farmers, sometimes supported by non-government organizations, often turn to the courts to oppose projects put forward or approved by the government, that they consider as endanger- **/p. 112/** ing their livelihoods or depriving them of rights they previously enjoyed (Sieder 2010).

This judicialisation of environmental disputes takes on special importance in India, due in part to the relative ease with which villagers can go directly to courts of appeal (especially the High Court) through writ petitions (requests for assignment). Numerous cases are pending at the country's High Courts, sometimes for a number of years, which has led to the introduction of Green Benches in several High Courts and the creation in 2010 of a National Green Tribunal. This process, which in India was 'driven by judges' (Amirante 2012), has also been facilitated by the introduction in 1979 of the process of Public Interest Litigation (PIL), by which a member of the 'public' may plead to the High Court or the Supreme Court against the violation of a constitutional right, even though the person is not necessarily a direct party to the case. This procedural innovation has permitted, on the one hand, the development of judicial activism, whereby judges can take the initiative and thus become defenders and promoters of environmental or ecological values, and on the other

hand, has also allowed the economically disadvantaged to seek justice, merely by writing a single letter, and oppose practices or projects affecting public interest. An example frequently cited in judicial circles in Himachal Pradesh, for example, is the case of Kinkri Devi, an illiterate peasant woman from an isolated village in the mountains, who had submitted a PIL to the High Court in that State in 1987, denouncing the harmful effects of illegal mining on the environment. Her action, supported by a local environmental organization, was well covered in the national and international press and contributed to the introduction of a number of measures to address the problem.

Although in most cases the arguments put before the court refer to modern concepts such as ecology, sustainable management of natural resources, environmental protection, and a scientific approach to nature, in some cases these discourses have been mixed in with religious arguments. As noted by Tomalin (2004: 287), one area where religion has joined the environmental debate is in the Hindutva (Hindu right-wing fundamentalist) movement. One example is the longstanding campaign against the Tehri dam, in what today is Uttarakhand, where the religious arguments used by environmental activists – that the building of a dam on the headwaters of the river Ganga would disturb the Ganges (goddess) self-purification powers – has been reinterpreted according to the rhetoric used by Hindutva leaders active in the region, who are more concerned with the discourse about the Ganges as a symbol of Hindu culture and nation.[1]

However, this mutual association between religion and ecology does not always take a Hindutva turn. In the pages that follow, I rely on historical and **/p. 113/** ethnographic material for the region of Himachal Pradesh to analyze a context where the ecologist discourse is strongly related to the local cult of village gods. This is particularly the case in the context of environmental conflicts over territories where these gods are said to live. In the first part of this contribution I briefly present the ritual framework of village gods to show how, due to the power these gods are thought to have over natural events, they have been playing an institutional role in different historical and political contexts. I then show how today the idea of a natural landscape inhabited by village gods and goddesses is in keeping with the discourse put forward by ecology organizations. In

[1] On the blurring of the boundaries between religious environmentalism and Hindu nationalism, see also Meera Nanda 2002, Sharma 2009 and Mawdsley 2010.

the last part of the contribution I analyze a long-standing conflict between the promoters of a hydroelectric project that was to be built in a woodland area and the followers of a village goddess who was said to live there. The analysis of this case shows how the idea that emerges in the context of these village cults, that nature is controlled by village gods, merges with other contrasting ideas of nature, which partly reflect the ecologist discourse that confers a cultural value on nature and are also a consequence of the legal and judicial framework that villagers have to adhere to in such litigations. On the other hand, the religious discourse that was put forward more vehemently by the local population as the main reason for their opposition to the project also appears to be due to villagers' concerns over the management of natural resources.

Ruling with nature

The idea that the landscape is inhabited by gods and goddesses who have the power to influence 'natural events', bringing rain or sunshine, a good harvest or famine, has been central to the form of governance adopted in different Himalayan kingdoms as well as in other parts of India. For the region concerned, which corresponds to today's district of Kullu in Himachal Pradesh, royal documents dating back to the seventeenth century reveal how local kings adopted a royal model that was common to many Hindu kingdoms and in which the king was portrayed as a delegate or servant (*gulāmī*) of a state deity on behalf of whom he ruled.[2] This way of legitimizing the king's power in the figure of a state god goes hand in hand – in Kullu as in other Himalayan kingdoms – with the king's acknowledgment and subordination of village deities who were honoured at local level.[3]

While the royal deity confers legitimacy on the ruler, village deities are said to control natural resources within the kingdom. Oral accounts collected by Emerson (n.d.), a British administrator who governed the region of Shimla during the colonial period, attest to how a village deity satisfied the raja's request to bring rain in a period of drought, and how the raja rewarded the de- **/p. 114/** ity in various ways – by giving land or honours, or building a temple or a palan-

[2] See Kulke 2001 and Schnepel 1994 for Orissa.
[3] Cf. Vidal 1988 and Berti 2009b.

quin.[4] Emerson's records also recount how the raja could exercise 'pressure' on village deities and on the powers (*śakti*) they were considered to have over natural events. It is said for instance that in times of drought, the raja used to summon all deities' mediums to his palace and to ask all the deities to bring rain – and if rain did not come at once, he threatened to have their heads cut off (*ibidem*). When the region fell under colonial control, the British administrator could also be asked on occasion to assume a royal role and to intervene in these matters. Emerson reports an instance of such a request where he himself became involved in issues regarding local gods. When governing the region of Shimla, shortly after the East Indian Company had assumed ultimate authority over it, he received the visit of some villagers one day. They came to ask him to punish the mediums of a very famous god in the region, Kamru Nag, who was considered to be responsible for the shortage of rain. Emerson in fact decided to play along with the game. His manuscript reads:

> It was clearly up to me to do something, and as all arguments failed to convince the people, I finally gave orders to the Wazir [minister of a territory] to call the erring diviners, I took the opportunity of reminding them of their duties, and the punishments prescribed for their neglect. They were refreshingly candid. Kamru Nag's job, they admitted, was to send sunshine and rain in their proper season. If he failed to do so, they (the diviners) were called to the police station and kept confined. If the rain did not then come within a reasonable time, they were made to stand naked in the sun; or if fine weather was needed and rain fell, they were made to stand up to their waists in the river until the sun shone. They knew of no reason why the same measures should not now be taken, but they would like four days of grace, and if no rain came within that time, they would bow to whatever punishment was ordered. So they were given their four days, and as rain fell before they ended, no further action was necessary. (*ibidem*)[5]

[4] The need to establish alliances with deities seems to have been a crucial element in the exercise of political power in all Himalayan kingdoms. By analyzing documents from the Kathmandu Valley, in Nepal, Burghart (1987) has shown how royal gifts of land to gods was one way for kings to establish personal alliances with them in order to obtain victory for themselves and prosperity for the kingdom.

[5] In his manuscript Emerson regards the gods as real 'actors' and describes the events in a somewhat narrative style – not without some humour in order to maintain a certain distance.

The raja's role in consulting the gods about natural events is perpetuated today by the descendent of the Kullu royal family, Maheshwar Singh who, like other rajas in the region, is also a politician. His political role often merges with the ritual role he plays as raja.[6] As the private owner of the royal temple, which is part of the ancient royal palace where he still lives, he continues to be recognised as a 'servant' of the royal god and to celebrate the Dashera festival **/p. 115/** in this god's honour (Berti 2009b). He also continues to assume the role of '*mukhya kardār*' (chief administrator) of village deities, though the ritual relationship he now has with village gods is often portrayed by his political opponents as a way of creating political alliances with the gods' followers. (Fig. 1)



Fig. 1. Deity paying homage to Maheswar Singh during Dashera. (D. Berti, 2001).

[6] As member of the BJP (Hindu right-wind party), Mahesvar Singh had been an elected member of the Lokh Sabha in the past, though he has now left the BJP to create his own party. In the 2004 elections Mahesvar Singh was defeated by a member of another royal family, Rani Pratibha Singh, the wife of the current Chief Minister of Himachal Pradesh, Virbhadra Singh, who is the descendant of the Bushahar royal family, a kingdom that is nowadays part of Shimla district. On the role that rajas may have in contemporary politics see also Hurtig 1988 and Price 1996.

In August 1999 Maheshwar Singh decided to renovate the Jagti Patt temple in Nagar, an ancient royal capital, where his ancestors are thought to have held large-scale consultations with the gods. At the entrance to the temple a notice board explains the origin of the place to visitors in English:

> Even now during the great hour of natural calamities, other miseries … all the representatives of god and goddess gur pujar, etc. carrying the insignia of their devi […] assemble at this holy place. Head of the Kullu raj family with the order of devi-devta organize the function with traditional reverence. […]

Since renovation of the Jagti Patt temple, Maheshwar Singh has occasionally organized large-scale public consultations of village gods and goddesses, inviting them to Nagar with their mediums and their mobile icons. One ex-ample is a case that concerns a Himalayan Ski Village development project in the Kullu district of Himachal Pradesh, which had been put forward by the heir of the Ford family. The project was first discussed during temple consultations organized at village level (*deopūchnā*) when people go to consult the local deity through his or her medium. Some main deities from the region **/p. 116/** were said to have expressed their opposition to the project, arguing that it would spoil the places where they live. In 2006, raja Maheswar Singh who, as a politician, was opposed to the project, decided to organize a large-scale *jagti pūch* (also called *dev sansad*, the parliament of gods) at Nagar temple. He gathered together the mediums of various deities of the region and asked them to express their opinion. As an article in *Frontline* reports, (in the *jagti pūch)* the gods and goddesses 'unanimously vetoed the proposal'.[7] (Fig. 2)

[7] "On thin ice", by Aman Sethi, *Frontline*, Volume 23, Issue 07, Apr. 08-21, 2006. http://www.frontline.in/static/html/fl2307/stories/20060421003310100.htm (26/11/2014).



Fig. 2. Maheswar Singh consulting deities' mediums at the *jagti pūch* (D. Berti).

The event made the headlines in the local, national and even international press with titles such as 'Ford battle against Kullu gods' (*The Economic Times*, 26 January 2006) or 'Hindu gods turn down plan for a Himalayan ski resort' (*The Telegraph*, 21 February 2006). An article in *Down to Earth* reports how:

> God after god spoke and made it clear that they did not want the ski village in the area since it would desecrate holy places. They warned the people that if the project was approved, the gods would leave and destroy the area.[8]

While the media presented the gods as real actors in the controversy, they also referred to the political implications. An article published in *Frontline* (8-21 **/p. 117/** Apr 2006) noted how 'The mobilisation of the gods has proved to be an effective subversive

[8] "Divine wrath could put ski resort deal on ice" by Vibha Varshney, *Down to Earth*, 15 March, 2006. http://www.downtoearth.org.in/node/7429 (26/11/2014).

strategy for the opposition, the Bharatiya Janata Party'. Another article published in *Outlook* argued that as Maheswar Singh is also a politician, a former MP from the BJP party,

> 'his involvement in the 'devata' [deities] controversy lends credence to allegations that the state unit of the party is trying to scuttle the project with the help of the gods. Incidentally, the devatas have also 'instructed' Maheshwar to invite CM [Chief Minister] Virbhadra Singh to the assembly so that "he can see and hear for himself the divine objections".[9]

Both sides of the discourse – the gods' intention and people's strategy – are particularly evoked when the case submitted to the deity is a matter of public interest. In fact, given the power these deities are considered to have over natural events, they continue to play a role in the public sphere not only at village level but also at state level, especially in the context of *jagti pūch*, where they may operate as counter powers or as an arena for contesting government decisions.

The 'green' twist

Today, the idea of a landscape inhabited and controlled by village gods may clash with the state's development policy which advocates the implementation of projects involving construction works on a territory where a god is supposed to live. One of the issues brought up during ritual consultations, when villagers address their gods through their institutional mediums, is nature conservation. The 'environmental issue' is more and more widespread among people living in rural areas, including within the gods' closest entourage. Newspapers often focus on this point in their headlines. In the case of the Himalayan ski project mentioned above, an article reports on how the project 'had come unstuck after a group of Hindu gods ruled that it was environmentally unsound'.[10] Another article reports that the

[9] "Fords Vs The Icons", by Chander Suta Dogra. *Outlook*, 6 February 2006. http://www.outlookindia.com/article/Ford-Vs-The-Icons/230097 (26/ 11/2014).

[10] "Hindu gods turn down plans for a Himalayan ski resort", by Peter Fostr. *The Telegraph*, 21 February 2006:
http://www.telegraph.co.uk/news/worldnews/asia/india/1511074/Hindu-gods-turn-downplans-for-a-Himalayan-ski-resort.htm (5/05/2015).

medium of Jamlu, a famous god in the region who had expressed his opposition to the project, when interviewed by the journalist – thus speaking for himself – had said that 'the ski resort would have polluted their water and that the gods did not want their land to be violated.'[11]

The environmental issue is also put forward by gods' followers regarding the recent practice attested to in various Himalayan regions of India to create 'god's protected forests'. Aggarwal (2010: 35) reports how in the nearby region of Kumaon, which corresponds to the state of Uttarakhand today, these **/p. 118/** areas (called *dev arpit panchāyat forests*, that is 'forests under god's protection') have been set up after a decision taken by village councils (*panchāyat*) to re-generate degraded woodland.

> The communities retain some patches of forest to meet their requirements and on a designated date they visit the temple of a nearby deity and submit a letter of intent to the deity [mentioning] the area to be dedicated and the period of dedication. (*ibidem*)

The author points out that these 'protected areas' are not to be confused historically with older areas commonly called 'gods' forests' (*dev van*) which are also considered to be under the gods' control but which came into existence centuries ago as a consequence of royal donations. Unlike *dev arpit panchāyat forests*, these *dev van* did not stem from an environmental concern even though, as the author notes, 'implicit rules of use associated with these groves may sometimes coincide with those of the *dev arpit panchāyat forest*'.[12] However, the fact that these two kinds of gods' forests are sometimes confounded is shown, for instance, in the discourse held by environmental protection organizations which tend to present these *dev van* as proof of 'primitive ecological wisdom' (Milton, quoted in Tomalin 2004: 268).[13] A

[11] "Fords Vs The Icons", see note 9.

[12] Freeman's research on sacred groves (kavus) in Kerala suggests that sacred groves have always taken a variety of forms that do not necessarily coincide with the modern environmentalist's idea of 'pristine relics from a primeval past' (Freeman 1994:11). See also Tarabout in this volume.

[13] Tomalin (2004) has shown how this religious environmentalism rhetoric, according to which In-dia has a long tradition of caring for nature, which has only

clear example of this rhetoric is to be found on the WWF website for Himachal Pradesh where a specific section is dedicated to the so-called 'Sacred Groves' defined as 'a repository of floral and faunal wealth' and therefore as 'a major component of environmental protection'. The section reads:

> The concept seems to have emerged in traditional societies where people attached sacredness to various species. Unknowingly, such traditional and cultural attitudes have made a significant contribution towards conserving these plant species. In Himachal Pradesh, the local myths and legends associated with sacred groves go a long way in preserving the forests from destruction.[14]

Here the notion of nature is also linked to the idea of 'tradition' and 'cultural heritage' – an association which is frequently made with environmental issues in other parts of the world (Siniscalchi 2007). Another part of the WWF website reads:

> It has hence become imperative to restore the cultural and natural heritage of the Himalayas. It is in this regard that a three year project, 'Documentation of sacred and protected groves of Himachal Pradesh and their woody flora' was undertaken. ("Sacred Groves", see note 14).

/p. 119/

Another example is to be found in a brochure entitled 'A study of the Socioeconomic and Environmental Implications of the Reṇukā Dam Project' published by a regionally based NGO in 2010 and where 'ecological values and the landscape' are presented as 'closely intertwined with the spiritual and religious ethos of mountain societies'. The brochure also reports on how Lake Reṇukā, which would be affected by the dam project, is presented in the legend as 'a small pond into which Reṇukā, an incarnation of Goddess Durgā […] jumped in after she was abducted by a king who wanted to marry her',

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recently been broken due to Western influences of colonialism and consumerism is a simplistic analysis. See also Baviskar 1999:24.

[14] "Sacred Groves",
http://www.wwfindia.org/who_we_are/where_we_work/state_offices/himachal_pradesh /?5821/Sacred-Groves.

and these stories are presented as an essential part of the religious life of people in the area. Another case reported in the brochure is that of Mahāsū, a well-known god in the region for the control he supposedly has over the rain. The above-mentioned website states that the place where Mahāsū lives will be flooded if the dam is built and therefore villagers believe that 'there will be divine intervention whenever the dam authorities will try to force them out".

In the cases mentioned above, the arguments put forward by ecologists on the one hand and by the gods' entourage on the other appear to be consistent with each other, as both groups were opposed to the project. In other cases, however, the environmental issue appears to be strongly opposed to the arguments presented by the god's followers. This is particularly true in projects related to national parks where the idea of creating a 'repository of savage fauna' may be associated with ridding the area of all human presence. One example of this is the Great Himalayan National Park, where the project of creating a 'wildlife sanctuary' included the relocation of the populations living in the area concerned and who used forest resources in accordance with the gods' rules.[15]

Here, the will to preserve a natural place clashes with the will to follow the rules laid down by the god who supposedly inhabits the area. In a documentary produced by Barnela, which is significantly entitled 'Devta Activists', these positions appear to be incompatible.[16] In the documentary, the president (*pradhān*) of one village situated within the park's perimeter explains how since 1999, when their dwelling-place was declared part of the Great Himalayan National Park, the order given by the god through his medium to protect the forest, which consisted in using the resources only during a specific limited period for grazing and grass collection, clashed with park rules to forbid any access to the forest. One man from the same village explains:

[15] http://www.greathimalayannationalpark.com/about-the-park-overview/index.html.
[16] 'Devta Activists', Sanjay Barnela, The Public Service Broadcasting Trust, Delhi, 2006. https:// www.youtube.com/watch?v=zt_9eB9UCl4.

> I told the *devtā* [god] that the national park officers are preventing us from entering the area. The *devtā* said 'don't worry, I am here for you. … The forest belongs to me. No **/p. 120/** one can stop you from entering. […] I will use my power to put pressure on the government. (Syncline Films)

Some of the villagers interviewed in the documentary also point out the contradiction in government officials' attitudes who, after preventing them from entering the park, agreed to the construction of a hydro-electric power project within the park's protected area. As the documentary shows, the gods' mediums expressed the gods' dissatisfaction with the project, this time demanding on their own behalf that the natural site be protected, and threatening to leave the place if work was not stopped. And as one medium said, speaking as if he were the god 'I (the god) cannot tolerate this change in landscape. My power is leaving me. I am nothing more than a toy' (*ibidem*).

In the case of the Great Himalayan National Park, this tension between nature protection and development policy has to be understood whilst taking into consideration complex local and national political interests as well as the discourse held by the many actors involved in or affected by the creation of the park – politicians, park directors/officials, villagers, gods' mediums. (cf. Baviskar 2003, and Saberwal & Chhatre 2001). For the purpose of the present contribution, the case of the National Park shows that, while in some cases the idea of god-controlled nature may readily concur with the ecologist argument, with gods' mediums becoming the main supporters of nature conservation, in other cases it may prove to be the main argument that prompts villagers, with their gods, to oppose the way an environmental protection policy is implemented.

The 'Joginī case'

In July 2006 Water Miller, a private energy and water supplier, signed an agreement with the state of Himachal Pradesh to set up a 1 megawatt Hydro Electric Project in the forest near the village of Vashist, in the Kullu valley. For several years the project only existed on paper but in 2011 construction work started. Pneumatic drills were used and a pipeline was installed that ran along the ground. However,

as soon as the project had been announced, the in-habitants of the area started to protest, and notably the people of Vashist, the village closest to the place selected by the Water Miller Company, who said that the work would damage the forest where the goddess Joginī supposedly lived.[17] The goddess's presence in this place is associated with a huge waterfall situated in a mountainous forest environment on the edge of the village. A **/p. 121/** footprint on a stone (*padam*) near the waterfall is supposed to represent the goddess's first step upon her arrival there. There is also a small shrine where people from Vashist and from more remote villages used to come to perform the first hair-cutting ceremony (*muṇdan*). (Fig. 3)



Fig. 3. The 'Jogini fall'

[17] In the region, the term *jognī* is commonly used by gods' followers to indicate an undefined category of powerful feminine beings who are supposed to live in natural places such as trees, rivers, forests, waterfalls. Compared to other *jognī* of the area, Mahā Mai Joginī of Vashist has a more personalized identity. During ritual consultations, when people address the goddess through the medium to ask about their problems, the medium can tell that a *jognī* has taken possession of the person while he/she was walking in the forest and has made them sick. Berti, 2001.

At village level, discussions were first held within the context of temple consultations (*deopūchnā*, 'questioning the god') during which the village deity is addressed through the institutional medium. Various gods and goddesses of the area, who had been consulted on the issue, were said to have indeed expressed their disapproval of the project. In fact, although the construction work only directly concerned one particular area – the forest near Vashist village – it ended up involving a number of neighbouring villagers and deities who were ritually linked to the goddess Joginī. A large-scale consultation of the gods (*jagti pūch*) was scheduled, which made the newspaper headlines. An article appeared in *The Times of India*, for instance, announcing the project under the title "Appeal against hydel power project to be taken to deities parliament" – the idea of parliament often being used for *jagti pūch* to underline the role that gods are supposed to play as decision makers.[18] The article reports on how the people of Kullu 'after trying both requests and **/p. 122/** protests against a hydro-electric project […] are planning to call on 'Jagti', the parliament of deities, to save the shrine of goddess Joginī (*ibidem*).

The goddess's followers also demonstrated in the street, accusing the construction workers of 'destroy[ing] the stone foot-print (*padan*) and […of…] desecrate[ing] the *piṇdī* (offerings) made in her honour'. Religious arguments were presented along with the environmental issues. An article in *The Tribune* reported:

> The villagers said the setting up of such a project would cause ecological imbalance and environmental degradation. It will also hurt the religious sentiments of the devotees who come to pay obeisance to Goddess Jogini at the Jogini waterfall.[19]

[18] "Appeal against hydel power project to be taken to deities parliament" *The Times of India*, 31 August 2011:
http://timesofindia.indiatimes.com/city/chandigarh/Appeal-against-hydel-power-project-tobe-taken-to-deities-parliament/articleshow/9803360.cms.

[19] "Villagers protest against power project at Jogini waterfall" by MC Thakur. *The Tribune* June 12, 2011.
http://www.tribuneindia.com/2011/20110612/himachal.htm#6.

The issue of 'cultural heritage' was also brought to the fore. Villagers asked the government to impose an 'Environment Impact Assessment' on the Water Miller Company in view of recognizing the site as a 'pilgrimage spot' (*The Tribune*, 27 July 2011). They also requested that the place be declared a 'ecosensitive sacred site' (*ibidem*). Interestingly, the institution to which they addressed their claims was the Department of Art and Language, an institution which had already promoted many aspects of local culture in the past. Like other situations that rally support for environmental issues, here nature is attributed a cultural value and presented as a 'common good' that must be transmitted and protected (cf. Audrerie quoted in Siniscalchi 2007).

The mobilization took on a political dimension. In the early stages of the protests in 2009, the inhabitants of Vashist village and of other neighbouring villages had threatened to boycott the forthcoming general elections in order to force the government to abandon the project. They had prevented political leaders from organizing their electoral campaign in the village unless construction work was stopped. A number of meetings and demonstrations were organized in the street. (Fig. 4)

Village women along with women's organizations took part in the protests, brandishing slogans about the special relationship women are supposed to have with the goddess Joginī (*The Tribune*, 2011). Local politicians were also very much involved in the protests and during their electoral speeches they did not fail to show their support to villagers and their active role in the mobilization. The article mentions for instance that:

> Kullu MLA Govind Thakur, also from BJP, led a delegation of residents to Shimla and apprised Chief Minister Prem Kumar Dhumal of the sanctity of the Jogni Fall. The Chief Minister reportedly assured them that the government respected their sentiments and would take appropriate action in this regard soon.[20]

[20] "7k women staged a protest against the hydel project on holy waterfall." *The Tribune*, 26 August 2011.

/p. 123/

In September 2011, after months of tension and protests, the Himachal Pradesh Chief Minister asked the Deputy Commissioner to hold a public hearing (*jan sunāī*). On that occasion the Water Miller director presented himself and the members of his company as local people who 'have full faith in the Deities, including Maha Maya Jogni [and who] would not do anything which is contrary to our and to the religious faith of the villagers as alleged' (letter to Deputy Commissioner included in the Court file, 2011). He also informed the Deputy Commissioner that he 'had obtained the permission of Maha Maya Jogni through its Gur [goddess's medium] late Sh. Mine Ram, in the year 2002 at the time of applying of the project' (*ibidem*). On the same occasion, he also asked the pujari to perform a puja for the goddess at her temple.



Fig. 4. Demonstration against the project (M.C. Thakur)

In spite of the attempts made by the director to deny villagers' accusations, the protests continued. Three police FIRs (First Information Reports) were registered regarding the issue. In July 2011 a case was registered by the police on behalf of the Vashist temple administrator against the director of the company under section 295 of the Indian Penal code which pertains to 'injuring or defiling [a] place of worship with intent to insult the religion of any class'. Some weeks later, another case was registered against him at the police station, this time by three Vashist women who accused him of sexual harassment. According to the complaint, the manager of the Water Miller Power Company, Hari Babu, and four policemen allegedly "outraged their [the three women's] modesty by tearing their clothes and attempted to

rape them when they were offering prayers at the holy Jogni fall."[21] However, on the very same day, a criminal case of 'assault on [a] public servant' was also registered by a constable and which contained a very different version of the 'rape story'. According to the guard, the manager, who had been told that villagers were intentionally damaging building materials, went to the project development site and was assaulted by a group of villagers who snatched his camera and mobile phone, and started beating him. They then asked three women to come from the village and forcibly made the manager and the guard sit among them while they took photographs, warning them that they would file a false rape case against them.[22]

/p. 124/

This episode shows the various ways the court may be used; as a place to denounce an alleged case of abuse and at the same time as a weapon for getting the company's employees into trouble. This was at least the opinion of the company director who, as he put it while airing his views about the case, "Those who are called 'poor villagers' have become smart now." In addition to pestering the company, villagers continued to protest in the streets. In September 2011 a delegation of Vashist villagers, along with a local deputy, was received by the Chief Minister in Shimla 'to apprise him [the Chief Minister] of the sanctity of the Jogni Fall'[23] (*The Tribune*, 27 July 2011). A Vashist man, a member of the delegation described the event a year later:

> We went to see him [the Chief Minister] in his office at Shimla and, you know, Joginī Mātā always told us that 'you go, you start the case and I will be with you.' When we went to his office we were 15 men and 15 women and as soon as the Dhumal [the then Chief Minister, from BJP] saw the women he said 'Look the *joginī* have come here!' Then he said that this project will never be built there, that he will give order to stop it. So we had seen clear that Joginī Mātā is with us because of this that words had come from his mouth. (Interview, Vashist 2012)

[21] "Manager, four cops booked for rape bid." *The Tribune*, 4 August 2011.

[22] http://kullupolice.blogspot.fr/2011/08/crime-report-dated-03082011-up-to-4-pm_04.html).

[23] "Scrap Jogni Fall power project: Villagers Say the site is a pilgrimage spot" by Kuldeep Chauhan/TNS, *The Tribune* 28 July 2011.

In May 2012 the Chief Minister decided to ask the company to suspend work and to withdraw the government's agreement. The decision made the newspaper headlines: 'Project cancelled. Villagers jubilant'.[24] The Water Miller Company consequently decided to file a lawsuit.

When a writ petition was brought before Himachal Pradesh High Court, the arguments were presented on a legal register and according to a judicial procedure. The parties involved had to rally round to produce evidence and to present their arguments. First of all, to 'prove' that the goddess actually lived where the project was being developed, villagers provided the court with an official document in Urdu (the region was still part of Punjab), dated 1948, to certify that the then Secretary to the Government gave *muāfi* (property exempted from taxes) to the goddess. In another document in Hindi dated 1847, it is said that 'the goddess is the owner of the land and that villagers are tenants and they have either to serve the goddess or to pay a tax.' The forest in question is presented as the abode of the goddess Jogini and was exempted from payment of land revenue (Court file).

In the reply that the 'respondents' (that is Vashist villagers) gave to the writ petition, reference was made to the fact that the political authorities had shown their support. They mentioned the fact that:

> also the Hon'ble Chief Minister of H. P. had been kind enough to take a decision that the sentiments, customs and heritage of the local people will not be allowed to be **/p. 125/** disturbed for the construction of this project. They [politicians] know it well that the water of these falls … has been preserved in its nature since generation to generation by the ancestors of the respondents and by custom as well as heritage they are totally devoted to the same.

The respondents also referred to the Constitution of India which protects 'the religious places of the citizens' and – so they

[24] 'Chhor Nullah project cancelled. Villagers jubilant MC Thakur', *The Tribune*, May 2012.

wrote – no one is allowed to take over a place of cultural heritage, of natural importance, etc.

A second major point that emerges from the court file concerns reference to the notion of heritage and the link between the goddess's presence in the place and the 'heritage issue'.

> 'It being a place of heritage and religion, therefore, the area in question cannot be allowed to be encroached upon and grabbed by the petitioner Company. No one is permitted to reach the place of the first fall except at the time of special permission when certain religious ceremonies are performed. The second water fall is on the lower site where various religious functions take place throughout the years. The Mundan ceremonies of babies take place throughout the year.' (Court file, respondents' reply).

It is also mentioned in the file that:

> The petitioner Company started construction work of water tank at the most sacred place of Maha Mai Jogni which is commonly known as "Narol" and in this process […] they not only caused extensive damage to the footprints of Maha Mai Jogni but also they damaged and destroyed the Pindi of Maha Mai Jogni about which a complaint (FIR) was lodged in police station. (*ibidem*)

Along with the religious-ecology-heritage issue, the arguments presented to the court also revealed the economic interests that lay behind the conflict: for instance, Vashist villagers' opposition to the diversion of one of the waterfalls as stipulated in the construction project; the fact that, they would have lost their right to natural resources.

> [The villagers of Vashist], … are the right holders with respect to the affected area, Jogini falls vis-à-vis drinking water, water for irrigations, religious rights, grazing rights, forest rights, etc. […] Our century old religious & other special rights have been ignored by influencing … the company. The company cannot play with our religious & traditional sentiments and their whims and fancies. (Court file, respondents' reply)

Reference was also made by the respondents to more technical points: that 'the company didn't ask for land demarcation of the area';

that the company 'did not ask for the "non objection certificate", to the panchāyat within which the area of Mahā Mai Joginī is falling' (*ibidem*). They even raised the question about the presence in the forest of wildlife and consequently of the company's violation of wildlife protection.

The case is still pending. I was told by one of the lawyers who are following the case that each time a date is fixed for the hearing the case is postponed.

/p. 126/

According to him the Water Mill Company has abandoned the project but is trying to obtain compensation from the state. However, independent of the court's final verdict, the case shows how the idea expressed by the god's followers, that nature is governed by village deities, has been integrated into contemporary state institutions of power and decision-making. On the one hand, the case shows how, in order to assert what they consider to be the gods' decisions, gods' followers have to rally around on multiple fronts and use diverse strategies: organizing street protests, attending meetings with politicians, talking to journalists, and preparing (or fabricating) evidence or arguments for the police or for the court. On the other hand, it also shows that more 'secular' protagonists of the case – politicians, company directors, judges – are not only called upon to publicly take a stance regarding the gods' issue but also, particularly in the case of politicians, that they may eventually decide to back the gods' cause.

Conclusion

The role that religion and rituals may play in contesting or challenging certain development projects has been widely discussed in anthropological literature. Peterson (2006), for instance, in his work on the Republic of Congo, has analyzed a case-study similar to the Jogini case presented here, where villagers opposed a small-scale hydroelectric project by evoking the presence of Mata Wata, a goddess who is said to live in the area and to control the water resources. However, as Peterson shows, in this case the cult of this goddess had recently developed as a form of mobilization, with the main intention of opposing the project, whereas in the context presented in this article, the role that village gods are considered to

play in the management of natural re-sources appears to be historically entrenched in the religious-political history of the region. Not only are gods considered by their followers to be the protagonists of the protests here but also, as in the case of the Himalayan ski re-sort mentioned above, pre-colonial forms of ritual relationships, such as those between the raja and the gods, continue to have a role to play in contemporary state policy. This is particularly true in cases where politicians are the descendants of royal families and, as in the case of Maheshwar Singh, they try to combine their ritual role as raja with their political career. However, even political leaders who are not of royal descent may attempt to play the role of supporter of the gods' cause, especially during electoral campaigns and in cases which prompt large-scale mobilization.[25] We have seen in the Jogini case presented above how MLA Govinda Thakur, from the BJP party, presented himself as a supporter of the cause launched by the goddess' devotees in a case where Maheswar Singh, on the contrary, was trying to convince them to al- **/p. 127/** low the project to go ahead. But politicians from the Congress Party may also be fully taken up with what some people compare to the system of vote banks, with gods defined as 'BJP *devtā'* and 'Congress *devtā'*. (Berti 2009a).

The material presented here shows that not only do politicians running for elections take part in the 'gods' presence/activism' in public and political life but many other institutional and public figures, such as Deputy Commissioners, directors of Academies, journalists, green activists, police officers, judges may also be called upon occasionally to assume an important role in taking decisions regarding these cases. The various actors in these conflicts may have different motivations. On the one hand, the involvement of the king or of other politicians in their support of the gods may partly be interpreted, as newspapers often underline, in terms of their electoral stakes, which does not exclude their emotional involvement with the local gods. On the other hand, the struggle of gods' followers to defend what they present as the gods' instructions is frequently associated – both in newspapers, in the court file and in villagers' statements – with claims over the management of natural resources, of water rights, irrigation rights, grazing rights, forest rights.

[25] See the work of Peabody (1997) on Rajasthan.

While politicians are more likely to share the point of view of gods' supporters who put forward the idea of a 'god's agency' and even take part in gods' consultations as in the case of Maheshwar Singh, when the case is actually brought before the High Court the issue of a god's presence in the place, although still mentioned in the file, is presented according to a judicial vocabulary and is adjusted to correspond to a question of rights or to legal sections. Thus, for example, in the Joginī case, reference was made in the file to the goddess's land rights, which could be officially proved in court, and to the 'heritage value' of the goddess' place of worship, or to the elaborate ceremonies performed at her temple. By contrast, no reference was made to the fact that the gods themselves, through their mediums, were supposed to have vetoed the project – a point that was raised, as we have seen, in newspaper headlines. In fact, even in cases where, due to the juristic personality that gods have in India, a god is mentioned in the file as the main petitioner for the case, the question of his 'agency' through his medium is not considered to be an admissible argument in court. From a judicial point of view, judges do not have to ascertain the gods' alleged existence in a place but to determine, for instance in cases regarding a god's property, whether the god really owns the land or any other property, whenever this property is contested by another party.

Paradoxically, in cases where local deities are directly involved, religious questions may eventually be undermined by the court for the benefit of a more juridical reasoning, while in a number of cases where gods are not involved in the issue, judges do not hesitate to refer to religious ideas in their decisions. More specifically, if we take the issue of nature and environment **/p. 128/** in a number of High-Court and Supreme-Court judgments, judges may dedicate pages and pages to quoting entire passages of Sanskrit religious or philosophical texts, sometimes punctuating these quotations with references to scientific or ecologist reasoning in an attempt to show how modern approaches to nature may already be found in ancient texts. We read, for example, in a judgment passed by a Supreme Court judge regarding an environmental protection case filed under the Forest Conservation Act concerning the mining of lime stone quarries in Dehradun:

> Our ancestors knew that trees were friends of mankind and forests were necessary for human existence and civilization to thrive. It is these forests that provided shelter for the 'Rishies' and accommodated the ancient 'Gurukulas'. They too provided food and sport for our forefathers living in the State of Nature. That is why there is copious reference to forests in the Vedas and the ancient literature of ours. In ancient times trees were worshiped as gods and prayers for up-keep of forests were offered to the Divine. (*Rural Litigation and Entitlement Kendra Vs. State of U. P.*, 1988)

While religious references in some judicial decisions may derive from a judge's personal religious or ideological attitude, this kind of speculation re-mains rather abstract and does not really refer to arguments or ideas put forward by the parties in the case. By contrast, in cases such as the one presented here, where religious arguments are explicitly addressed at least by one of the parties, judges may prefer to focus on issues regarding rights and on legal sections without even considering the idea, so strongly evoked out of court, of a landscape inhabited and controlled by gods.

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/p. 129/

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