

Dignifying 'Indian' environmentalism

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ENVIRONMENTAL governance and environmentalism in 21st century India has followed diverse paths marked by some enduring actors, manifestations of practice and underlying principles. A narrow but powerful telling of the history of Indian environmentalism refers to policy statements and legal outcomes traced to the 1970s – the acme of then Prime Minister Indira Gandhi's personal style and approach to green activism – an amalgamation of a bold international stance that centred poverty within environment concern, and equally daring if not controversial national actions.¹ She is credited with (or rather responsible for) ushering in several 'green' laws – each inflected with its own ideological flavour and values. These laws and the jurisprudence they spawned enshrined a range of transnational legal principles, that were and are meant to be anchored in constitutional provisions.

The term most widely examined in enviro-legal narratives is that of 'rights'. Lesser attention is given to another important principle – that of 'dignity'. In this short paper, I wish to

examine the place of 'dignity' in laws that mediate coastal environmentalism. At the very start, this seems like a finished project, given its limited direct use in legal text concerning coastal and marine spaces which is dominated instead by the technical language of regulation, rights and entitlements. I argue instead that paying attention to 'dignity' is crucial to understanding how the principle does, and could animate future 'just' environmentalisms. To delve more into the place of dignity in present and future environmentalism, it would help to unpack the notion of environmentalism in India thus far.

Some commentators have argued that the environmental laws² of India and its attendant spaces which formalized environmental practices involving both citizens and the state, have been mostly wielded by practitioners and guardians of bourgeois or elite conceptions of environmentalism³ – former hunters-turned-conservationists, middle and upper class urbanites with specialized cultural capital – an exposure to wildlife magazines that celebrated the postcolonial idyllic of

1. Scholars have reflected on her legacy as an attempt at 'striving for balance' (Rangarajan 2003) and as a 'contradictory legacy' (Oommen 2018). On the one hand she strove to address emerging regional geopolitical currents, championing the needs of the poor in economic development while simultaneously enforcing an exclusionary view of nature disregarding people. The result was a fractured experience of dignity for India's poor in the years to follow. M.A. Oommen (2018). Jairam Ramesh, 'Indira Gandhi: A Life in Nature', *History and Sociology of South Asia*

12(1), pp. 107-110. M. Rangarajan, 'Striving for a Balance: Nature, Power, Science and India's Indira Gandhi, 1917-1984', *Conservation and Society* 7(4), 2009, pp. 299-312.

2. This pertains largely to the wildlife and pollution laws of India, as well as a slew of government orders. See J. Ramesh, *Indira Gandhi: A Life in Nature*. Simon and Schuster, 2017.

3. This critique comes from natural resource 'rights-based' organizations (cutting across landscapes) and from scholars who draw on

exoticized nature, nature clubs, and the innovative televised genre of wilderness and degradation of environmental goods, NIMBY (not in my backyard) activism or western scientized literature about degrading oceans, rivers, forests, and anthropogenic effects. This potent combination of social and cultural capital propelled some actors to the fore of what is in reality a hugely diverse field of environmentalism.⁴

Most environmentalists of this ilk belong to a large and heterogenous social grouping that nevertheless draws its ranks principally from urban, educated middle and upper classes – India’s upper castes. Some analysts of the environment in India have also pointed to a ‘mainstream’ approach⁵ that is reflected in the text of India’s green laws, which incubates ideas ranging from pristine nature to seeing nature and the environment as either romanticized spaces or as universal entitlements that *all* humans comprehend identically and with no hint or

these empirical sources such as Guha (1997), Saberwal and Rangarajan (2005) and Baviskar (2011) among others. R. Guha, ‘The Authoritarian Biologist and the Arrogance of Anti-Humanism’, *The Ecologist* 27(1), 1997, pp. 14-20; V.K. Saberwal & M. Rangarajan (eds.), *Battles Over Nature: Science and the Politics of Conservation*. Orient Blackswan, 2005; A. Baviskar, *Cows, Cars and Cycle-Rickshaws: Bourgeois Environmentalists and the Battle for Delhi’s Streets*, 2011. *Elite and Everyman: The Cultural Politics of the Indian Middle Classes*, pp. 391-418.

4. For instance, there also emerged another stream of activists who were animated by the peasant uprising and the Naxalbari movement where the language of nature-relations was grounded in that of rights and the dignity of peasant labour. Yet other urban activists were to be propelled by the activism of saving endangered birds, urban forests etc but were also sensitive to issues of India’s development discourse, largely animated by a combination of socialist and Gandhian precepts.

5. Here I only mean the loudest account – the most over-simplified, most televised and best funded and least opposed by the state.

anticipation of discriminatory practices in access. Sharma (2017)⁶ has argued that the practice of this mainstream and its portrayal as ‘Indian environmentalism’ is decidedly ‘caste-blind’, a feature missed out by many commentators of India’s diverse environmentalisms.⁷

Several aspects animate discussions around environmentalism – some internal and others external. A wave of early scholarship and analysis of India’s environmentalisms especially that proposed by Guha and Martinez Allier, questioned the normative aspects of the practice, hailing approaches of the ‘poor’ – their strategies, their simple tools, attempting to showcase the ethic that animates it. Such an environmentalism was valorized for its ‘local’ motivations, for being undergirded by indigenous ecological knowledge and land ethic, and was posed as a Gandhian inspired challenge to conservation and developmental conceptions forced from the West. Others⁸ went several steps further to find a natural sustainability logic to ‘Indian’ forms of enclosure – sacred groves, food taboos, spatial segregation and seeing ecological niches as nurtured by the Hindu varna system.

6. M. Sharma, *Caste and Nature: Dalits and Indian Environmental Policies*. Oxford University Press, 2017.

7. A recent exception to such narratives is Nityanand Jayaraman’s April 2021 article in *The Hindu*, titled ‘In Tamil Nadu, Environment is Good Politics’. He draws attention to the emergence of environmentalism in the state which takes inequality seriously. He argues that ‘protests and agitations have shaped Tamil political culture’, generating a local brand of environmentalism that is anchored in the self-respect movement and the struggle for linguistic identity.

8. Such scholarship can be found in the works of Gadgil and Guha, Malhotra, and others mentioned in Sharma’s *Caste and Nature*, but is also echoed in recent publications and utterances such as the keynotes curated by the Indian Science Congress.

Sharma and other commentators have retorted that these narratives not only elided the ways in which caste politics remain hidden in so called ‘local’ actions, but that those accounts of Indian environmentalism came from apologists for casteism and were constitutive of a discourse of eco-casteism⁹ that attempted to keep certain people in their place, space and practice.

Another view that sees environmentalism primarily as a topic of contestation and social conflict has allowed its questions to find a permanent home in political ecology, environmental justice or other formulations that engage with nature-culture hierarchies, even if differently framed from each other. Environmentalism as a subject of study and practice, now cuts across most categories – whether the classical Greek elements (earth, water, air and fire) or *Sangam* Landscapes (mountain, forests, field, desert and sea). It transcends binaries of urban-rural and even boundaries that render planet Earth as a somewhat limited field, by tackling the minority quest for an interplanetary life.

The centring of politics and justice at the heart of environmentalism allow us to see it *primarily* as a subject of inequality, of conflict and hierarchization *simultaneously* to the account of human solidarity and connection with nature. It would appear that the contestation and settlement of environmental facts on the ontological aspects of nature and harm to it, lie at the heart of environmentalism. For example, what are the impacts of sea level rise on coastal flooding and infrastructure loss, and what facts should determine coastal zonation laws? However, it is the socio-political manifestation of these ostensibly ‘disinter-

9. See Introduction to M. Sharma, *Caste and Nature: Dalits and Indian Environmental Policies*. Oxford University Press, 2017.

ested' questions on 'facts' that truly fuels environmentalisms of (in)justice – for example, who should have first rights (and the final word) over contested coastal lands? What is a 'correct' way to build, use and access a coastal waterfront, and what kind of anthropogenic activities are 'essential' permissible activities on Indian shores meant to serve 'local communities'?

Debates that land up in 'green courts' are structured in the language of rights and entitlements, especially when it concerns damage or obstruction to material property and person. It takes a special lens to be able to read legal arguments made on the principle of 'dignity', to urge courts to value non-material aspects of *select* human groups mentioned in these laws who have systematically and historically been denied the usage of the lexicon of rights, such as certain marginalized fisher castes and Dalits.

The term 'human dignity' has a long history enmeshed with several ethical, religious and moral texts¹⁰ and is today enshrined in over 160 constitutions of the world¹¹ and is finding its way into courts although there is some controversy about an essentially philosophical principle underpinning personal rights.¹² At a recent talk¹³ on the relevance of ideas of Babasaheb Ambedkar in contemporary legal practice, scholar Arvind Narrain undertakes a close reading of objectives of the reso-

10. For a brief and accessible (western) history of the concept see M. Rosen, *Dignity: Its History and Meaning*. Harvard University Press, 2012, p. 176.

11. E. Daly & J.R. May, 'Exploring Environmental Justice Through the Lens of Human Dignity', *Widener Law Review* 25, 2019, p. 177.

12. Robin West issues a caution on the 'dignitarian turn' that sees dignity as the basis for constitutional rights especially in non-racialized terms. For a fuller exposition of her argument see <https://youtu.be/qQXdn7WYFSM>

lution of the constitution to show how one can approach the place of dignity in law as enshrined in the Preamble of the Indian Constitution.¹⁴ He argues that the deliberate placement of 'individual dignity' before the term 'the unity of the nation' is in recognition of India's particular context of deep inequalities and the need to upturn this through the constitution.

Citing Akash Singh Rathode's argument that it was Dr. B.R. Ambedkar who inserted the term dignity into the constitution, Narrain explains that a fresh understanding of this principle is central to appreciating the responsibilities of the legal system, and ways to interpret and harness the 'dignity' principle in a manner that centrally fixes it with injustice. By extension, this serves as an argument for also understanding the place of dignity as an organizing principle for environmentalism in contemporary unequal coastal India. For example, the argument for individual dignity is not meant to secure the rights of the privileged hoteliers or port owners to exercise their right to livelihood on the coast, but is *intended* to safeguard the embodied health, well-being and material spaces of particular *marginalized* individuals of this maritime nation.

Dignity is sometimes discussed by legal scholars as underpinning human rights, although the concept itself is admittedly a slippery one.¹⁵ The term 'dignity' resists a universalizing

13. Talk organized by the All India Lawyers' Association for Justice. <https://fb.watch/4XACnaZRhP/>

14. The text of the Preamble reads: 'We, the people of India, having solemnly resolved to constitute India into a sovereign socialist secular democratic republic and to secure to all its citizens: Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the *dignity of the individual* and the unity and integrity of the Nation.'

description and is often understood in association with relational terms like 'respect', 'self-worth' and more problematic ones such as 'position', 'standing' and 'honour'. In multilingual India, it is unlikely that we will hear the English term dignity used uniformly, carrying the same meaning in courts, debates or in petitions, protests and campaign messages. It is, however, interesting to see how courts have used this term and how far it corresponds to the Preamble's idea of individual dignity as being in conjunction with fraternity.

The direct use of the term 'dignity' in environmental law and in court arguments is varied.¹⁶ A simple search¹⁷ on the National Green Tribunal's (NGT) orders¹⁸ reveals that the term dignity is used very rarely in the green court's discourse and sometimes in a strikingly different form from its deliberate inscription in the Preamble of the Indian Constitution mentioned earlier. It has been invoked only four times by the principal bench of the NGT, once as a synonym for 'respect' – in reference to the 'dignity of laws'¹⁹; in one instance to treat certain site inspection 'experts' with dignity.²⁰ In two other

15. Some see it as an empty concept that could well lend itself to a relativistic misuse, while others see it as generative, as giving meaning to the notion of rights. See C. McCrudden, 'In Pursuit of Human Dignity: An Introduction to Current Debates', in *Understanding Human Dignity*. Oxford University Press, 2013 (p. 1-58).

16. Searches on India Kanoon.com in April 2021 revealed a total of 5557 hits for the term 'human dignity'. The term 'individual dignity' revealed nearly 103 cases, the most prominent of which is Navtej Singh Johar vs Union of India Ministry of Law (WP No 76 of 2018) which uses the term individual dignity but in conjunction with the constitutional values regarding non-discrimination, identity and equality. The term 'dignity' appears 211 times in this landmark judgement.

17. Conducted in April 2021 on <https://greentribunal.gov.in/>.

18. The National Green Tribunal was constituted in 2010.

instances, the NGT principle bench cited an earlier Supreme Court (SC) order²¹ that used the term dignity ordering the prohibition of diversion of urban parks and playgrounds to ensure that the state guaranteed a *quality of life* that corresponded with values of *individual freedom and dignity*.²²

These were cases that did not primarily involve the lowest rungs of society, and argued that parks guaranteed that the right to a clean environment would be a reality for *all* citizens. The term dignity has been invoked by the Supreme Court to protect tanks and village commons²³ although the exact rights and inequalities associated with the usage of these commons need deeper investigation as suggested by Sharma in *Caste and Nature*.

In *Samatha vs State of A.P.*, (1997) (No 8 SCC 191) the Supreme Court offered a direct way to read dignity in connection to land, 'Agriculture is the main part of the economy and source of livelihood to the rural Indians and a source and succour for social status and a base for dignity of person. Earlier in 1980, in *Waman Rao & Ors. vs Union of India*²⁴ the court had stated, 'Indeed, if there is one place in an agriculture-dominated society like ours where citizens can hope to have equal justice, it is on the strip of

land which they till and love, the land which assures to them the dignity of their persons by providing to them a near decent means of livelihood.'

Setting aside the terrestrial agrarian bias of these judgements, it is pertinent to harness the links between land (or any other element), livelihood and individual dignity.²⁵ Extending this to coastal and marine spaces is equally a viable prospect where coastal commons jostle with private property in this landscape. Despite its status as a subordinate legislation, perhaps no other notification (save the Environment Impact Assessment Notification) has been so fussed over, tinkered, butchered and culled by the Ministry of Environment, Forests and Climate Change as the Coastal Regulation Zone Notification.

A legacy of Indira Gandhi's 1981 'directive', this law produced specific environmental values for beach spaces as 'open and free of pollution'. Essentially, this interpretation of 'open and unpolluted' has been misinterpreted by many to assume that coastal spaces belong to no one and are not used. However, open beaches are vital to the survival of millions of fisher families of India. For the most part, coastal commons in India are not accurately recorded in the legally mandated Coastal Zone Management Plans as per the provisions of the Coastal Regulation Zone Notification (in its multiple *avatars*²⁶) and to harness the idea of dignity here with that of the right to livelihood, we need to argue that such lands cannot be seen merely from the perspective of rights, but in

terms of how it affords dignity to particular users.

For instance, it allows fishers to turn large bounty catches of fish like sardine into dry fish, which is a hot subject of food taboos. Beaches and coastal commons must be seen beyond the ideals of 'open and unpolluted', but as a space that lends individual dignity to the most marginal of India's small-scale fishers.

The legal cases in relation to the CRZ fall short of this link between dignity, equality and livelihoods. The landmark Supreme Court judgement issued in the case of *Indian Council for Environmental Legal Action versus Union of India* in 1994, which is said to have given life to the first Coastal Regulation Zone Notification issued in 1991, does not mention the term dignity at all in relation to the protection of coastal lands. In the 32 cases that cite this, only seven use the term dignity and not once in reference to marginalized communities or their relations to land.²⁷ Neither does the famous *Jagannath* judgement of 1996 in relation to coastal shrimp aquaculture and its polluting effects.²⁸

This should not be taken to mean that dignity has a limited place in environmental jurisprudence. On the contrary, this principle needs a deeper and more conscious appreciation within environmentalism practices, not just to protect the enjoyment of landscapes and seascapes by *all*, but *primarily* by the nation's most vulnerable coastal people.

26. The 1991 version of this law was amended nearly 25 times, and it has been rescinded and reintroduced twice again. Still no final CZMP is considered accurate by several coastal fish worker organizations and their support groups.

27. Chronologically the ICELA case followed both the *Waman Rao* (1980) and *Samata* cases (1997).

28. *S. Jagannath vs Union of India & Ors* on 11 December 1996.

19. See *All Dimasa Students Union Dima Hasao Dist. Committee vs State of Meghalaya* (Original Application No. 73/2014) (p. 4)

20. See Original Application No. 198/2016, *Meenavar Thanthai and Ors vs Chief Secretary, Government of Tamil Nadu* (p. 5).

21. In the case of *Bangalore Medical Trust vs B.S. Muddappa & Ors* (1991) 4 SCC 54 at para 24).

22. See *Residents Welfare Association (Regd) vs State of Haryana* (Original Application No. 540/2019) (p. 3) and *Varun Sheokand vs Haryana State Pollution Control Board* (Original Application No. 1018/2019) (p. 2)

23. *Palapati Ravichandra Reddy vs The Government of Andhra Pradesh*, 4 September 2019 (Public Interest Litigation No.337 of 2012)

24. 1981 SCR (2) 1, 1980 SCC (3) 587.

25. Elaborating such a linkage between land, livelihood and dignity serves to articulate resonances between diverse social movements practicing the politics of assertion such as Adivasis, workers (agricultural, fisher, industrial, and migrant), grassroots women's movements to broader forms of Dalit assertion.