Animal Sacrifice, Religion and Law in South Asia

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Chapter 2

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Daniela Berti

That a ritual practice such as animal sacrifice can become a major public policy issue may seem like a truism if we look at the history of the ancient world. Historians have shown how in antiquity, for example, the decisions to legally abolish animal sacrifice or to forcibly impose it could become an important barometer if not an instrument of political-ideological change (Salzman 2011). Performing animal sacrifice became a way of showing loyalty to the emperor, just as the refusal to perform it was regarded as politically subversive (Green 2008; Rives 1999; Salzman 2017). A key issue, which seemed to preoccupy both those who imposed the practice and those who banned it, was the question of enforcement. As Bradbury (1994:133) observes about Roman early legislation, laws banning animal sacrifice were 'clearly unpopular and in many instances unenforced at the local level'. The author points to their moralising, disciplinary, deterrent quality: they acted more as a deterrent than as a strict order, reading like 'a sort of imperial sermon' aimed at creating an intimidating atmosphere.

In the introduction to this volume, we have seen how many of the issues that had emerged in Roman legislation on animal sacrifice—the opposition between '*religio*' and '*superstitio*', between private and public rituals, the question of enforcement—were discussed over the centuries in various countries. In modern times, new questions have been added to the debate: the principle of religious freedom, of state neutrality, of public morals, as well as the idea of animal protection and animal rights. These notions are discussed not only in the political arena by legislators but also by judges and legal experts in whose hands animal sacrifice is supposed to be addressed independently from political or religious consideration

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and by respecting certain rules of evidence and procedure. This is particularly evident nowadays in a country like India where animal sacrifice is a practice that has been followed over the centuries not only at village level, but also as part of large-scale royal festivals sponsored by Hindu kings, and where many of these royal celebrations continue to be performed to this day (Fuller 1992:83ff).

Although the practice of animal sacrifice may have been criticised in ancient times in India by devotional or reform movements as well as, more recently, by Christian missionaries, it was especially after Independence that some early state-level legislation—such as the *Madras Animals and Birds Sacrifices Prohibition Act* of 1950—started to ban it (Berti 2019; Good, this volume). In recent years, the debate has shifted to the courts, with writ petitions being filed in various High Courts in the country.[1] Cases are filed in court by those who demand a ban as well as by those who oppose such a move. Compared to the legislative setting, where participants in the debate are limited to elected members of parliament, judicial settings are likely to involve a much broader spectrum of protagonists, including private citizens, lawyers, judges, journalists, non-government organisations, and various kinds of state officers acting at different levels. In these judicial settings, the practice of animal sacrifice, far from being limited to a religious and ritual issue, has entered the public debate and must be addressed by taking into account a broad institutional, socio-cultural, political and legal context.

In this chapter, I focus on a court case that was decided in 2014 by the Himachal Pradesh High Court, ruling a total ban on animal sacrifice in the state of Himachal Pradesh. The court's decision has been challenged at the Supreme Court, where it is still pending—which means that it may potentially have an impact at national level. I first consider the context of this controversy: how it was presented in the media, the actors involved in the case, their official and unofficial discourse. Based on the court file and on ethnographic data, I analyse how, beyond the judicial handling of the case, which refers to legal, ritual, or reformist arguments or to animal welfare, other framings of the story by the protagonists outside the court emphasise also economic or political issues. I then focus on the judicial actors of the case and the arguments given in the ruling in order to highlight the law-religion entanglement which the case brought up. A key question that this ethnographic approach addresses is how a practice which is crucial to Hinduism, despite being controversial, is taken up by a court of law; how this passage to law takes place and affects the controversy around animal sacrifice. The case shows how the court's handling of the case has resulted in opening up the controversy to a large number of actors and institutions: not only petitioners, judges or legal professionals but also various kinds of government officers, journalists, villagers, politicians, temple administrators as well as institutional mediums speaking on behalf of village gods. While this 'democratisation' of the controversy is part of court procedures, it was also rhetorically constructed by the judge in his attempt to boost the reform.

In the last section, I draw a comparison with a case concerning animal sacrifice in the Santeria religion, decided by the US Supreme Court in 1993, in order to bring out differences in the legal approaches in the two cases despite being both grounded in common law. I show how, contrary to the legal handling of this issue in

the USA case where the main concern was to protect religious freedom, in the case analysed here the Indian judge explicitly and repeatedly appealed to the role of the court in defining religion (as opposed to superstition), and to the court's responsibility in favouring 'moral progress' and promoting religious reforms.

Media coverage of the case

In September 2014, a few days before the beginning of the Dashera festival in Kullu,[2] when various kinds of animals, including a buffalo, were to be sacrificed in public as an offering to the goddess Hadimba, the High Court of Himachal Pradesh issued a provisional order banning all sacrifices in the state: 'No person throughout the State of Himachal Pradesh shall sacrifice any animal or bird in religious worship, on any public street, way or place' (*CWP No. 5076 of 2012 along with CWP Nos. 9257 of 2011 and CWP 4499 of 2012*, 2014:para 7). The order was followed, some days later, by a 110-page judgment which reaffirmed and elaborated the ban (*Ramesh Sharma vs. State of Himachal Pradesh & others* 2014:para 85). It was immediately posted online[3] and presented by the press as a landmark judgment. The event was widely covered by the media, though it was presented differently depending on the author of the article. Those written by authors visibly engaged in the animal protection movement, presumably having been solicited by the petitioners, welcomed the decision as a victory of civilisation over barbarism: the two judges who passed this judgment, Justice Rajiv Sharma (who wrote the decision) and Justice Sureshwar Thakur, were heroes of social and moral progress. For instance, an article (Joshipura 2014) published in the UK online edition of *International Business Time* under the title 'Animal Sacrifice has no Place in Space-Age India' was written by a US-based animal rights activist, then CEO of *People for Ethical Treatment of Animals* (PETA) and included a photograph of a buffalo cruelly treated before being sacrificed—a photograph visibly meant to emphasise the brutality of the practice.

In another article, 'Live and let live'—a reference to the last sentence of the ruling—Inderjit Badhwar, an US-based Indian journalist, praises what he presents as a 'truly courageous and luminous' judgment. Paraphrasing an often quoted line in legal milieus—'Judges most often have to rush in where angels have feared to tread' (Badhwar 2014:3)—the author points to the unwillingness of politicians to deal with such a sensitive issue.

While these outside writers appeared willing to eradicate local practices, the coverage by locally based journalists sought a more nuanced tone and seemed willing to take into account the discourse of those who supported the sacrifice. Without siding with either party, they were rather concerned with the effect that the court decision could have on those directly involved in these practices and who opposed the ban. One such dissenting voice came from Maheshwar Singh, the descendent of the royal family of Kullu, who plays an important role at the annual Dashera festival (see Figure 2.1). In addition to his royal ancestry, Maheshwar Singh is a member of the Legislative Assembly and is often said by his opponents to be using his ritual role as a raja for political purposes.

Figure 2.1 Maheshwar Singh, in his royal palanquin, is carried around the town during Kullu Dashera.

Source: Photograph by the author, 1999.

An article in the *Hindustan Times* reports how some days after the court decision, the 'raja MLA … upset with Himachal Pradesh high court's interim order' filed a plea for a stay order urging the court to consider that 'sentiments of hundreds of people are attached to the deity system and sudden ban of animal sacrifice was not advisable' (HT Correspondent 2014; see also IANS 2014b). The news about the interim order also supposedly provoked the reaction of gods and goddesses of the region who are regularly consulted through their institutional mediums (*gur*) or through their wooden palanquins, decorated structures carried by villagers on their shoulders during festivals (see Figure 2.2) and believed to move according to the deity's will (Berti 2004; Halperin 2019; Vidal 1988).

The gods' and goddesses' reaction to the court ban was also covered by Hindi and English newspapers, particularly in their local editions. A large-scale oracular consultation of village gods held in reaction to the interim order was reported in the press as being a great success for the organisers. Maheshwar Singh, who was personally involved in these ritual consultations, told journalists that he himself had been surprised by the 'overwhelming presence of 260 representatives of the local deities' who 'just in one voice … spoke of upholding of the tradition and appealed the High Court to reconsider the order on ban' (Sharma 2014). The voices of the gods themselves, supposedly pronounced through their oracles, were relayed by the press: 'Human beings have become foolish. We have created the world and we rule over it. But now, they want to make rules

Figure 2.2 Gods' palanquins brought to Kullu for the Dashera festival.
Source: Photograph by the author, 1999.

for us'—as one god's reply was reported by journalists who attended the consultation (Pundir & Vashisht 2014).

The local press followed the controversy for many months. Media coverage of the 'gods' reactions' to the ban publicly expressed the people's resistance. Thus, an article entitled 'Deities' threaten to boycott Shivratri fair' [an annual festival] reported on how the temple administrators of some prominent gods in the region had announced that the deities would not take part in the forthcoming festival if the sacrifice was not performed (TNN 2015).

As the gods' rejection of the ban was repeatedly presented as having been unanimous from the beginning, news broke when, after the final judgment, some gods eventually began to accept it. Under the sensational headline 'Himachal goddess "endorses" court ban on animal sacrifice', *The Business Standard* (and other newspapers) announced that this goddess was 'the first among 250 prominent gods and goddesses in the state that has come in support of last month's Himachal Pradesh High Court judgment banning the age-old tradition prevailing in most of the areas to sacrifice animals to 'appease' the gods and goddesses'.[4] As time passed, other gods appeared to follow this choice: 'More deities give up animal sacrifice in Himachal Pradesh' (TNN 2014); or, 'Lahaul deity gives up yatra over ban on animal sacrifice. In place of lamb, devotees to offer coconuts to Raja Gepan' (Chauhan 2014b).

These articles do not really enter into the debate on animal sacrifice. Instead, they focus on the impact the court's decision had on ritual practices in the region,

presenting the multiplicity of people's points of view. In this respect, newspaper articles were, on the one hand, a mirror of the diversity of those affected by the decision and, on the other hand, a sounding board for those who wanted to air their voices in the media, whether to put pressure on the court or the government—or, according to some commentators, to promote their god's fame by having its name in the news. Newspapers somehow became a platform that publicly brought together different 'regimes of legality', such as the rule of law and the 'rule of the gods'. In this way, gods' mediums, though having no role in the court decision, had their voices heard in public, reaching a much broader audience than their local entourage. In this sense, the newspapers opened up a space much closer to what Habermas calls the public sphere in times of mass media, as a domain of social life where public opinion can be formed (Habermas 1991:398). Here, it appears as a space for pushing private interests by using the authority of the media as a means of persuasion (Rao 2010:84).

What these articles were not concerned with was the process that had led to the controversy: what story lay behind the court case beyond the official arguments presented to the court? In the following pages, I try to reconstruct this story based on an ethnographic study I conducted in Shimla where the High Court of Himachal Pradesh is located. I first introduce the main protagonists who were behind the court battle.

Animal rights activists and legal action

Of the many protagonists involved in the case, Sonali Purewal, an interior designer and an animal rights activist, received attention from the press. In 2005 Sonali founded *The Good Karma Shelter*, a dog shelter in the hills of Kasauli, which today is part of *People for Animals*, a larger animal organisation founded in 1992 by the animal activist and politician Maneka Gandhi. In an article published online some weeks after the court decision, entitled 'How a Woman Is Ending Animal Sacrifice in Himachal Pradesh', Sonali is presented as the 'driving force' behind the ban (Ohri 2014).

'I'm not really from here'. Sonali told me when I met her in Kasauli. 'I'm from Delhi but I married here and have lived here for 17 years so I consider myself a local'. Over the last years, Sonali has been fighting a personal battle to stop what she calls the local practice 'of killing innocent and speechless animals to offer them to the gods' (Field notes, 2014). 'These traditions are so barbaric, so inhuman'—she went on while refilling my glass with green tea—'maybe they were relevant in the past but at present they need to be abolished. Religion has to be interpreted in the light of modernity'. The opposition between religion and superstition that had characterised debates on the issue in the past (Introduction, this volume) was framed here by Sonali using modern and scientific reasoning. 'In the past, we didn't know why there was no rain or why your crop was lost. Today we know scientifically why that happens, we know that these things don't happen because a god is angry with you and you need to pacify it…. So, we need to change our tradition' (ibid.).

Though Sonali considered herself a local, yet she wanted to reform rituals and social practices she had never been involved in. To convince people to stop sacrificing animals, she asked the state government to create a blood bank near the temple, where people could donate their blood as a form of worship, in a 'humanitarian way'. 'If you really think that the gods require blood', she told me, 'then what greater form of worship than donating your own blood? Otherwise, it is easy to take an animal and chop its head off. How is this sacrifice? So why not interpret these traditions in a modern way that they benefit society'. The idea, in fact, was not new and already in Calcutta, in 2004, blood donation camps had been set up by members of *People for Animals* at the time of the Kali puja (when sacrifices are usually made on a large scale) in order to help create awareness regarding the 'non-essentiality' of animal sacrifice. Unlike other blood donation camps set up by various religious movements which list ahimsa and vegetarianism as core Hindu values and the gateway to universal philanthropy (Copeman 2009), Sonali clearly wanted to set herself apart from a Brahmanic, religious logic: 'I am not preaching vegetarianism', she told me, 'This is different'.

In fact, she pursued a much broader ideal that she shared with other people of a 'delocalised' urban and international milieu. Although people in the region commonly talked about her as an 'NGO', her activism was quite different from other cases of NGO-driven women's public action. Unlike cases such as those described by Kabeer (1994), where NGOs have tried to promote the empowerment of poor marginalised women to help them become aware of their subordination (Agarwal 1994; Everett 1989),[5] Sonali's action was 'self-empowered'—both economically, being from a middle-class/elite background; and ideologically, coming from the same intellectual elitist milieu as other animal activists. 'I believe that everyone on this earth is born to walk a karmic path, nurturing animals is mine', a discourse often heard among activists in India and abroad.[6]

Feeling that her complaints to the State had gone unheard, Sonali turned to the court to try to reform society. Her ideas were framed into legal reasoning by her friend and lawyer, Vandana Misra, who was also personally involved in the animal cause. Vandana's social background is much similar to Sonali's: an elite, wealthy, well-educated milieu. The way she told me her story shows many similarities with Sonali's: 'I grew up on a farm and I have always been an animal lover, I always grew up with dogs, cows'. She also wanted to combat violence inflicted on 'voiceless, innocent and helpless animals'. She explained to me that 'Sonali and I were very angry, very unhappy about this [animal sacrifice], so she came to me and asked me if I wanted to file this petition, which I did at the High Court'. Like Sonali, Vandana was not at all familiar with the worship of village gods:

> 'I am spiritually very connected,' she told me, 'I can understand that but I cannot understand gods … I practised Japanese Buddhism for 8 years … and I got too much into it; I was looking at everything through this. My dad said "relax, don't get into a sect." When I joined the legal field, I didn't know whether I really enjoyed it … even if I practised law, my heart was not in it …

> I was just following my father's footsteps…. When I began to attend the Court, I was so bored, but now, now I've found my calling, I like taking on this kind of case'.
>
> (Field notes, 2014)

Vandana told me how she and Sonali were inspired by another woman, Gauri Maulekhi, who had filed in 2010 and won in 2011 a public interest litigation case in Uttarakhand for abolishing animal sacrifice in that state.[7] They had come to the conclusion that if animal sacrifice could be stopped there, it could be stopped in Himachal Pradesh as well: 'We had been planning to file this petition for a long time but we couldn't analyse it from a proper perspective. But when this judgment was passed in Uttarakhand, it made us sit up' (ibid.).

Vandana had prepared the case with Shivan, her husband, who is also a lawyer and who provided her with some local documents collected from the field, with which she could prove their arguments before the judge. She explained to me while we were sitting in her office in Shimla:

> Shivan got me a lot of data from the area of Jubbal [in Shimla district]. There they take the animal onto the roof of the temple and they kill it with a knife.[8] Shivan took pictures, he collected a lot of evidence because a court of law only believes evidence. You cannot just say that this has happened. I didn't go there myself because I am quite sensitive; I cannot witness things like that.
>
> (Field notes, 2014)

Shivan is in fact originally from an area about 100 km from Shimla, which is said to be controlled by Mahasu, a god well known in the region for demanding numerous sacrifices from his followers.

> I am from an area where animal sacrifices take place on a very large scale. I have never attended them and, whenever it took place, I used to run away from there. Even recently, when I went to take some pictures for the petition [to show to the court], I handed over the camera to somebody else to take the pictures since I could not stand all that blood. It used to make me sick to my stomach. My father, who is a retired Supreme Court judge, believes in Mahasu and I know that he has consulted the *gur* [oracle] before. When I was doing my law degree, he consulted the god and the god said 'go ahead'…. But he [my father] is not a fundamentalist. When Vandana and I were working on the sacrifice case, he never interfered … he boosted us, he believed in us.
>
> (Field Notes, 2014)

The personal and social involvement that Shivan had with local ritual practices from the region he came from were completely absent in Vandana's case. Unlike Shivan's family—from an elite background but also involved in local religious

practices—Vandana's family was originally from another state and with much more secular views. Vandana's fascination with Buddhism and spirituality was not in keeping with the local dominant practices involving animal sacrifices, which, like Sonali, she considered to go against the very essence of what she believed religion should mean.

Although neither Sonali nor Vandana were heavily involved in Hindu rituals, the writ petition[9] included many references to religious scriptures, which were used by the judge in his judgment. One argument was that, looking at Hindu texts, 'no religion prescribes cruelty or killing any creatures' and that 'there is nothing religious in sacrificing an animal or bird for a god or goddess' (court file, 2012). A quotation from the *Bhagavad Gita* was presented as supporting this point:

> the Lord states that 'He who offers to me with devotion only a leaf, or a flower, or a fruit, or even a little water, this I accept from that yearning soul, because with a pure heart it was offered with love'. In Gita (in Chapter 11) the Lord states '…I am free from attachment to all things, and with love for all creation, he in truth comes unto me.' Consequently, killing an animal by using religion as an excuse goes completely against the true essence of religion.
>
> (Court file, 2012)[10]

The 'non-violent' passages quoted from the *Bhagavad Gita* (which could in fact be contradicted by other passages of this text where violence in the name of dharma is accepted and justified) are exactly the same as those mentioned in a report written by an 'amicus curiae' (a counsel appointed by the court)[11] who, in the Uttarakhand case mentioned above, had been asked by the court to write a report on the role that animal sacrifice plays in Hinduism. Interestingly, the conclusion of the report which was that 'no religion directs sacrifice of animal' had been dismissed as 'not acceptable' by the Uttarakhand judge, whose decision to ban the practice in urban areas and in public view was based on purely legal grounds. In fact, the six-page-long Uttarakhand judgment (*Mrs. Gauri Maulekhi vs. State of Uttarakhand & Ors.* 2011), which made no reference at all to religion, is in stark contrast to the 110-page-long Himachal Pradesh judgment in which references to religion and (through Sonali's petition written by Vandana) to the Uttarakhand amicus curiae's conclusions are to be found throughout the text.

Sonali complained in the writ petition about 'feeling aggrieved by the action/or inaction of the state' to prevent animal sacrifice and being forced to 'invoke the extraordinary powers of this Hon'ble court'. She argued that 'the ethos behind sacrificing animals before a deity being embedded in superstition contravenes the fundamental duty of every Indian citizen' (court file, 2012), a reference to the article 51-A(h) of the Constitution (introduced by the 42nd Amendment of 1976) which is about 'fostering a scientific temper and spirit of enquiry and reform'. This constitutional (though non-enforceable) directive is often quoted in popular blogs as a way of popularising science; it was used in Sonali's writ petition as a legal framework to justify the opposition between religion, superstition and science.

A comparison is made, for example, with ancient Greece where people 'revered and practised animal sacrifice as a symbol of communication with God', but where animal sacrifices are now 'completely missing in modern day' (Sonali's Writ Petition, court file, 2012).

In addition to a 'civilising mission', which echoes the spirit of social reforms undertaken by the British, Sonali's writ petition refers to the international discourse on animal rights, particularly the one which had been put forward in recent Supreme Court judgments. For example, reference was made to a major case decided by Justice Radhakrishnan in the Indian Supreme Court in 2014, banning bull races in Tamil Nadu and Maharashtra (*Animal Welfare Board of India vs. A. Nagaraja & Ors.* 2014; see also Good, this volume): this judgment broadens article 21 of the Constitution ("No person shall be deprived of his life or personal liberty") by declaring that

> the word 'life' has been given an expanded definition and any disturbance from the basic environment which includes all forms of life, including animal life, which are necessary for human life, fall within the meaning of Article 21 of the Constitution. So far as animals are concerned, in our view, 'life' means something more than mere survival or existence or instrumental value for human-beings, but to lead a life with some intrinsic worth, honour and dignity.
>
> (*Animal Welfare Board of India vs. A. Nagaraja & Ors.* 2014:para 62)

Vandana told me that his judgment marked a shift from an anthropocentric to an ecocentric perspective: 'the environment and animals are no longer to be considered as useful to human beings but as something that exists in its own right'. She referred to the directive introduced in the constitution 'to protect and improve the natural environment … and to have compassion for living creatures' (art. 51A-g) and quoted a sentence attributed to Mahatma Gandhi and often quoted by animal protection websites, blogs, and popular books: 'The moral progress and strength of a nation can be judged by the care and compassion it shows towards its animals'.[12] She opposed these ideas—of compassion, rights to nature, and so on—to the argument brought up by various state institutions that present animal sacrifices as part of their tradition: 'The Department of Art and Culture', she told me 'has filed an affidavit. They have gone to the extent of saying that when a demon possesses you, you have to sacrifice the animal in order to extract the …' 'Was she looking for the word '*bhut*?', I asked her. Laughing at the fact that I knew the vernacular term of what she called a 'demon', she went on 'Yes! I can show you the affidavit!…. Because I was astonished … they filed an affidavit of this nature…. Even the Advocate General, who is supposed to be at the head of the state, he represents the state, and instead of taking a scientific stand he was so superstitious. He told the court that in many cases he has personally seen evil (*bhut*) driven away by sacrifices'. 'He said this in court?' I asked. 'In court!' she replied, 'and he got such stick from the Chief Justice who said "you are speaking as a representative of the state; please do not talk rubbish in my court"' (Field notes, 2014).

The moral condemnation of animal sacrifice that both Sonali and Vandana were emphatically expressing was often presented by the opposing party as motivated by vegetarianism issues, a motivation that they strongly rejected: 'Make no mistake', Vandana told me during a dinner, 'I am not preaching vegetarianism. I am not a moralist'. Indeed, she was drinking wine and smoking cigarettes at the restaurant, which 'orthodox' vegetarians in India would not do. 'I am not into all that … all I am saying is that animal sacrifice is backwards. It is an impediment to our search for the truth, to take our society forwards'.

Both the legal and moral arguments put forward in Sonali's writ petition are referred to and developed in the judgment that the High Court eventually pronounced in their favour. However, despite the importance these arguments would have for the court's decision, Sonali's writ petition is only the more visible and public version of the case. Before it, between 2011 and 2012, two other writ petitions were brought before the High Court of Himachal Pradesh, one in favour of and one against the abolition of animal sacrifice. Because these three cases dealt with the same issue, the court eventually decided to combine them at the hearings and to take a joint decision. In the next section, I introduce the protagonists in these two other cases who have very different backgrounds and motivations from Sonali's.

Temple politics and village 'cleanness'

Some months before Sonali filed her writ petition, a case concerning the issue of animal sacrifice had already been brought before the High Court in Shimla as a consequence of a very different turn of events. The case was filed by Ramesh Sharma, the priest and administrator of Kamaksha temple in Karsog, a rural area, a hundred kilometres from Shimla. The area is known for its temple to the goddess Kamaksha, a place attracting many pilgrims, particularly at the time of the annual festival when a buffalo sacrifice is performed in public. In October 2011, Ramesh Sharma received a letter from the sub-divisional Magistrate, K.K. Sharma, who held executive and magisterial functions in the region. The content of the letter, whose copy was also sent to the local administration and to the police, was very clear: 'You are requested to make appropriate and immediate steps to stop slaughtering of Buffallows (sic) in and around Kamaksha Temple premises during Navratras festival and ensure that the law and order situation remain under control' (court file, 2011).

This order, based on the *Prevention of Cruelty to Animals Act* (1960), put the people working at the temple on edge, especially as the goddess festival was only three days away. On the day of the festival, the news made the headlines: 'KK Sharma, assisted by policemen, officials and the local opponents of animal sacrifice, today won a major battle against the lobby advocating the sacrifice of buffaloes' (Chauhan 2011).

Why then did a magistrate decide to ban animal sacrifice in this particular temple just a few days before the beginning of the festival? A local resident, who is also a lawyer and the temple priest's friend, told me about a conversation K.K. Sharma had with the then High Court Chief Justice who, travelling in the region

on a private trip, went to see him at his office. According to this lawyer, the judge, a Christian from another state where animal sacrifice was abolished a long time ago, wanted to put an end to this practice. Kamaksha temple was not a haphazard choice, he said, as the idea was to attract the attention of the media: 'Everybody knows that the media coverage for buffalo sacrifice is mainly in Kamaksha and in goddess Hadimba place, in the Northern part of the State. In other places there is no media coverage of the buffalo sacrifice. They wanted that the ban would make the headlines in newspapers' (Field notes, 2014).

The lawyer also told me of the district magistrate's concern about the difficulty of the task: 'How could I impose the ban at local level without provoking a violent reaction from the people there?' The lawyer, a fervent opponent of the ban, clearly wanted to convey to me the idea that the magistrate had been put under great pressure by his superior's request. However, in the discussion I had with K.K. Sharma himself, sometime later, he presented his move to ban animal sacrifice in Karsog as his own personal initiative. When I met him in Shimla, he had been transferred as joint commissioner of taxation. He welcomed me to his office and visibly enjoyed talking to me about the case. He began recounting the events with great enthusiasm, seemingly wanting to tell me the story in one breath, without being interrupted.

> The slaughtering of buffalo was very cruel in Karsog; 15 or 20 buffalos would be brought to the temple area, with a huge congregation of people, drums, *gur* [mediums] … then there would be a decision. The buffalo would be cut, but only a little, then it would run until he would die. People would also tear him, they would scream, there would be a lot of blood, of cruelty, of pain, then he would die, then the administration had to take care of the carcasses … a lot of police would be there. All of this was giving a wrong message to society so I decided to stop this practice.
>
> (Conversation with K.K. Sharma, 2014)

He explained the reason why he wanted to ban the practice:

> I was head magistrate in the area, so it was my task to take care of that, to ensure that law was respected so I evoked the Indian [Prevention of] Cruelty Act. … I was doing my PhD in law at the time, I knew how to interpret the law, and I wanted to make some legal and social reforms as well … I thought this is cruelty, this is nonsense, I must also do something for society, I must also uphold the sanctity of the law, I must have courage. I wanted to do it; it was my passion. Then people would have appreciated me, they would have respected me'.
>
> (ibid.)

Though not concerned with the animal cause, as Sonali and Vandana were, his desire to become the hero of the ban on sacrifice appeared to be part of a wider programme of social reforms—for example, assuring door-to-door garbage collection or installing street lights—as reported in a newspaper, *Divya Himachal*, which

awarded him an 'Himachal Excellence Award of 2014' for his role in stopping sacrifices at Kamaksha temple (Phull 2014).

Compared to his other public initiatives, though, he presented his battle against animal sacrifice as a 'Herculean task'. First of all, because of resistance from his close circle:

> I was told by my staff people not to do it (the ban) because if I stopped the sacrifice, the goddess would punish me, I would die, my family would die, or there would have been some curse on me and my life would be finished…. My family was with me but they were scared. But I was not scared…. You know, soldiers they fight war. If I do something right, it doesn't matter, let me die. My wife and my children said papa don't do it, they said whoever tried to do that before lost his family. But I say I don't bother; I believe in god.
>
> (Conversation with K.K. Sharma, 2014)

However, as the rest of this story shows, those who defended the practice visibly had another idea of what the goddess expected of them.

> I kept persuading them (people working at the temple) but they didn't agree. They said that this practice is going on in the entire country, why should we stop it? Ultimately, when they came, I had already called all the police and had associated the media people as well…. There was a huge gathering, thousands and thousands of people, and I didn't know how to stop them. So I was recording whatever was going on, it was broadcast by the media, from Delhi as well. I said, please do not resort to any sort of illegal act because you'll be monitored, all your gestures are being recorded, video-recorded, the media are here and if you break the law, you will be prosecuted.
>
> (ibid.)

The media were utilised by the magistrate here as a way of preventing violence from erupting:

> People there were so agitated, they were furious, ladies were there, children were there, all the people were there … 30 or 35,000 people and you know I could have been killed, they could have thrown some weapon at me … so all my officers were scared, they were shocked, I said come forwards, but they were terrified … I was in the middle of the crowd and I said very categorically, look it is going to be stopped permanently and whoever touches it…. I will call the head of the police to come and open fire in case…. When the buffalo had been brought there, I said nobody will touch it … I never wanted to do … this kind of violence, there were stampedes, people could die. They told me 'if you do this it will cause flooding, hail stones, great losses in the society.' I said, I will assure that this is not going to happen. I said that if there will be calamities, I will take the responsibility, but this is not going to happen; in fact, the goddess will be so pleased [to not receive the sacrifice] that

> tomorrow it is going to rain, you will have crops and prosperity. So, I convinced them and I handed over the buffalo to the Pradhan [village President] Mehar Singh and I said you keep it there, the buffalo had been tranquillized but then on the second day it died, it must have been very fragile, they didn't feed it for many days.
>
> (ibid.)

Although completely sceptical about the idea that offering an animal to the goddess could have any connection whatsoever with the rain, the magistrate used the 'rain issue' as an argument to convince people to stop performing the sacrifice. He also told me about another episode that happened after the people had challenged his decision in appeal, in 2012:

> It wasn't raining anywhere in the country, so they (those in support of the sacrifice) had a pretext, an excuse. They were saying that 'you have not made the buffalo sacrifice and there is no rain, so we want to start again', and again they made the same thing, the same drama, the same pretext, and they gathered and I said the matter is pending before the court of law please don't do it. If you do, I'll put you behind bars. … don't take law into your hands, law is very clear because it won't allow cruelty, because this is cruelty … now let me stop it and I assure you by evening is going to rain; they said 'you are mocking us'; by chance there were clouds in the sky and by 6 o'clock, when I stopped this, immediately rain started pouring, in by chance; … my stand was vindicated; had I allowed that buffalo to slaughter and there was a rain they would have said you see it was because we gave the sacrifice.
>
> (ibid.)

In his story, he also referred to the visit the Chief Justice had made to his office in Karsog in a personal capacity, and to the conversation which followed about the animal sacrifice performed during the festival. He presented the meeting, however, more as an occasion to request that the Chief Justice support his battle than to be asked by him to lead the battle, contrary to what the lawyer had alleged. 'He [the Chief Justice] said "No one has gone so far! Do it please!" I said "OK, I'll do it. But please stand by me." The Chief justice was there, two three judges were there, they were on their way to Kullu' (ibid.).

The magistrate's enthusiasm in remembering the story was impressive, especially considering that since 2014 he had been promoted to the tax department and was no longer following the case. He also told me about Mehar Singh, the village president of the area whom he had contacted to curry local support. According to a lawyer who was from the Kamaksha area, Mehar Singh had led this reform at local level or had, at least, made the reform appear to come from the people living there. Mehar Singh is a Dagi, a caste regarded as being of low status. He is not well educated and does not speak English but has a strong personality, political ambition and a very authoritative attitude. 'He is a daring person', the lawyer noted. 'He wants a challenge … he won the elections for that'.

He became village president of a 'reserved panchayat' (a village council position reserved for Scheduled Castes) and, according to the lawyer, many village women had voted for him because he wanted to ban alcohol and cigarettes. Mehar Singh himself told me about this, 'When I first became Pradhan (president) I took some first steps immediately. I said that "in my village and in the whole panchayat area no one must smoke Beedi or cigarettes or drink wine in public". I put up posters about this throughout the area. As soon as I saw people drinking or smoking, I registered a case'. He showed me pictures of the ceremony when he was awarded a prize of 2 lakhs [200,000] Rupees by the Chief Minister for the 'cleanest panchayat': 'Women in my village respect me very much', he told me, 'because their husbands, when they're drunk, beat their wives. I beat their husbands with a stick and the ladies are happy and so they gave me a lot of votes' (Field notes, 2014).

The methods used by Mehar Singh to make people respect his rules were perhaps appreciated by village women but not so much by their husbands, because he was causing them a lot of trouble with the police. Moreover, Mehar Singh had also clashed with (high-caste) members of the temple committee because he had dared to enter the Kamaksha temple—which other Dagi members of his village did not dare to do due to impurity rules. 'I am so fed up about this', Mehar Singh once said to me' 'Why do people [of Dagi caste] not go inside the temple to worship? They fear them [high-caste people], doubt is cast in their minds that if they go inside something bad will happen to them' (Field notes, 2014). Mehar Singh's attempt to challenge caste rules, however, was presented by the lawyer as part of a strategy to take over the temple administration; 'Initially, Mehar Singh and Ramesh Sharma, the temple priest and administrator, had been friends. Then, as soon as Mehar Singh became village president, he wanted to become involved in temple matters' (conversation with the lawyer, 2014), and conflict developed: Ramesh Sharma and Mehar Singh became involved in a number of cases at district courts, where they accused each other of a number of different acts of misconduct. Mehar Singh was even accused of 'stealing' temple treasures. He was once beaten up by some high-caste people from his village and a criminal case was registered against them under the *Prevention of Atrocities Act*.[13]

Mehar Singh's political ambitions, along with the conflict he had with members of the temple committee, became the grounds for launching the reform on animal sacrifice at local level. However, as K.K. Sharma had anticipated, as soon as the order arrived at Kamaksha temple on the eve of the festival, it sparked a storm of protests. Mehar Singh's intention to fully enforce the magistrate's order further heightened the tension already existing between himself and temple committee members.

Despite the threats and aggressions received, Mehar Singh was determined to prevent buffalo sacrifices. He had even committed himself by signing an 'undertaking' before K.K. Sharma that he 'will not allow animals to be killed inside the Kamaksha Temple … during his tenure as village panchayat Pradhan and shall keep all animals in safe custody and will take care of them in all respects, brought for the purpose of the Pooja [worship]' (court file).

The temple administrator, Ramesh Sharma, along with other members of the temple committee, eventually decided to ask the High Court to quash K.K. Sharma's ban. They accused both the magistrate and Mehar Singh of having 'restrained the devotees of Mata Kamaksha Devi to perform the ritual and rights of the goddess [that] had been performed by the family of the petitioner since time immemorial' (court file). The writ petition[14] also pointed out that 'the impugned action … [was] not only arbitrary, illegal, unconstitutional but also violated Articles 25 and 26 of the Constitution of India [on religious freedom]' (ibid.).

Unlike in Sonali's writ petition where the request to ban animal sacrifice concerned the whole state of Himachal Pradesh, this earlier ban issued by the local magistrate only concerned Kamaksha temple and applied to buffalo sacrifices. Ramesh Sharma and other members of the temple committee defended the practice of performing animal sacrifice as being in keeping with tradition as well as with the fact that, since the animal was eaten after the sacrifice, it was not different from killing the animal for consumption. They also argued that buffalo sacrifices were performed in other temples in the region and that if animal sacrifices were to be banned in Kamaksha Devi temple, they had to be banned everywhere in the state. In the writ petition Ramesh Sharma filed in court, the argument was that animal sacrifice is 'a religious practice that has deep roots in the local… traditions', that 'these matters concern the faith and belief of people … deeply ingrained in the socio-cultural-religious ethos of a society'. He also presented the ban as a battle of vegetarians against meat eaters: 'Non-vegetarianism is perhaps the oldest habit that has been imbibed by humans', Ramesh Sharma's lawyer argued in the file. 'Most importantly the change in such practices should be brought about in a participatory manner by involving local communities, elected bodies and temple committees' (court file).

After Ramesh Sharma filed the case against K.K. Sharma's ban, Mehar Singh too filed a case in support of it.[15] Unlike his role as local leader, for which he mostly depended on his personal skills, in fighting the case in court he needed the mediation of a lawyer who could frame the controversy into legal reasoning and, most of all, who could write it in English, a language he did not speak. Mehar Singh's lawyer who, unlike Sonali's lawyer, was not at all engaged in the animal cause, wrote in the appeal that his client was addressing the court after the troubles he had encountered among the people of his constituency 'as a consequence of the efforts he had made' in preventing them from performing the sacrifice (court file). He explained that the petitioner was fighting the case to uproot 'bad social evil customs' due to which 'poor and innocent animals' were sacrificed 'to satisfy the lust of their devil Pooja before the mother goddess "Kamaksha" in the temple'. He also accused Ramesh Sharma of having 'set up agitation by mobilizing the people around the village and throughout state' to the point that his client was now feeling personally 'threatened by those people' (court file). Members of the temple committee were also accused of frightening the villagers by telling them about the epidemics and diseases they would suffer as a result of the goddess' disappointment in not receiving the buffalo.[16]

According to Ramesh Sharma's lawyer, the judicial appeal filed by Mehar Singh was 'pure drama' as prior to this controversy he himself had many times offered animal sacrifices to the goddess and that he was now just trying 'to grab' the temple. 'In fact', he went on, 'initially Ramesh Sharma too was against the buffalo sacrifice but now that Mehar Singh wanted to stop it, and because of their fight, he did not want to stop it anymore!' The lawyer kept laughing at the idea that such a minor thing had taken on such enormous proportions: 'now the BBC is even covering the affair…. But we were the first! We filed the first case in this matter … the first issue was initiated by us', he told me many times with a hint of resentment about the exclusive attention the media had given to Sonali, completely forgetting their actual role in the case (Field notes, 2014).

Although Mehar Singh himself had admitted to me, during our conversation, that campaigning against animal sacrifice was something new to him, he now claimed to be completely involved in defending the animal cause. He told me a story in this respect about three little village girls coming to him in tears, begging him to stop the sacrifice. 'The three girls', he said, 'were four years old and were *kanya* [girls representing forms of the goddess]…. When I heard them crying, I became motivated to do it [to stop it] … This was the sign [*chamatkar*] of the goddess. … Then I was restless and the election was one month away and people gave me many votes. I got six hundred votes' (conversation with Mehar Singh 2014). The connection between his fight against the animal sacrifice, allegedly sanctioned by the goddess, and his political career was frequently evoked during our conversations. He told me how grateful K.K. Sharma was to him for what he had done. The magistrate had even sent him a text message 'thank you very much for stopping the sacrifice and whatever help you need I am ready to give you' (Field notes, 2016).

Independently of how sincere Mehar Singh's recent campaign against animal sacrifice was, his involvement in the case is of a very different nature compared to Sonali and Vandana's motivations. While their commitment to animal protection is completely entrenched in the national and international animal rights discourse from which they draw their personal and intellectual inspiration, for Mehar Singh, it appears to be more the outcome of a specific kind of negotiation. Moreover, though for people like Sonali and Vandana, the issue of animal protection had nothing to do with drinking wine or smoking cigarettes, Mehar Singh's battle against animal sacrifices was mixed up with his political campaign to 'clean up' village life. Unlike Vandana and Sonali, who were not at all concerned with the local dynamics of power and hierarchy, Mehar Singh's support for the ban—as well as Ramesh Sharma's support for buffalo sacrifice—was completely entrenched in village power relations and in local political alliances.

Although Mehar Singh's role in the case was almost overlooked by the media, the High Court decision to ban animal sacrifices was a personal victory for him. This was clearly visible, for instance, in the personal transformation he underwent. The first time I met him in Shimla, in 2014, he clearly presented himself as a victim, threatened by angry villagers for the battle he was fighting at the temple; when I met him two years later, he was acting like the hero of a battle—wearing a large white hat and holding his head high as he walked down the street. In fact,

after the court's decision, Mehar Singh began to behave as if he were the guardian of the court ban, fully determined to implement it. 'I stopped animal sacrifice in Himachal and now I will stop it in the whole of India', he told me.

Sharing powers: Gods, rajahs-politicians and temple administrators

Before going into the judicial aspects of the case, we need to turn to the district of Kullu, an area that was not concerned with the Kamaksha controversy but which later became the main battleground for opposing the ban on sacrifice. One of the main representatives of the opposition front is Maheshwar Singh, the king-politician mentioned before. As owner of the royal temple of the god Raghunath (Rama), declared to be the god ruling over the (former) Kullu kingdom, Maheshwar Singh also maintains a strong ritual relationship with the village deities of the region (see Figure 2.3), who are considered by villagers to rule over their respective areas (*har*), in which they are supposed to control natural phenomena as a reward or punishment for people's behaviour (Berti 2016).[17]

It is in relation to some of these deities that Maheshwar Singh is involved in sacrificial practices, especially at the time of the Dashera festival, when a buffalo sacrifice has to be offered to Hadimba, a goddess with whom Kullu kings have a 'family' relationship. The public ritual role Maheshwar Singh plays during Dashera vis-à-vis these local deities is often criticised by his political adversaries and regarded as a tool to boost his political career. In fact, the particular way in which

Figure 2.3 Maheshwar Singh receiving the honours of village gods during Kullu Dashera.
Source: Photograph by the author, 1999.

devi-devta (goddesses and gods) are honoured in the region certainly facilitates the possible merging of ritual and political roles. These *devi-devta* are considered to express their opinion and their state of mind both verbally, through their human medium (*gur*), or by movements, through their palanquin (*rath*); they are therefore regularly consulted when a problem has to be solved or a decision has to be taken (Berti 2001; Halperin 2019; Sharabi 2019; Vidal 1988). Their followers (the *harie*, those under the jurisdiction of a deity) seek the deity's approval (or disapproval) of government decisions which may disrupt their religious practices or other aspects of village life—for example if a development project affects the place where they live or where a god or goddess is worshipped (Berti 2015).[18] In his efforts to 're-enact' a royal role, Maheshwar Singh regularly consults these *devi-devta*, even for matters he deals with as a politician. In 1999, he also decided to renovate an ancient temple in the royal capital of Nagar village, Jagti Patt, and declared this temple a special place for large-scale consultations of village gods. A notice board at the temple entrance reminds visitors how:

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

It was therefore very predictable that as soon as news of the High Court interim order banning animal sacrifice appeared in the headlines, village deities would be consulted by their followers. Kullu district, like other districts of Himachal Pradesh, is in fact very concerned with the issue of animal sacrifice. Sheep, goats, lambs or buffalos are sacrificed on various ritual occasions and offered to village deities. These practices are highly institutionalised, but also criticised by some villagers. Certain deities, for instance, are known not to accept animal offerings; though they may participate in ritual gatherings where animal sacrifice takes place; their medium does not attend the event and the metal faces displayed on their *rath* (image-palanquin) are covered by a cloth to prevent the deity 'from seeing' the act of killing (Berti 2001:124; Halperin 2012:156). The different opinions people may have on animal sacrifice lead to some tension. In 1995, for instance, during my stay in a village in the Kullu district, I witnessed various episodes where some members of the temple committee, supposedly speaking on the behalf of their village god, reproached the medium of a neighbouring goddess for being responsible for the increasing number of sacrifices made on behalf of the goddess (Berti 2001).

Animal sacrifices may also take on different meanings depending on the reason for which they are offered and on who is involved. Amar, a native of the region who has worked as my assistant for many years, once told me that for him, for example, the buffalo sacrifices performed during Dashera are not very 'binding': 'They are more like a show, a cultural programme. By contrast, if you have to offer an animal to get rid of a god or of a ghost (*bhut*) who is harming you or a member

Figure 2.4 Preparing the animal before sacrificing it in order to get rid of a ghost, Kullu district.

Source: Photograph by the author, 1996.

of your family, that is necessary, that sacrifice you must do' (Field notes, 2015; see Figure 2.4).

For others, however, particularly those involved in the festival organisation, animal sacrifice performed during public festivals is nothing like a show. As we have seen in the case of Kamaksha temple, if the sacrifice is not carried out, they say that the goddess will punish them with diseases, accidents, or natural disasters. Maheshwar Singh is certainly one of the most fervent supporters of the need to offer animal sacrifices. He considers the performance of the buffalo sacrifice offered to the goddess Hadimba at the end of the Dashera festival as part of his royal ritual duty.[19]

When news of the court interim order appeared in the media, Maheshwar Singh became upset. He had apparently been completely taken by surprise; he was shocked. The court order was very short, with no detail, and it came just a few days before the Dashera celebrations, when all the preparations were underway. He immediately rang his lawyer and filed a petition to ask the court for a 'stay order'. He also rang the president of the temple administrators' association (*kardar sangh*), Dot Ram Thakur, and requested him to file a separate petition in court on behalf of the association (Field notes; see also Bodh 2014d).

Parallel to addressing the court, Maheshwar Singh immediately organised a large-scale ritual consultation (*jagti puch*) in Nagar. He asked the temple administrators to assemble the deities' palanquins (*rath*) and to bring them to Nagar with

the mediums and other followers. He wanted to ask them what they thought about the court order. The gods and goddess were thus now becoming involved in the case.

On the day chosen for the consultation, the deities coming from various parts of the district gathered at Nagar temple with their colourfully decorated palanquins, mediums, priests, and musicians. When the consultation started Maheshwar Singh began to address them one by one, calling them Maharaja (for a god or a goddess), or Mata (for a goddess), being addressed by them in turn as Maharaja (see Figure 2.5). During the consultation, some deities referred to the past relationships they had with the king—like the goddess Tripura Sundari who told him, 'We (gods and goddesses) still have the same relationships with you today'.

'What shall we do now?' Maheshwar Singh asked Hadimba, the goddess he considers as his grandmother, as she is said to have given the kingdom to his ancestor. 'Why are they (the court people) troubling us?' Hadimba replied through her medium. 'We, brothers and sisters (gods and goddesses), are just like toys for them! But I am Devi Hadimba! I am very dangerous! Don't be afraid … I am with you! We will give you power'. Maheshwar Singh turned to Shravani Devi, with whom he also has a special relationship: 'This is kalyug!', the goddess said. 'Old rules must not be abandoned! New rules must not be started!' (Field notes, 2014). Other deities expressed their opposition not only to the ban but to what they considered as the court's interference in their own (divine) rules. 'We created the Earth and

Figure 2.5 Maheshwar Singh (taller man on left, with back to camera) consults the mediums of two village goddesses during a *jagti puch*, Kullu.

Source: Photograph by the author, 2014.

made humans … and today humans are making laws for us!'—one god said (Field notes, Kullu, 2014).

The *jagti puch* was covered by the media the organisers had convened in Nagar. In such large gatherings, the voices of the gods and goddesses supposedly coming from their mediums, although barely audible amidst the crowd, have much public resonance. The organisers of the event are interviewed by reporters and the words of the deities are even quoted in the press. When addressed by a reporter, Maheshwar Singh said that the court had struck a blow against the 'deity system' to which the 'sentiments of hundreds of people are attached' (HT Correspondent 2014). He noted how some of these gods 'spoke in extreme humility and others criticised the government for trying to interfere with rights to worship in the garb of prevention of cruelty to animals, which in fact exempts animal sacrifice in the name of religion' (Sharma 2014).

He presented the problem in terms of conflicting jurisdictions between the court of law and the 'court of the gods', or 'Godly courts' as reported in the press (Bodh 2014b). A reporter wrote that Maheshwar Singh was 'caught in a dilemma': as an MLA (elected deputy), he had to ensure that the court order was enforced and as a 'raja' he had the duty to avert the wrath of the deities if the animal sacrifice was not offered up (Chauhan 2014a). 'It's faith vs. law for Himachal devotees', announced *The Times of India*, noting that the court decision 'has left the devout … in a quandary' (Bodh 2014a). Dot Ram, president of the *kardar* association, also made a statement to the press: 'Deities are supreme and have their own rules and regulations. Now court interference in religious matters has left us in the lurch. Neither can we disrespect the deities nor the court' (quoted in Bodh 2014c).

Apart from directly consulting the gods, Maheshwar Singh held a number of meetings with the *kardar* temple administrators. *Kardars* also 'represent' village gods but, unlike mediums (*gur*) who are supposed to speak on behalf of a deity during a ritual consultation (*puch*), *kardars* are entitled to represent the deity also outside a ritual setting: in administrative meetings, before district level officers and even before the court.[20] These legal representatives of the village deities form the *kardar* association (*kardar sangh*) an organisation recently created to defend the deities' interests (see Figure 2.6).

As soon as news about the ban on animal sacrifice began to spread, the president of the *kardar* association, Dot Ram Thakur (who is in fact a lawyer), although not personally involved in animal sacrifices, strongly defended the right of the people to follow this practice. 'There cannot be changes in the tradition. It is the order of the Gods and people have to follow it. No religious festival will be complete if animal sacrifice is not carried out', he said to the press (Sharma 2014).

Meanwhile, before the final judgment was delivered by the court, the High Court granted Maheshwar Singh and Dot Ram a hearing in response to the petition they had filed to the court in their last-minute attempt to overturn the interim ban order.

At the hearing, the first point Maheshwar Singh raised (with his lawyer) was about the authority village deities had in the region and about the 'conflict of jurisdiction' that the order had produced. He introduced himself as the 'first servant of Raghunath' (the tutelary god of the former Kullu kingdom), trying to explain to the

Figure 2.6 A meeting of *kardars* in Kullu district.
Source: Photograph by the author, 2005.

judges the intimate relationship he had with all the local deities, and the one the latter had with the god Raghunath who was honoured during Dashera. He argued that the 'decision taken by these deities' is accepted as a 'mandate of law' by villagers and that this 'unique feature and well recognized practice that people in Kullu district follow is legally recognized and is entrenched in their customs (*wazib-ul-arz*; record of customs)' (court file). The role of 'decision-makers' these deities played among villagers was also emphasised by the president of the *kardar sangh*, Dot Ram Thakur, who introduced himself in the petition as the representative of 'about 400 kardars of deities in whom the people of Kullu and surrounding areas have deep faith and have a large number of followers' (court file). He presented himself as someone who personally does not 'indulge in such practice' but, he said, most *kardars* consider it their duty 'to obey the commands of [their] deity by following the tradition of animal sacrifice which is customary and closely connected with the religious feeling of the concerned people from time immemorial' (court file).

Maheshwar Singh also explained to the judges the regional specificity of the Dashera festival.[21] He provided them with a number of documents—colonial gazettes, reports, affidavits, newspaper cuttings, and so on—to prove that this 'deities' tradition' is part of the *wazi-ul-arz* which is often presented to the court as 'proof of customs' (court file). In the file, he included for instance a court report dated 1973 that had been drafted by a Commission of Inquiry in a previous case and 'traced the history of Kullu Dashera', where it is said that the 'Raja performs

the Puja and gives sacrifices', in order to show, he argued, that 'all these rituals do possess a religious sanctity' (court file).

Along with the request to acknowledge the institution of the gods' mediums, what Maheshwar Singh tried to show to the judges was that the story of these deities was closely entangled with the story of his royal ancestors, that these village rituals were not just part of an 'immemorial tradition' but could be dated with precision: it started '365 years ago when King Jagat Singh instituted the Kullu Dashera festival in honour of the royal god Raghunath (and that) at the end of this festival a buffalo is sacrificed to goddess Hadimba in presence of the king' (see Figure 2.7). It was in reference to this 'historical link' that Maheshwar Singh presented the buffalo sacrifice also as his own 'ritual duty'.

Despite the emotional tone that Maheshwar Singh showed at the hearing, the court ultimately dismissed the petitioners' request: the judges said that the order had already been given and they upheld their decision to ban this practice (Field notes). In the next section, before going through the text of the judgment, I take a step back to show the paths that the case followed in court.

The court's handling of the case

The case was initially handled by the then Himachal Pradesh Chief Justice, a Christian from Kerala who had the reputation of being personally opposed to animal sacrifice. When Sonali filed the writ petition, the court decided to put together the

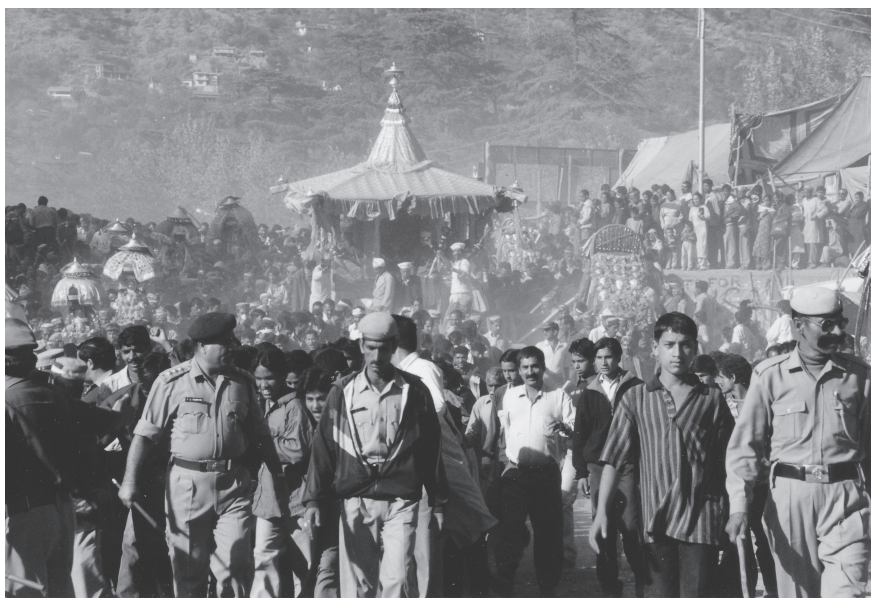

Figure 2.7 The final procession of Kullu Dashera with Ragunath's rath at the centre.
Source: Photograph by the author, 1999.

three cases involving animal sacrifice (Sonali's and the two Kamaksha temple cases) in order to hold joint hearings (cf. *Ramesh Sharma vs. State of Himachal Pradesh & others* 2014). The case was also registered as Public Interest Litigation (PIL).

At the initial stage of the case, the Chief Justice played an active role. An article published in *The Times of India* refers to how, during the hearing, he ordered all district magistrates in the state 'to inform the court about religious places in the state where animal sacrifice was still being practised' (Bodh 2013). A number of officers at different levels of the administration,[22] as well as Deputy Commissioners and Superintendents of police in various districts, were called upon as respondents in the case. They were asked to reply, point by point, to the questions that had been raised by Sonali about whether animal sacrifices were conducted in their district. Some replied curtly: 'no incident of cruel slaughtering [of] animals has been reported'; some admitted that, yes, sacrifices were occasionally performed in some parts of their district but 'in conformity to people's religious faith'; others visibly shared the petitioner's concern about the cruelty of sacrificial practice (one Superintendent of Police even quoted the passage of the *Bhagavad Gita* mentioned in Sonali's writ petition) (court file).

These replies had one thing in common: none of the specific cruel practices described in Sonali's writ petition had ever happened in their district: 'no buffalo, goats or sheep are beaten up or thrown down from the top of the mountains'; 'no complaint regarding the use of strangulation or of a wooden spear has been received by the police'. Everyone seemed to agree that if animal sacrifices were ever performed, it was not in the cruel way described in the writ petition. The conclusion that the Deputy Home Secretary sent to the court, along with these replies, was unequivocal: that on the grounds of what he reported, the case 'may kindly be dismissed in the interest of law and justice' (court file).

Apart from political caution (i.e. not to antagonise those who supported animal sacrifice), the idea that the deities had their say about the issue was partly shared by officials in the state government. Although police officers in Kullu, in order to comply with the court order, had been mobilised during the Dashera festival to prevent sacrifice, the then Chief Minister of the State, Vibhadra Singh, along with the Superintendent of Police, did not really support the ban. Vibhadra Singh, like the 'king-politician' of Kullu, Maheshwar Singh, was a politician of royal descent and, seeing how unpopular the court decision was among the deities' followers, he eventually decided to join Maheshwar Singh (though they were from different parties) and Dot Ram Thakur in the judicial appeal that was later brought before the Supreme Court. As a descendent of a royal family, Vibhadra Singh was expected to back the 'gods' traditions'. In fact, six months after the judgment, he declared to the media that he personally felt that the 'court should not interfere in the social reforms …[which] should be left to the society' (*India TV News Desk* 2015). The government eventually sent its 'rejoinder' (reply) to the Supreme Court, pleading in favour of the withdrawal of the ban.

At the time of the High Court hearings, in keeping with the Chief Minister's position, the Advocate General argued that the state had no role to play in deciding

this issue as it was a matter of religious freedom. 'In the constitution', he told me when I met him at his office, 'it is said that since India is a secular country, the court should not interfere in people's religious sentiments and we will not impose anything on anybody' (Field notes, Shimla, 2014).

When the state's reply was sent to the High Court, the Chief Justice who had handled the case at the beginning was no longer in charge of the case. According to a lawyer, some people had begun to raise the question of whether, the Chief Justice being a Christian, his role in the case would have turned the case into a 'communalist issue'. Besides, some months later, the Chief Justice was promoted to the Supreme Court. The case was handed over to Justice Deepak Gupta, who had a different perspective on the issue. First of all, he was very concerned about the need to consider the limits within which the court could intervene: 'I may think that it is an aberrant practice', he once told me emphatically, 'but I cannot make the law unless the law says that this is to be banned…. Though I'm known as an activist judge and I'm proud to be a judge who thinks beyond, I would never go to the point to make a legislation' (Field notes).

Moreover, Justice Gupta did not appear to be very convinced by the arguments that the supporters of the ban had used to defend their case. He told me that during the hearing he said to those who were asking for the ban that 'what is superstition for you may be religion for others'. He then proposed to publish a public notice. 'Let's call upon people in society who are interested in giving voice, and invite them to come to court on a particular day to speak in favour or against animal sacrifice'. The public notice is a procedure followed by the court whenever a case raises a question of public importance.[23] As he told me, 'I thought that just hearing one or two lawyers was not enough. Some pandits may come and prove to me that this has been our practice over the last 50 years, 5,000 years. […] I cannot say without the Shastra (ancient scriptures) being quoted; because if it is a topic that has already been dealt with before, where the Supreme Court quotes the Shastra, I can use it. But if a new topic comes out, how do I decide?' (Field notes). Following the judge's instructions, a short notice was published in two or three newspapers in September 2012, informing people that whoever was willing to come forward could be represented in court by a lawyer (court file).

Despite the judge's explicit intention to hear from the public, the 'public notice' procedure was not meant to open the court to a general religious debate with those involved in the practice, but rather to have a scholarly and legal interpretation of the issue. In fact, not only were those who wanted to show up told to bring evidence of their arguments by quoting *shastras* on whether animal sacrifices were allowed or forbidden in the texts, but they also had to present these arguments through a lawyer, to help them reformulate their claim into a legal framework. The judge ordered the registrar to prepare the notice in consultation with Sonali's lawyer, Vandana, mentioning that 'unless a proper affidavit was filed or a person was represented through counsel or appeared personally, no hearing could be given to them' (court file).

The effectiveness of the public notice in circulating information about the case among the public was later (after the final judgment) to be strongly questioned by supporters of the sacrifice, many of whom, particularly in Kullu, were complaining that 'everything was happening silently', that they hadn't been informed of anything and had been kept out of the case (Field notes). 'We're villagers, we don't bother reading newspapers!' a temple priest told me. 'The court should have summoned us and told us that this is the procedure, what do you have to say about it?' These supporters were upset because, when Maheshwar Singh and Dot Ram Thakur had petitioned the court after the preliminary order banning sacrifice, the court refused to take their plea into account by explaining that they had come too late, that the order had already been passed. 'The judge gave this wrong judgment and it was decided in one week! The judge knew that Dashera was getting close', one priest said.

However, Justice Gupta's decision to open the case to the 'public' took a turn that perhaps he had not initially expected and which occurred after he had left the court having been appointed Chief Justice in another state. Some months after the publication of the notice, 14 affidavits were presented to the court giving a very different picture of the situation compared to the ones previously reported by the district officers which had led the Advocate General to ask to withdraw the case. Interestingly, all these affidavits were of around the same date, all were written at Sonali's lawyer's office; all were signed by people from the same area (a rather isolated rural region in Shimla district) some of them even from the same family. Sonali's lawyer told me that these people had been contacted by Mehar Singh, the village president of Karsog and that since none of them spoke English, she had translated and rephrased their words. Indeed, the content and style of the affidavits were very similar and clearly not penned by a villager. They all denounced the horror of sacrifice which they described in great detail. For example:

> A rope is fastened to the hind legs of the goat or sheep as well as to its horns, after which the animal's body is cruelly stretched way beyond its normal limit and is tied up both at the front as well as at the back. Then a person gives blows with a weapon to the animal and I am horrified to say that many times I have seen that either because of the inexperience of the person giving the blow or because of bluntness of the weapon, it takes as many as 15 to 20 blows to kill the sheep or goat in which the animal cries away in pain and the whole premises is covered in blood. Many a times the person sacrificing the animal also drinks the blood which is a horrific sight and sends shivers down one's spine about the kind of barbarism that is being practised under the garb of religion.
>
> (Court file, 2013)

A point that was systematically and repeatedly stressed in these affidavits was that the horrific sight of blood and violence was forcing devotees, and even

those working there, to avoid going to the temple. We read, for example (all from court file, 2013):

> Seeing the unjustness of this practice I gave up being a Karyakarta [who ensured the service] of this temple and decided to raise my voice for the cause of these poor helpless animals that are killed mercilessly in the name of religion and God.
>
> I and other like minded people are precluded from using our public right of using the temple premises for worship as we are appalled by the sight of bleeding and suffering animals and do not find it conducive to pray in such a chaotic and depressing environment due to the vested interests of a few perverse people who want to defile the sanctity and peace of our place of worship by carrying out such gory activities in the name of religion.
>
> A lot of cruelty is practised during these sacrifices and people like me belonging to the village do not want to be a party to such backward and cruel practices and want to bring about a social reform are threatened with dire consequences by the practitioners whenever we or our family members oppose this blind faith or do not participate in these rituals.

At the time the affidavits were filed, the case was passed on to a divisional bench (two judges) presided by Justice Sharma, recently appointed as a permanent judge at the High Court. A few months later—to everyone's surprise at how quickly the decision had been made—the judge delivered his 110-page judgment, banning the practice throughout the state of Himachal Pradesh (*Ramesh Sharma vs. State of Himachal Pradesh & others* 2014).[24] I now go through some parts of the ruling and present the points that were criticised in the appeal later brought before the Supreme Court.

Legal quotations and moral assumptions

Though the three writ petitions were considered together, the judge particularly relied on Sonali's case 'for clarity's sake'.[25] Then the judge quoted entire passages from the affidavits sent to the court in response to the public notice, presenting them as 'proof' in support of the request to ban the practice (*Ramesh Sharma vs. State of Himachal Pradesh & others* 2014:paras 9–15). The detailed descriptions emphasising the cruelty and barbarism of the practice somehow set the tone of the 'moral message' the judge intended to convey.

After briefly evoking the other two petitions, the text mentioned the reports that had been sent by district officials concerning animal sacrifices in their jurisdiction (ibid.:paras 18–24). As we have seen, these reports unanimously downplayed the importance of the practice, saying that it was required by custom and religion, thus offering a stark—but already discredited—contrast with the previously quoted affidavits.

The bulk of the judgment's text consists of long quotes, one after the other, from previous rulings from India and from the United States. Like Russian dolls, the quoted judgments themselves repeat other judgments, sometimes identical ones, producing an effect of marked redundancy. Quotes also frequently include ideas or passages taken from (old) academic or scientific works, religious or philosophical texts, and even literary or poetic passages. These extra-legal passages are often embedded in quotes from other judgments, which are always introduced by the formula 'Their Lordships have held that…', making these passages appear as if they were part of a legal repertory.

The specific form in which legal quotations are written (arguing the pros and cons of an argument) may sometimes give the impression that they contradict each other, making it difficult at first to understand what the final decision will be. However, close examination of it shows an overall progression from the reaffirmation of religious freedom to the idea of the courts' responsibility in imposing restrictions. The more the judge quoted precedents, the more his message clearly embraced a reformist and spiritual view of Hinduism.

A first question that seems to be addressed by quoting these precedents is 'whether animal sacrifice is an essential/central theme and integral part of Hindu religion or not?' (ibid.:para 60)

The opposition between 'essential' and 'non-essential'—which in different judicial systems around the world enables the court to rule on some aspects of religious practice (see Introduction, this volume) is the focus of judge Sharma's ruling. In India, the 'essential practice doctrine' was developed in the so-called Shirur Mutt case of 1954[26] which is regularly quoted in subsequent judgments (Mehta 2010; Tarabout 2016; Good, this volume). In judge Sharma's ruling, it is used many times. After recalling that religion is not only a set of beliefs but may also 'prescribe rituals and observances, ceremonies and modes of worship', the Shirur Mutt judgment, as quoted by judge Sharma, ruled that 'what constitutes the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself'. However, the quote recalls that 'restrictions by the State upon free exercise of religion are permitted … on grounds of public order, morality and health', and that the State 'can legislate for social welfare and reform even though by doing so it might interfere with religious practices'. Such reasoning was, for instance, applied in the ruling, quoted by judge Sharma, in the 'Prohibition of cow slaughter' case,[27] banning the slaughtering of a cow on Bakr I'd on the grounds that it is neither essential nor required for a Muslim.

In the case at hand, the question whether sacrifice is an essential practice is discussed in relation to two other issues. The first concerns 'sacrifice'—that is killing an animal for religious reasons—as opposed to 'slaughter', that is killing an animal at a slaughter house for human consumption. The second issue relates to the claim that sacrifice is deemed necessary for worship. Though these discussions are important in the petitions and in the respondents' answers, they only implicitly appear in the text of the judgment.

Confronted with the general question of how to decide if a ritual act—here animal sacrifice—is 'essential' or not to a particular religion, the judge found in the

Shirur Mutt case the legal foundation for ascertaining that it had to be done 'with reference to the doctrines of that religion itself'. The idea was to define a practice as 'essential' or 'non-essential' according to whether or not it is attested to in the Sanskrit repertory. This is in keeping with the colonial practice of relying on Sanskrit texts as sources of authority (Rudolph & Rudolph 1965:43). In the post-colonial period too, courts made extended use of Sanskrit texts to define religion (or Hinduism), to promote a text-based Sanskritic version of Hinduism and to de-legitimate local ritual practices (Fuller 1988; Galanter 1971; Sen 2010:41ff; Berti et al. 2016).[28] As Fuller notes, this has led to a 'real dichotomy between the reformed Hinduism of the "modernising" elite and unreformed religion—read "superstition"—of the old-fashioned and lower orders' (Fuller 1988:243).

We have seen how the 'textual argument' was put forward in Sonali's writ petition where reference to the Bhagavad Gita was used to support the idea that the gods would be happy with coconuts and flowers. Sonali's lawyer told me that during the hearings she was surprised to see how much Justice Sharma appreciated the Gita quotation. 'I quoted only a small passage', she told me, 'but the judge went on by himself. He was very nice. He said, "because of you people we, judges, we read so much of Upanishad, of Veda". You know', she added, 'this judge is a Sharma, he is of Brahmin caste, so he is very interested in religion. The other judge on the bench didn't show as much interest…' (Field notes, 2014).

However, while some texts (such as the *Bhagavad Gita*) are considered to be 'good'; others are regarded as 'dubious'. The distinction had already been made during the colonial period, for instance in Madras where it was suggested that, even in the event that certain controversial ritual practices could be sanctioned by texts, the quality of the texts was doubtful (Tanaka 2000). This was what happened with the textual argument used by Maheshwar Singh to demonstrate that animal sacrifices were actually mentioned in Sanskrit treatises. He raised the question the first time he appeared before the court when, after the preliminary order had been announced, he rushed to Shimla with his lawyer to convince the judge to rescind his decision. Sonali's lawyer, Vandana, told me what happened at the hearing:

> When Maheshwar Singh appeared in court he looked desperate. He said to the judge 'I am the last *karyakar* [the one who perform the rituals, referring to his ritual role as king]. These are my deities! I am responsible for them!' He was terribly involved; not only emotionally…. He was also playing politics. He told the judges 'animal sacrifice is an ancient practice, it is attested to in ancient texts!' He showed to the judge a copy of the *Kalika Purana* and he gave it to the judge so that he could read it.
>
> (Field notes, 2014)

The *Kalika Purana* is a tenth–eleventh-century Sanskrit text that was written in Assam and contains ritual instructions for the performance of animal (and human) sacrifice to the goddess (Urban 2001, 2018:164). The text is considered to be part of the so-called Shakta tantric tradition, which is rather transgressive in the eye of orthodox Brahmanism; according to Urban, this particular text is one

where Brahmanic Vedic and post-Vedic practices have merged with indigenous practices of various Assamese communities. As Urban notes, the procedures for the performance of animal sacrifice described in this *Purana* are very different from the un-bloody suffocation of the animal described in earlier Vedic texts: 'the Shakta sacrifice centers on a quite bloody act of beheading, and the central focus is on the severed head and blood' (Urban 2018:165). The practices described in the texts, some of which are still followed in Assam and in other regions of India, were strongly criticised not only by British officers and Christian missionaries but also, prior to the colonial period, by major figures of the fifteenth-century devotional reform movement in Assam and, more recently, by Assamese intellectuals and animal right activists asking that bloody sacrifices be replaced by offerings of flowers and devotional love (Urban 2018:158).[29]

The practices followed at Kullu Dashera, and more generally in Himachal, are certainly closer to some of the practices described in the Tantric text than to the Vedic texts. However, the idea of Maheshwar Singh's lawyer to provide the judge with a copy of the *Kalika Purana* in order to demonstrate the textual legitimacy of the practice did not have the effect he had hoped for. 'When the judge Sharma read the *Kalika Purana*', Vandana told me, 'he was shocked. He told me that it was horrible. "Lots of things I could not understand," he told me "and whatever I could understand it was horrible." He even told me that "after reading the *Kalika Purana*, I turned totally against these guys." He said it was grotesque, it is such horrible literature with all the urinating, sexual practices at the place of sacrifice … I cannot understand how a rational person… maybe it was written as a mythological story but to apply it in today's society and with voiceless animals…' (Field notes, 2014).

In spite of the judge's criticism of the *Kalika Purana*, the argument that Maheshwar Singh had brought up in court—that the practice of animal sacrifices could be found in Sanskrit texts—was not questioned by the judge in the judgment. He partly ignored it when declaring that 'We could not find it from the material placed on record that animal sacrifice is an essential part of the religion by making reference to the doctrines of Hindu religion itself' (para 60). And he addressed the point by further developing in the ruling the need for religious reform, writing that 'these practices have outlived and have no place in the 21st century' (*Ramesh Sharma vs. State of Himachal Pradesh & others* 2014:para 74).

Another point in the ruling (ibid.:para 62) concerned the issue raised by the Advocate General that the legislature and the courts have little power in matters of religion. Relying on another ruling by Justice Gajendragadkar in 1963,[30] the judge made it clear that 'the question will always have to be decided by the Court whether a given religious practice is an integral part of religion or not'.

The judge then listed a few precedents in order to point out the duty and responsibility of the court (ibid.:para 63). First, referring to yet another judgment by Justice Gajendragadkar,[31] he emphasised that there is a long history 'of removing elements of corruption and superstition by saints and religious reformers'—an occasion to define the core of Hinduism as an acceptance of Vedas. Reiterating that legislation can regulate non-essential religious elements (and, a fortiori, superstitious elements), he insisted, after the *N. Adithayan vs. The Travancore Devaswom*

Board ruling (2002; see Tarabout 2016), that custom and usage are not necessarily a source of law and that there exists a constitutional mandate to 'liberating society from blind adherence to traditional superstition', which the courts have to uphold. He ended this demonstration by referring to a 2004 judgment (*State of Karnataka and another vs. Dr. Praveen Bai Thogadia* 2004) for which 'the core of religion based upon spiritual values, which the Vedas, Upanishads and Puranas were said to reveal to mankind seem to be "love others, serve others, help ever, hurt never"'—a motto directly taken from the famous spiritual guru Satya Sai Baba (1926–2011).

In the next few paragraphs of the ruling, the judge went on to develop this last idea, insisting that Vedas, though 'eternal', contained sacrifice rituals that belonged to bygone times, and that there was the need to promote the advancement of society in relation to the present, modern situation. He stressed that animal sacrifices are inappropriate to modern society, making them 'contrary to the character of our times'. As he wrote in the judgment, echoing Vivekananda:

> The society has advanced. We are in a modern era. The rituals, which may be prevalent in the early period of civilization have lost their relevance and the old rituals are required to be substituted by new rituals which are based on reasoning and scientific temper. Superstitions have no faith in the modern era of reasoning.
>
> (ibid.:para 73)

This standpoint is repeated again and again. After listing many precedents, the judge concluded that animal sacrifices are not in keeping with moral progress and that, even supposing that they were practised in ancient times, they are barbaric, superstitious and need to be abolished. He wrote that Courts have the power and the duty to do this, since sacrifice is no longer 'essential' to what religion fundamentally is (as defined by the courts). He then ended by referring to some US rulings, mostly to establish that religious beliefs are not superior to the law of the land.

In the last few paragraphs preceding the decision proper, the judge proceeds to state his opinion on various subjects, intertwining references to the promotion of animal welfare in international forums, to considerations about 'true' religion, to the necessary progress of society and morals, and to the supremacy of the law. He writes for example:

> We definitely need to make an all-out effort to overcome the evils in society. Religion, faith gives coherence to lives and the thought process. We must permit gradual reasoning into the religion. … Old traditions must give way to new traditions.
>
> (ibid.:para 78)

This 'reformist' idea was exactly what the gods and goddesses consulted at the *jagti puch* had warned against. 'Old rules must not be abandoned! New rules must not be started!' said Devi Shravani when consulted during the *jagti puch*. The gods' gathering was briefly mentioned at the very end of the judgment, with the judge

categorically dismissing that the so-called verdict of the gods could somehow have prevailed over that of the court. The judge clarified this point by defining the *jagti puch* and those who organise it as extra-constitutional bodies:

> We also take judicial notice of the news items which are published in English and vernacular newspapers, whereby the statements are being made by certain organizations for convening *Jagti* or *Dev Samaj* to discuss this issue. They are free to discuss the issue. However, their actions cannot be in negation of the rule of law. **[**…] They have no right, whatsoever, to issue any mandate/dictate in violation of basic human rights of the human beings as well as animal rights…. The extra Constitutional bodies have no role and cannot issue directives to the followers not to obey the command of law. They cannot be permitted to sit in appeal over the orders/judgments of the court … no religious congregation can become law unto itself.
>
> (*Ramesh Sharma vs. State of Himachal Pradesh & others* 2014:para 83)

Eventually, the verdict falls:

> No person throughout the State of Himachal Pradesh shall sacrifice any animal or bird in any place of religious worship, adoration or precincts or any congregation or procession connected with religious worship, on any public street, way or place, whether a thoroughfare or not, to which the public are granted access to or over which they have a right to pass.
>
> (ibid.:para 85.1)

An ever-pending case

When the judgment was pronounced by the court, Maheshwar Singh and Dot Ram filed an appeal to the Supreme Court—where the case is still pending.

In the appeal, Maheshwar Singh warned the court not to decide 'on this sensitive matter' on the basis of news published in newspapers but to look for more accurate knowledge of Kullu traditions. He cautioned the court that the decision to ban animal sacrifice could be 'used by any radical movement' and could 'become (an) issue for political parties'. He urged the Court to show 'extreme patience' before taking 'this historical decision' and to set up a high-level inquiry committee that would conduct investigations at different levels in the districts in order to 'find out the facts deeply'.

Maheshwar Singh also requested that the Court not address the sacrifice issue at a 'general level but take into account the diversity of customs and practices in the various districts of the region'. He noted, for instance, that while in Kamaksha the buffalo is killed by cutting its throat a little and then leaving it to die slowly, in Kullu the buffalo is beheaded with a single blow. The practice of beheading was an important feature from a legal point of view insofar as it would have allowed Maheshwar Singh to challenge the allegation of 'unnecessary cruelty' which had been repeatedly brought up in Sonali's writ petition.[32] He also noted that, contrary

to the Kamaksha case where the sacrifice is performed near the temple, in the Kullu case the sacrifice takes place in an area far from the main festival ground 'which has restricted access … so that (the) attendance at these rituals is never forced, and people attend (it) voluntarily'.

Paradoxically, by focusing on the Kullu Dashera case (as opposed to other sacrifices in the region), he narrowed the scope of his judicial appeal and yet, by subsequently bringing the case to the Supreme Court, he became directly responsible for making it a national issue that may potentially concern animal sacrifice in the whole of India. As his lawyer told me, reporting Maheshwar Singh's words, 'if the sacrifice is banned in Kullu it must be banned everywhere' (Field notes, 2014).

Maheshwar Singh's request for the court not to make a rash decision was in fact 'followed' by the court if we consider that nine years after the appeal was filed the case is still pending. In the meantime, other actors have become involved, for instance Gauri Maulekhi as a representative of People for Animals. The case was eventually put on the list of 'regular matters' following the regular roster, which was presented as half a victory by both parties, especially because they each had a very different perception of what the pending status of the case would mean on a practical level.

In April 2017, the Supreme Court passed an interim decision that was interpreted differently by the opposing parties. For Maheshwar Singh's lawyer, and for some newspapers, the court had followed 'the middle path': without explicitly saying that sacrifices were allowed, the court asked the parties 'to follow certain norms', for example, to perform them in a special area and not in public. This was interpreted by supporters of the practice as a way for them to be able to defer both to the gods and to the law. An article published in *The Tribune* announced that

> After a three-year gap, Kullu Dasehra this time will witness age-old ritual animal sacrifice in restricted manner. …The people of the district are enthusiastic this time after interim relief given by the Supreme Court over ban on animal sacrifice. They are hopeful that the ritual would be performed with traditional fervor.
>
> (Manta 2017; see also Phull 2017)

A few weeks later, however, another article was published in the *Himachal Watcher* to contradict the news: 'No, SC [Supreme Court] hasn't lifted the ban on animal sacrifice in Kullu Dushera' (Himachal Watcher 2017). In this 'counter-article', Sonali was interviewed and denounced the 'lie that was told to people through media' that the ban would be lifted; the article even included a picture of the 'fake news' article with an overlaid big red question mark.

In the article, Sonali listed all the conditions that one would have to respect to be able to kill an animal in keeping with the Supreme Court guidelines. Among the conditions they requested was, for example, a licensed stun gun; a licensed butcher; permission from Kullu Municipal Commissioner; a letter of acknowledgement from AWBI; veterinary officer-in-charge of animal sacrifices; and—last but

not least—'informing the animal activist Gauri Maulekhi regarding any such animal sacrifice' (Himachal Watcher 2017).

The two parties clearly disagreed on how to enforce the court's 'mandatory guidelines' in the case of animal slaughter. While animal rights activists focused more on the idea of strict compliance with the guidelines laid down by the court, whose number and nature would have made the sacrifice highly improbable if not impossible, opponents of the ban considered the guidelines in terms of the need for 'regulation' or even 'discretion'—of keeping the sacrifice out of the public eye.

Interestingly, during the first months after the appeal had been filed, everyone was ready to rush to Delhi to attend the hearing, and yet once the interim decision had been passed no one was expecting the case to come up in the near future. Animal rights activists, for their part, did not seem to be in a hurry to have the case heard. Some of them told me that the successive Chief Justices who had so far been appointed at the head of the Supreme Court were not really 'animal-friendly'; they were hoping that when the case came up there would be someone more inclined to decide in their favour. Others told me that at present 'nobody was really interested in hearing the case and that if the case did not come up before one or two years, there would be little chance of it ever coming back'. In a way, the kind of double-understanding of the interim order and the status quo introduced by it seemed to satisfy many.

On Maheshwar Singh's side, people seemed to adjust to the present situation at least insofar as they could find a way to satisfy both the law and the gods. When I met Maheshwar Singh's lawyer again in 2019, he told me that he had been reassured by what the judge said during the interim hearing: 'these animal rights activists were thinking very differently'; that 'because of their being vegetarian they were forcing people to not follow their rituals'. In fact, the lawyer told me in a self-assured manner, the judge had said that 'these so-called "public spirited persons" don't really understand the mood of the public; you can ask that certain rules be followed (during the sacrifice) but you can't prevent people from offering up sacrifices' (Field notes, 2019).

A temporary way of solving the quandary was to turn the buffalo sacrifice offered to Hadimba, from being a culminant public event in the Dashera festival attended by a large crowd and covered by the media, into a discreet, private and hidden event. In fact, nobody in the aftermath of the court decision actually considered ceasing to offer Hadimba her buffalo. The question was rather how to perform the sacrifice without exposing it to the public eye. As an Hadimba devotee told me:

> We have to make a shed and inside the shed the court will not be able to do anything (cannot stop the sacrifice)…. In the shed we will do it in our secret way, we will not allow the public to go inside, we will bring Devi (Hadimba) back here and after that three or four persons will go into the shed and we will offer the sacrifice. We've made this plan.
>
> (Field notes, 2014)

The problem for the supporters of the sacrifice was then how to keep it secret. The state was literally watching them in real time because various CCTV cameras had been installed on the sacrificial site to enforce the court order. 'These CCTV cameras are put there for us; because people bring the sacrifice here and we cut the animal here so the camera has been put there. Do you see it there? Look this is straight on the tree. Suppose I make the film and I put it in Facebook: now you are not one who is watching it, it's thousands of people watching it!' one of the priests in charge of the sacrifice said (Field notes, 2014). Moreover, widespread use of mobile phones among participants at the festival, as well as people's use of social media, was considered to be a potential 'inside' threat which could lead participants themselves to unintentionally make public what now had to be kept private.

Along with turning the sacrifice into a secret and illegal practice, the ban on animal sacrifice had the impact of mobilising groups of deities' followers from different areas to express their opinion as well as their solidarity with the legal battle that Maheshwar Singh and Dot Ram Thakur were fighting in court. Dot Ram said he was proud of both people and gods for their mobilisation against the ban. He recalled with great enthusiasm the replies that gods and goddesses had given during the *jagti puch* consultation after the interim order. 'In Nagar', he noted, 'some deities said beautiful things. One god said "Oh people, you are like leaves who are falling, you are falling and falling and we are the same."' He also praised the villagers' support of the court case, noting how people from remote districts 'told us that whatever you need for the petition, we will give you'.

For Maheshwar Singh's lawyer, the problem with the High Court judgment, against which the appeal was made, was that the judge 'went beyond his jurisdiction' and that he was 'defending his personal and moral view'. As the lawyer wrote in the judicial appeal he brought before the Supreme Court: the 'High Court … unnecessarily entered into religious debate giving personal interpretation of religious scriptures i.e. Vedas, Puranas, and Upanishads to erroneously conclude that though animal sacrifice is backed by religion (kalika purana), yet is a social evil, inhuman and barbaric act, and must be curbed' (Supreme Court file).

To demonstrate his point, he mentioned to me other rulings that the same judge had written since then, which had proved to be rather controversial in India and had also made the headlines: in 2016 he imposed a complete ban on cow slaughter in Himachal Pradesh;[33] in another judgment dated March 2017, he declared the Ganga and Yamuna rivers to be legal persons.[34] Comparing these rulings with the ban on sacrifice, the lawyer concluded: 'It is just the judge's view; it actually reflects a personal view, it is his personal perspective' (Field notes, 2019).

It is impossible to predict how the case will be decided (if ever) by the Supreme Court. Judges have very different views on the matter. They have to find a way between, on the one hand, showing that they are impartial—which gives them their legitimacy—and, on the other hand, finding a way to pass the reforms (for those of them inclined to do so). Some judges may be in favour of the reforms, but think that society is not yet ready. There is also the possibility that the Supreme Court may reverse the decision on the ban. This has become even more likely because

of another case on the same issue, filed in 2015: the case involved a PIL that had been brought to the Supreme Court by Varaaki, a Chennai-based journalist who demanded that animal sacrifice be prevented on the grounds of cruelty. A Division Bench presided over by the Chief Justice of India, at the time H.L. Dattu, refused to entertain the petition 'for the sake of societal balance and harmony', criticising it for making 'generalised statements on a very, very sensitive matter. We have to close our eyes to centuries and centuries-old traditions' (Rajagopal 2015; also Sedhuraman 2015). However, the court ruled that the petitioner would be allowed to 'raise his grievances' when the appeal against the 2014 Himachal High Court order came up for hearing—widening even further the scope and the stakes of the Himachal Pradesh appeal.

To understand the moral dimension that Maheshwar Singh and other supporters of sacrifice criticised in the High Court judgment, I will look at another judgment mentioned in the Introduction to this volume, the 'Santeria case' decided by the US Supreme Court, which also concerns animal sacrifice. Despite the references that Justice Sharma made to US precedents, he did not mention this specific ruling in his judgment. I will take this ruling as a mirror to understand Justice Sharma's decision from a comparative perspective. In fact, in deciding the same issue, the two courts took very different positions.

A comparative perspective: The *Santeria* case

The US case was brought before the court by a Cuban immigrant, a priest of Santeria, an Afro-Cuban religion of Yoruba origin[35] in which animal sacrifice plays a central role. The city administration of Hialeah in Florida alleged that they had received complaints from residents according to whom 'carcasses of chickens, ducks and goats began turning up on lawns, along streets, at cemeteries and in rivers in south Florida' as a result of Santeria rituals.

When the priest, in 1987, 'announced plans to build a church, the City Council, spurred on by an outraged community, took action' and enacted a series of ordinances in order to ban Santeria sacrifices within the jurisdiction of the city (Savage 1992). The priest appealed against the city and the case eventually came before the Supreme Court. The hearing took place in November 1992 and the pluralistic judgment, written by Justice Kennedy, was given in June 1993 (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993).

In the meantime the case had taken on national importance, with 'lawyers for a dozen major church groups, from the American Jewish Committee to the National Assn. of Evangelicals … urging the court to strike down Hialeah's restrictions' and 'eleven animal protection groups, including the Humane Society [joining] the case on the side of city officials' and arguing that the government 'is not required to tolerate rampant primitivism in the name of religion' (Savage 1992). In its long-awaited judgment,[36] the Court finally overturned the ordinance, specifying that the ban was unconstitutional and discriminatory in that it infringed the first amendment of the Constitution which states that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the

freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances'.

The court briefly took up the question of whether Santeria is a religion and whether sacrifice is a religious act or not, and it considered that this was not an issue. Recalling that 'sacrifice of animals as part of religious rituals has ancient roots… Animal sacrifice is mentioned throughout the Old Testament' (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993:524), the court pointed out that 'the city does not argue that Santeria is not a "religion" within the meaning of the First Amendment. Nor could it' (ibid.:531). Quoting a precedent,[37] the court reaffirmed that 'although the practice of animal sacrifice may seem abhorrent to some, "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection"'.

In the Santeria case, the court's argumentation does not therefore take into account a notion such as 'superstition' (while in India it is part of case law), nor does it morally condemn sacrificial practice. The US court reasoning develops on technical, strictly legal grounds and examines whether the ordinances passed by the city of Hialeah are 'neutral' or not. At the time of the case, the interpretation of the Free Exercise Clause relied on the so-called *Smith* precedent,[38] which stipulates that 'a law that burdens religious practice need not be justified by a compelling governmental interest if it is neutral and of general applicability…. However, where such a law is not neutral or not of general application, it must undergo the most rigorous of scrutiny: It must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest'. In other words, a law that does not target a religion though possibly affecting it in some way, is constitutional; in a case where religious practice is targeted, a 'compelling' interest is then required and the law must be drafted so as to entail minimal effect.

The court found that the city ordinances did not meet any of these requirements: 'they are not neutral, but have as their object the suppression of Santeria's central element, animal sacrifice', they are not of 'general applicability', and they 'cannot withstand the strict scrutiny that is required upon their failure to meet the *Smith* standard' (ibid.:521ff). The way the city of Hialeah had formulated the ban was unconstitutional as the ordinances only targeted religiously motivated behaviour, while the killing of animals for other reasons was not banned by the city:

> Many types of animal deaths or kills for nonreligious reasons are either not prohibited or approved by express provision. For example, fishing … is legal. Extermination of mice and rats within a home is also permitted.
>
> (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993:543ff)

Using a term usually reserved for electoral politics, the Court considered that the ordinances 'were "gerrymandered" with care to proscribe religious killings of animals by Santeria church members but to exclude almost all other animal killings' (ibid:521; also 536). They were therefore discriminatory against the Santeria religion. Such 'discriminatory intent' said to be behind the city ordinance was

considered to go against the principle 'of state neutrality' (or non-intervention) in religious matters—a principle quoted 68 times in the US Supreme Court decision.[39]

The approach used in Indian courts appears to be different. As we have seen, case law in India enables courts to separate religion from 'superstition' and, within religion, to determine if a practice is essential or not—enabling courts and the legislature to take reformist measures. This had already been addressed in Sonali's writ petition, arguing that the State, as per the Constitution, is entitled to intervene in cases where behaviour violates public order, morality, hygiene and public health. Animal sacrifice, according to her petition, fell into this category. The paradoxical result is that other modes of killing animals are not affected by Justice Sharma's decision: it only concerns Hindu sacrifices in public places *because* they are religious and deemed non-essential and superstitious whereas, for the American court, the ban was unconstitutional because it targeted *only* religious killings—deemed central for Santeria as a recognised religion.

In the Indian case, those against the ban argued that animal sacrifice did not violate the *Prevention of Cruelty to Animals Act* because this Act did not outlaw killing animals for food (in most cases the animal is eaten after the sacrifice); by contrast, those who supported the ban considered the practice as a violation of the Act, asserting that even if the animal is eaten after being offered to the god, this did not make the sacrifice necessary. A comparison with the American judgments on the 'necessity'—or not—of sacrifice as a religious practice is particularly interesting. In the Santeria judgment, the court criticised an opinion of the Florida Attorney General concluding that 'ritual sacrifice of animals for purposes other than food consumption' is not a 'necessary' killing (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993:527), and it accepted the argument put forward by the petitioner's lawyer that animal sacrifice is 'necessary' for Santeria because the *orisha* (spirits) to whom the sacrifice is offered are not regarded as immortal: they rely on the sacrifice for their survival. If no sacrifice is offered up to them, they die, which means that the Santeria religion could no longer exist. Sacrifice, in this case, is a central element of this religion (ibid.:521).[40] In Justice Kennedy's words, 'the basis of the Santeria religion is the nurture of a personal relation with the *orishas*, and one of the principal forms of devotion is an animal sacrifice' (ibid.:524) as, 'according to Santeria teaching, the *orishas* are powerful but not immortal. They depend for survival on the sacrifice' (ibid.:525).

The court was therefore of the opinion that animal sacrifice in Santeria religion was a central element, a notion not dissimilar to that of 'essential practice' used in India—but this 'centrality test' was criticised as presenting the risk of US courts becoming involved in religious questions and was later abandoned.[41] In contrast to the Indian judgment banning animal sacrifice, however, the 'moral' aspect of the practice—the idea, for example, that animal sacrifices are barbaric practices or that they have no place in modern society—were not part of the American judges' legal reasoning. On the contrary, the court admitted that 'the practice of animal sacrifice may seem abhorrent to some' without being disqualified from First Amendment protection (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993:531). Indeed, precedents had stressed that 'Courts should not undertake to

dissect religious beliefs…. Courts are not arbiters of scriptural interpretation' (*Thomas vs. Review Bd. of Indiana Employment Security Div.* 1981:715ff).

Therefore, without going into theological or ritual debates, US courts try to weigh up the 'burden' a law would impose on a religion against the 'interest' motivating it: '[t]he free exercise inquiry asks whether government has placed a substantial burden on the observation of a central religious belief or practice and, if so, whether a compelling governmental interest justifies the burden' (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993:565, quoting precedents). In the Santeria case, the court ruled that this requirement had not been met.

The difference between the American and the Indian rulings may be understood in the light of what Ronojoy Sen (2007) entitled 'legalising religion in India' where he distinguishes between the US model of secularism which would be assimilative and the Indian model which is ameliorative. The spirit of religious reform that motivates some Indian judges dates back to the colonial period, and has spread to an unprecedented degree in recent decades. Sen notes how courts in India have consistently pushed through a reformist agenda at the expense of religious freedom and neutrality, and how the Supreme Court of India in particular, by regularly using the 'essential practices doctrine', has contributed to a rationalisation and homogenisation of religion and religious practices.

In this respect, there is a marked difference between the Indian and the American situation as the US bench, in conformity with various precedents, excluded engaging in religious reform. Indeed, the fact that Santeria—at least for those who supported the ban—was associated with drug-dealing crimes and poorly educated immigrants could not be used by the State as an argument to ban the practice. The idea of a 'civilising mission' to reform religious traditions that are considered to be wrong or irrelevant for present times—a strong motivation for Justice Sharma—was very far from the kind of attitude and reasoning adopted by the American Supreme court.[42]

A comparison of the two cases shows how in judging similar issues, and while sharing kindred juridical notions (religious freedom, 'essential'/'central' practice, public/government interest, etc.), the judges' concerns in the two cases appear to be very different. Contrary to the US judgment, the word 'neutrality' does not appear once in Justice Sharma's text. More generally, in India, the notion of freedom of religion is 'subject to public order, morality and health' (Constitution of India, art. 25(1)), enabling possible state intervention if a religious practice is deemed to raise such issues whereas, in the United States, governmental intervention in religion is envisioned only as a possible corollary of more general laws—that is, aiming to reform religion would be unconstitutional.

By contrast, the judge in the Indian case focused on the moral assumption that animal sacrifices are barbaric, that they are a superstition and that, even supposing that they were practised in ancient times (as the other party insisted), they no longer have a place in modern society and are not in keeping with moral progress. With this perspective as his starting point, the judge simply had to find a legal framework or a legal distinction that would allow this practice to be banned.

Concluding remarks

The Himachal case presented here shows first of all the diversity of the actors who have been involved in the controversy, some being personally active in court, others acting (or reacting) from outside the judicial arena or out of the public eye. Amongst both supporters and opponents of the ban, people were of different social backgrounds and had different motivations.

Sonali and her lawyer promoted a 'global' discourse focusing on animal protection and animal rights. Despite not being personally involved in religion themselves, some of their arguments about what should be the (spiritual) core of religion could readily combine with the judge's idea of reforming religious practices. Their commitment to the animal cause, however, was not necessarily shared by other people who also supported the ban. For example, neither Magistrate K.K. Sharma, who banned the sacrifice at Kamaksha temple, nor the Chief Justice who encouraged the magistrate's move, were personally concerned by the animal rights issue per se. Their efforts were more in keeping with the idea, equally shared by Sonali and Vandana, of condemning the public display of bloody violence. By contrast, the involvement of village president Mehar Singh appeared to be more circumstantial and, beyond his public display of compassion for animals, to be linked to his personal fight over the temple. The argument Mehar Singh presented to the court through his lawyer, though echoing Sonali's fight to defend 'innocent animals', was considered by many to be rooted less in his personal convictions than in local political relationships. As for Judge Rajiv Sharma, who eventually wrote the judgment, he was completely taken with his vision of a reformed Hinduism in which practices such as animal sacrifice were something to get rid of.

The opponents of the ban also had different kinds of motivations. For some villagers, the ban on animal sacrifice prevented them from honouring their gods or from respecting traditions. For Maheshwar Singh, it also challenged his crucial role at the Dashera festival, which could end up compromising his political career. The Chief Minister's opposition to the ban also aimed at avoiding any political backlash. Other people opposed the ban for a variety of different motivations—for instance a Police Commissioner I met was against the ban because, he told me, he was a passionate hunter!

People on both sides did not agree about the role the court should play. Many of those who were against the ban contested the court's interference in their religious practice, even if they eventually had to file an appeal to the Supreme Court.[43] Others, particularly those committed to the animal cause, considered the court—rather than the legislature—to be the best place to handle such a sensitive and politically charged issue. Even in legal circles, the court's decision in this case was rather controversial and created different kinds of tension between judges, for instance between those who stood for a clear separation between legal and religious thinking and those, like Justice Sharma, for whom the case was an opportunity to promote religious reform, largely with religious arguments.[44]

The place scriptural authority occupies in judicial writings has already been evoked. This is an aspect on which Fuller (1988) diverged from Galanter's idea that

'modern Indian law is "notoriously incongruent" with indigenous "attitudes and concerns"' (Fuller 1988:226). According to Fuller, 'at the very apex of India's modern legal system, judicial reasoning on new issues is preponderantly continuous with indigenous, pre-colonial, "traditional" styles of reasoning' (ibid.). For him, the legal system has demonstrated its capacity to adapt religion to changes precisely because of that continuity: 'legal cases … show that indigenous Hindu ideas of scriptural authority employed in indigenous styles of reasoning can be brought to bear on modern ideas about religious freedom, which were partly inspired by Western models, within a modern legal system that was first established by the British rulers of India' (ibid.:247). Case law—as shown by the precedents quoted in the Himachal case—testifies to this complete integration of textual references and legal reasoning, independently of a judge's actual inclination for religious references.

In a sense such a choice is political because the decision counts as law. By eliminating some sources and relying on others, Justice Sharma also contributed to elaborating the legal notion of religion, in much the same kind of 'permutation of order' between legal and religious normativities that Turner and Kirsch have pointed out: 'the question of what in a specific context counts as "law" and what is reckoned to be "religion" is entangled in a power/knowledge nexus that—in constraining and enabling ways—configures people's perspectives on the world. It is in this sense that the relationship between "law" and "religion" is and always has been a *political* issue' (Turner & Kirsch 2009:9). As Chakrabarti (2009) shows, there is a dialectic process in which the state 'legitimizes itself as secular by intervening and arbitrating on the question of "religion"', while religion 'articulates and justifies itself in the legal bureaucratic language of the state' (Chakrabarti 2009:104).

Another question that arises from this case concerns the impact it may have on religious practice itself. Although the version of Hinduism promoted by the judge in his judgment will not necessarily permeate village cults in Himachal Pradesh, the courts' increasing handling of religious issues is already having some visible impact on the management of these village cults: first of all, on the growing 'bureaucratisation' of the management of deities' affairs where everything is verbalised, submitted to a vote and discussed, making use of juridical articles and argumentation and taking legal action whenever it is thought to be useful. It is worth noting, for example, that the president of the *kardar sangh*, Dot Ram Thakur, is himself a lawyer and that, in this case, he immediately filed a separate judicial appeal at the Supreme Court at the same time as the one filed by Maheshwar Singh. As for the ban on animal sacrifice, despite some sensationalist newspaper headlines announcing that such or such a deity has endorsed the court's decision and has become vegetarian, animal sacrifices are still performed in the region—though more discreetly or 'secretly' as people said—and many are confident that the Supreme Court will ultimately rule in their favour.

As in the previously mentioned Roman case, Justice Sharma's judgment resembles an 'imperial sermon' (Bradbury 1994:126): it is aimed, in the Himachal case, at creating a moralising and intimidating atmosphere. However, though these rulings can be likened to moral proclamations, their lack of enforcement does not mean, as Bradbury himself noted, that they do not have a significant impact on society.

Notes

1 See for example for Bengal, Moodie (2019; this volume), and for Uttarakhand, Govindrajan (2018:54ff).
2 In many parts of India, Dashera is celebrated every year during the months of September–October. The festival is supposed to commemorate two mythological episodes of the Sanskrit textual tradition: the victory of the goddess (here Hadimba) over the demon buffalo Mahishasura or, often in an overlapping way, the victory of the god-king Rama over Ravana. Although performed as a religious festival, Dashera is also a sort of ritual idiom of kingship; it symbolically represents the consecration and legitimation of royal or political power (Berti 2009, 2011; Krauskopff and Lecomte-Tilouine 1996; Peabody 1997; Sundar 2001:26ff), as is the case in Kullu, the capital of a former eponymous kingdom in Himachal Pradesh.
3 http://hpsja.nic.in/JAcaselawAS.pdf (accessed 13 Oct. 2021).
4 IANS (2014a). Interestingly, the goddess in question, although called Hadimba Devi, is not the same one who is well-known in the region as the raja's 'grand-mother' and who receives a buffalo and a number of other sacrifices during the Dashera festival. The 'neo-vegetarian' Hadimba mentioned in the paper has a temple in another district and plays no major role at Dashera. However, what was presented in the *Business Standard* as 'the goddess decision to endorse the judge decision' was the reason for making the headlines in many newspapers in English. The article had the effect of confusing readers, as the 'goddess decision' was presented as a 'big relief for the organizers of the centuries-old Kullu Dussehra festival', suggesting that 'the decision to stop animal sacrifice will inspire other deities to shun the ritual' (ibid.)—while, actually, the Hadimba receiving sacrifices at Dashera had confirmed the need to maintain the practice.
5 One example from Himachal Pradesh is the case of Kinkri Devi, an illiterate peasant woman from a remote village in the mountains, who filed a PIL at the High Court in that state in 1987, denouncing the harmful effects of illegal mining on the environment. Her action was supported by a local environmental organization and contributed to the introduction of a number of measures to address the problem.
6 Her profile is very similar to other members of 'Karma', a local animal welfare organization. For example, Heena Syal, an artist by profession, has set up a Karma organization in Kashmir and devotes her time, money and efforts to the cause of taking in stray dogs (Charak 2015).
7 *Mrs. Gauri Maulekhi vs. State of Uttarakhand & Ors.* 2011. Gauri Maulekhi is an animal rights activist from Uttarakhand, who was working in Delhi as Member Secretary of *People for Animals*. She is at the forefront in battling for various animal rights issues in India.
8 This practice is also followed in Kullu (Berti 2001).
9 *Sonali Purewal vs. State of Himachal Pradesh and others*, CWP 5076 of 2012, in *Ramesh Sharma vs. State of Himachal Pradesh & others 2014*.
10 The idea of 'true religion', used by the petitioner, is taken here to be the equivalent of ahimsa, used with reference not only to the *Bhagavad Gita* (mentioned in the file) but also to the speeches of Daisaku Ikeda, a spiritual Buddhist leader who is president of Soka Gakkai, a Japanese 'new religion' with a branch in India; though not mentioned in the file, he was mentioned many times in the conversations I had with Vandana**.**
11 The amicus curiae, in common law countries, may be requested by the court to give an impartial (non-binding) opinion about a specific matter.
12 According to Johnson (2013), the sentence does not in fact exist anywhere in Gandhi's writings although, as Johnson notes, animal activists have a romanticised view of Gandhi and of Hinduism as 'being more animal-friendly than many other religious faiths'.
13 *The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act* 1989 (Act 33 of 1989). The case is mentioned at: http://mandipolice.blogspot.fr/2012/03/

crime-report-11-march.html (case number 8: "case of rioting, criminal intimidation and SC/ST Act")—accessed 1 November 2020.

14 *Mehar Singh and Anor vs. State of Himachal Pradesh and Ors.*, CWP 4499 of 2011, in *Ramesh Sharma vs. State of Himachal Pradesh & others* (2014).

15 *Ramesh Sharma vs State of Himachal Pradesh and Ors*, CWP 9257 of 2012, in *Ramesh Sharma vs. State of Himachal Pradesh & others* (2014).

16 As reported in *The Tribune*, '"By not doing the sacrifice, the devotees would incur the wrath of the devi as she needed buffalo blood to placate her every year," supporters of the sacrifice claimed' (Chauhan 2011).

17 Most of these deities are legal owners of *muafi* (land rights) and, although their property has been considerably reduced under land reforms, they are still supposed to exert influence over the land and people living within the boundaries of their previous jurisdiction (Berti 2016).

18 Oral stories highlight the role that Kullu kings had in interacting with these gods and in 'seeking alliance' with them. The political implications that the cult of these deities had historically has been wonderfully depicted by Emerson, a British officer who, regarded as king by the villagers of the region he was in charge of, became involved in this kind of god consultations and interactions (Emerson n.d.).

19 Another major festival where a buffalo is offered to Hadimba is in Dungri, where the Hadimba temple is located, about 40 km far from Kullu. Maheshwar Singh often participates in this event as well. In 1995, I attended a sacrifice performed there on the occasion of the goddess' birthday: the buffalo was sacrificed in public in the crowded temple courtyard where many gods and goddesses, represented by their palanquins and accompanied by their followers, had come to attend the event. Over recent years, however, this event has been very controversial, even with local people—see Halperin (2012:169 ff).

20 Deities' images in India, called in law 'Hindu idols', are considered as legal persons. Their legal status was established in the nineteenth century during the colonial era by British officers who, at the time of the land census, faced the practical problem of how to register land properties which, people claimed, belonged to divinities. As legal persons, deities can be involved as plaintiffs or defendants in legal cases although, having also been declared 'perpetual minors', they need to be represented in court by the temple administrator acting as the deity's legal guardian (Berti 2016).

21 In recent years there has been an effort to set the tradition of Kullu down in writing, with local publications creating repertories of the 'identities' of local deities, in connection with efforts by some Hindutva organisations to connect these village gods to Sanskritic/Vedic Puranic Gods (Berti 2006).

22 The officials and organizations involved are: State of HP through Chief Secretary to the Government of HP; Principal Secretary (Home) to the Govt of HP; Principal Secretary (Rural Development) to the Govt of HP; Secretary (Animal Husbandry) to the Govt of HP; Secretary to Department of Language, Art and Culture; HP State Pollution Control Board through its member Secretary; Animal Welfare Board of India.

23 The procedure was followed, for example, in the Uttarakhand case on animal sacrifice. A short 'notice' of three to four lines had been published in two Hindi newspapers with the intention of opening the case to the public.

24 The other judge on the bench did not oppose the decision, though he was hardly involved in the case. Some people even told me that this judge was personally involved in ritual practices featuring animal sacrifices.

25 *Ramesh Sharma vs. State of Himachal Pradesh & others* (2014):para 1.

26 *The Commissioner of Hindu Religious Endowments, Madras vs. Sri Lakshmindra Tirtha Swamiar* (1954).

27 *State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat & Ors.* (2005).

28 Fuller shows how, long before the courts became involved in these matters after Independence, religious customs such as animal sacrifices were denigrated as superstitious by reformist nationalists (Fuller 1988:243).

29 Interestingly, the Kamakhya temple committee at Gauhati (Assam), where sacrifices are regularly practised, has issued a series of publications that emphasise the continuities between Vedic ritual and contemporary Tantric practices in order to anchor the latter in a mainstream textual tradition (Urban 2018:171–172).
30 *Tilkayat Shri Govindlalji Maharaj etc. vs. State of Rajasthan & Ors.* (1963).
31 *Shastri Yagnapurushadji & Ors vs Muldas Brudardas Vaishya & Ors.* (1966).
32 *The Prevention of Cruelty to Animals Act* (1960), stipulates that it cannot be an offence "to kill any animal in a manner required by the religion of any community" (Art. 28). It had therefore been crucial for the High Court bench to brand sacrifice as 'superstitious' and equally important for Maheshwar Singh to stress that its practice in Kullu was attested to as religious, essential and, moreover, devoid of cruelty.
33 *Bhartiya Govansh Rakshan Sanverdhan Parishad, H.P. vs. The Union of India & Ors.* (2016).
34 *Lalit Miglani vs. State of Uttarakhand and Ors.* (2017) (this judgment came some days after the New Zealand government declared the Whanganui River, revered by the indigenous Maori people, a living entity with full legal rights).
35 On the globalization of Santeria and the latter's claims to originate from Yoruba cults, see Argyriadis and Capone (2004).
36 For some analyses and comments on the case, see for instance Carter (1993), Cassuto (2008), and O'Brien (2004). Doheny (2006) points out that the Supreme Court ruling does not actually address the practice of sacrifice in general, but only strikes down the city's specific ordinances which are judged unconstitutional in the particular, 'discriminatory' way they were framed.
37 *Thomas vs. Review Bd. of Indiana Employment Security Div.* (1981).
38 *Employment Div., Dept. of Human Resources of Ore. vs. Smith,* 494 U.S. 872, a judgment written by Justice Scaglia, also a member of the bench in the Santeria case (ibid.:521ff; also Kaplan 2000). While it applied when the Santeria case was decided, the *Smith* jurisprudence was later modified as it 'was heavily criticized for failing to understand that even neutral and generally applicable law can substantially burden religious exercise. In response to the outrage against *Smith,* the Congress enacted the Religious Freedom Restoration Act (RFRA). [1993]' restoring the compelling interest test 'in cases where the free exercise of religion is substantially burdened' even when laws are formally neutral (Abraham 2021:286ff.).
39 It is interesting to compare the US court principle—that you cannot ban the killing of animals when it is practised by a particular religion and at the same time allow non-religious killing—with a case registered by Himachal Pradesh police (after the ban on sacrifice) in which a man who had been accused of violating the court order by *sacrificing* an animal, said in his defence that the animal had only been *slaughtered* after the deity had left the place—what was forbidden was not killing the animal but killing it in the name of a god (Bodh 2014e).
40 The transcript of the oral argument made by the lawyers of both parties is available at https://www.oyez.org/cases/1992/91-948 (accessed 7 Nov. 2020). Interestingly, during the arguments in the Santeria case, a Supreme Court judge reasoned with the lawyer that, for example, if we accept the religious argument that animal sacrifices are essential in Santeria, we might ask: why should we not regard the fact that Thugs in India kill other people as being essential to their religion? The lawyer promptly replied that in that particular case, the killing of people could be stopped by relying on 'neutral and generally applicable laws' against murder. The judge seemed to be convinced by this reply. By contrast, Justice Sharma took another view. In response to the suggestion that animal sacrifice would be 'necessary' to honour some gods—as those opposing the ban, including the Advocate General, claimed—he expressed his support of Sonali's stand in her writ petition whereby she declared that sacrifice is never necessary because a substitute can be found.

41 It was discarded in effect by The Religious Land Use and Institutionalized Persons Act, 2000 (RLUIPA), 'which defined the term "religious exercise" as "any exercise of religion, whether or not compelled by, or central to, a system of religious belief' (Abraham 2021:289).

42 However, the issue was not completely ignored in the Santeria case, but considered beyond the scope due to the way the ordinances had been drafted. As Justice Blackmun, joined by Justice O'Connor, wrote in a separate opinion, the judgment did 'not necessarily reflect this Court's views of the strength of a State's interest in prohibiting cruelty to animals' since the case did not present the 'question whether the Free Exercise Clause would require a religious exemption from a law that sincerely pursued the goal of protecting animals from cruel treatment. The number of organizations that have filed *amicus* briefs on behalf of this interest, however, demonstrates that it is not a concern to be treated lightly' (*Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah* 1993:580).

43 I have shown, in another case study concerning a conflict in precedence during the Dashera procession, that 'the multiplicity of decision–making authorities … made it likely that any decision would be contested by referring to the decision taken by another decision–making authority … [the] recourse to courts is not intended to replace alternative ways of settling the conflict' (Berti 2016:96).

44 Compared for instance to the Uttarakhand ruling also banning animal sacrifice, what distinguishes the Himachal Pradesh judgment is that it enters into the religious aspects of the issue.

References

1. Primary sources

Animal Welfare Board of India vs. A. Nagaraja & Ors. Supreme Court of India, on 7 May 2014. Civil Appeal No. 5387 of 2014.

Bhartiya Govansh Rakshan Sanverdhan Parishad, H.P. vs. The Union of India & Ors. High Court of Himachal Pradesh, on 29 July 2016. CWP 6631 of 2014.

Church of the Lukumi Babalu Aye, Inc., et al. vs. City of Hialeah. Supreme Court of the U.S., on 11 June 1993. 508 U.S. 520 (1993).

CWP No. 5076 of 2012 along with *CWP Nos. 9257 of 2011* and *CWP 4499 of 2012*. Himachal Pradesh High Court, on 1 September 2014 (interim order).

Employment Division vs. Smith. Supreme Court of the U.S., on 17 April 1990. 494 U.S. 872 (1990).

Lalit Miglani vs. State of Uttarakhand and Ors. High Court of Uttarakhand at Nainital, on 30 March 2017. WP(PIL) 140 of 2015.

Madras Animals and Birds Sacrifices Prohibition Act of 1950. Act 32 of 1950.

Mrs. Gauri Maulekhi vs. State of Uttarakhand & Ors. High Court of Uttarakhand at Nainital, on 19 December 2011. WP(PIL) 77 of 2010, together with WP (PIL) 73 of 2010.

N. Adithayan vs. the Travancore Devaswom Board. Supreme Court of India, on 3 October 2002. (2002) 8 SCC 106.

Ramesh Sharma vs. State of Himachal Pradesh & others (CWP. No. 9257 of 2011), along with *Mehar Singh & another vs. State of H.P. & others* (CWP No. 4499 of 2012) and *Sonali Purewal vs. State of H.P. & Ors* (CWP No. 5076 of 2012). Himachal Pradesh High Court, on 26 September 2014. (http://hpsja.nic.in/JAcaselawAS.pdf; accessed 29/10/2020).

Shastri Yagnapurushadji & Ors vs Muldas Brudardas Vaishya & Ors. Supreme Court of India, on 14 January 1966. 1966 AIR 1119; 1966 SCR (3) 242.

State of Gujarat vs. Mirzapur Moti Kureshi Kassab Jamat & Ors. Supreme Court of India, on 26 October 2005. (2005) 8 SCC 534.

State of Karnataka and another vs. Dr. Praveen Bai Thogadia. Supreme Court of India, on 31 March 2004. (2004) 4 SCC 684.

The Commissioner of Hindu Religious Endowments, Madras vs. Sri Lakshmindra Tirtha Swamiar. Supreme Court of India, on 16 April 1954. 1954 AIR 282, 1954 SCR 1005.

The Prevention of Cruelty to Animals Act, Act 59 of 1960.

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Act 33 of 1989.

Thomas vs. Review Bd. of Indiana Employment Security Div. Supreme Court of the U.S., on 7 October 1981. 450 U.S. 707 (1981).

Tilkayat Shri Govindlalji Maharaj etc. vs. State of Rajasthan & Ors. Supreme Court of India, on 23 January 1963. AIR 1963 SC 1638.

2. Secondary sources

Abraham, Arvind Kurian. 2021. 'Essential religious practices test and the First Amendment: a comparative analysis of the free exercise of religion in India and the United States.' Pp. 279–301 in M. John et al. (eds.), *The Indian Yearbook of Comparative Law 2019*. Singapore: Springer. doi:10.1007/978-981-16-2175-8_13.

Agarwal, Bina. 1994. 'Gender and command over property: a critical gap in economic analysis and policy in South Asia.' *World Development* 22(10):1455–1478. doi:10.1016/0305-750X(94)90031-0.

Argyriadis, Kali & Stefania Capone. 2004. 'Cubanía et santería. Les enjeux politiques de la transnationalisation religieuse (La Havane—Miami).' *Civilisations. Revue Internationale d'anthropologie et de Sciences Humaines* 51:81–137. doi:10.4000/civilisations.668.

Badhwar, Inderjit. 2014. 'Live and let live.' Letter from the editor, *India Legal*, October 31:3–7.

Berti, Daniela. 2001. *La Parole des dieux. Rituels de possession en Himalaya indien*. Paris: CNRS Éditions.

———. 2004. 'Of metal and clothes: the location of distinctive features in divine iconography (Indian Himalayas).' Pp. 85–113 in Phyllis Granoff & Koichi Shinohara (eds.), *Images in Asian Religions. Texts and Contexts*. Vancouver: University of British Columbia Press.

———. 2006. 'The memory of gods: from a secret autobiography to a nationalistic project.' *Indian Folklife* 24:15–18.

———. 2009. 'Kings, gods, and political leaders in Kullu (Himachal Pradesh).' Pp. 107–136 in Marie Lecomte-Tilouine (ed.), *Bards and Mediums in the Khas Kingdoms*. Almora/Delhi: Himalayan Book Depot.

———. 2011. 'Political patronage and ritual competitions at the Dashera Festival in Northern India.' Pp. 126–148 in Christiane Brosius & Karin Polit (eds.), *Ritual, Heritage and Identity. The Politics of Culture and Performance in a Globalised World*. Delhi: Sage.

———. 2015. 'Gods' rights vs. hydroelectric projects. Environmental conflicts and the judicialization of nature in India.' *Rivista di Studi Orientali*, Supplement 2:11–129.

———. 2016. 'Plaintiff deities. Ritual honours as fundamental rights in India.' Pp. 71–100 in Daniela Berti, Gilles Tarabout & Raphaël Voix (eds.), *Filing Religion. State, Hinduism and Courts of Law*. Delhi: Oxford University Press.

———. 2019. 'Animals in the public debate: welfare, rights, and conservationism in India.' In Barbara Ambros & Reiko Ohnuma (eds.), *Buddhist Beasts: Reflections on Animals in*

Asian Religions and Cultures], *Religions* 10(8):475–499. (https://www.mdpi.com/2077-1444/10/8/475; accessed 31/10/2020).

Berti, Daniela, Gilles Tarabout & Raphaël Voix. 2016. 'Introduction.' Pp. xv–xli in Daniela Berti, Gilles Tarabout & Raphaël Voix (eds.), *Filing Religion. State, Hinduism and Courts of Law*. Delhi: Oxford University Press.

Bodh, Anand. 2013. 'Kullu Dussehra ends with animal sacrifice.' *The Times of India*, online edition, 21 October. (https://timesofindia.indiatimes.com/india/Kullu-Dussehra-ends-with-animal-sacrifice/articleshow/24457432.cms; accessed 02/11/2020).

———. 2014a. 'It's faith vs. law for Himachal devotees.' *The Times of India*, online edition, 3 September. (https://timesofindia.indiatimes.com/india/Its-faith-vs-law-for-Himachal-devotees/articleshow/41557582.cms; accessed 01/11/2020).

———. 2014b. 'Deities to decide animal sacrifice at conclave.' *The Times of India*, online edition, 9 September. (https://timesofindia.indiatimes.com/city/chandigarh/Deities-to-decide-animal-sacrifice-at-conclave/articleshow/42080658.cms; accessed 01/11 2020).

———. 2014c. 'Animal sacrifice: Himachal deities representatives to move Supreme Court.' *The Times of India*, onlineedition, 28 September. (https://timesofindia.indiatimes.com/india/Animal-sacrifice-Himachal-deities-representatives-to-move-Supreme-Court/articleshow/43702932.cms; accessed 01/11/2020).

———. 2014d. 'Kardar Sangh to move SC against ban on Dussehra animal sacrifice.' *The Times of India*, online edition, 30 September. (https://timesofindia.indiatimes.com/india/Kardar-Sangh-to-move-SC-against-ban-on-Dussehra-animal-sacrifice/articleshow/43853010.cms; accessed 02/11/2020).

———. 2014e. 'After HC ban, Himachal Pradesh cops lodge first animal sacrifice case.' *The Times of India*, online edition, 19 October. (https://timesofindia.indiatimes.com/india/After-HC-ban-Himachal-Prasesh-cops-lodge-first-animal-sacrifice-case/articleshow/44872198.cms; accessed 08/11 2020).

Bradbury, Scott. 1994. 'Constantine and the problem of anti-Pagan legislation in the Fourth Century.' *Classical Philology* 89(2):120–139. doi:10.1086/367402.

Carter, Stephen L. 1993. 'The resurrection of religious freedom?' *Harvard Law Review* 107:118–142.

Cassuto, David N. 2008. 'Animal sacrifice and the First Amendment: the case of Lukumi Babalu Aye.' Pp. 50–77 in Taimie Bryant, David N. Cassuto & Rebecca Huss (eds.), *Animal Law and the Courts: A Reader*. St. Paul, MN: West Academic Press.

Chakrabarti, Anindita. 2009. 'Judicious succession and judicial religion: internal conflict and legal dispute in a religious reform movement in India.' Pp. 87–105 in Thomas G. Kirsch & Bertram Turner (eds.), *Permutations of Order. Religion and Law as Contested Sovereignties*. Farnham: Ashgate.

Charak, Ranjana. 2015. 'Animal NGO "Karma" comes to the rescue of stray dogs.' *Greater Kashmir*, 2 June. (https://www.greaterkashmir.com/news/jammu/animal-ngo-karma-comes-to-rescue-of-stray-dogs/; accessed 31/10/2020; link no longer active).

Chauhan, Kuldeep. 2011. 'Admn averts sacrifice of two buffaloes.' *The Tribune*, Chandigarh, 6 October. (https://www.tribuneindia.com/2011/20111006/himachal.htm#9; accessed 31/10/2020).

———. 2014a. 'Animal sacrifice ban looms large over Kullu Dasehra. Dev Samaj, Dashera committee caught on the horns of dilemma.' *The Tribune*, Chandigarh, online edition 3 October. (http://www.tribuneindia.com/2014/20141003/himachal.htm; accessed 01/11/2020).

———. 2014b. 'Lahaul deity gives up yatra over ban on animal sacrifice. In place of lamb, devotees to offer coconuts to Raja Gepan.' *The Tribune*, Chandigarh, online edition,

13 October. (https://www.tribuneindia.com/2014/20141013/himachal.htm#1; accessed 30/10/2020).

Copeman, Jacob. 2009. *Veins of Devotion: Blood Donation and Religious Experience in North India*. New Brunswick (NJ)/London: Rutgers University Press.

Doheny, Shannon L. 2006. 'Free exercise does not protect animal sacrifice: the misconception of Church of Lukumi Babalu Aye v. City of Hialeah and constitutional solutions for stopping animal sacrifice.' *Journal of Animal Law* 2:121–142.

Emerson, Herbert W. n.d. *Manuscript*. London: Indian Office Library (MSS. EUR. E.321).

Everett, Jana. 1989. "Incorporation versus conflict: lower class women, collective action, and the state in India.' Pp. 152–186 in Sue Ellen M. Charlton, Jana Everett & Kathleen Staudt (eds.), *Women, the State, and Development*. Albany, NY: SUNY Press.

Fuller, C.J. 1988. 'Hinduism and scriptural authority in modern Indian law.' *Comparative Studies in Society and History* 30(2):225–248. doi:10.1017/S0010417500015176.

———. 1992. *The Camphor Flame. Popular Hinduism and Society in India*. Princeton, NJ: Princeton University Press.

Galanter, Marc. 1971. 'Hinduism, secularism, and the Indian judiciary.' *Philosophy East and West* 21(4):467–487. doi:10.2307/1398174; reprinted at Pp. 237–258 in Galantar, Marc. 1989. *Law and Society in Modern India*. Delhi: Oxford University Press.

Govindrajan, Radhika. 2018. *Animal Intimacies. Interspecies Relatedness in India's Central Himalayas*. Chicago/London: The University of Chicago Press.

Green, Steven J. 2008. 'Save our cows? Augustan discourse and animal sacrifice in Ovid's *Fasti*.' *Greece & Rome, Second Series* 55(1):39–54. doi:10.1017/S0017383507000307.

Habermas, J. 1991. 'The public sphere.' Pp. 398–404 in C. Mukerji & M. Schudson (eds.), *Rethinking Popular Culture. Contemporary Perspectives in Cultural Studie*s. Berkeley/Los Angeles, CA: University of California Press.

Halperin, Ehud. 2012. *Haḍimbā Becoming Herself: A Himalayan Goddess in Change*. Ph.D. Dissertation, New York, NY: Columbia University.

———. 2019. *The Many Faces of a Himalayan Goddess: Hadimba, Her Devotees, and Religion in Rapid Change*. New York, NY: Oxford University Press.

Himachal Watcher. 2017. 'No, SC hasn't lifted the ban on animal sacrifice in Kullu Dushera.' *Himachal Watcher*, 29 September. (https://himachalwatcher.com/2017/09/29/no-sc-hasnt-lifted-ban-on-animal-sacrifice-in-kullu-dushera/; accessed 05/11/2021).

HT Correspondent. 2014. 'Animal sacrifice ban issue: Kullu MLA to represent Dev Samaj in court.' *Hindustan Times*, Shimla, 20 September. (https://www.hindustantimes.com/chandigarh/animal-sacrifice-ban-issue-kullu-mla-to-represent-dev-samaj-in-court/story-Uv4m8BjJs4QxGsrLOh1pCI.html; accessed 31/10/2020).

IANS. 2014a. 'Himachal goddess "endorses" court ban on animal sacrifice.' *Business Standard*, 8 October. (http://www.business-standard.com/article/news-ians/himachal-goddess-endorses-court-ban-on-animal-sacrifice-114100800369_1.html; accessed 31/10/2020).

———. 2014b. 'SC refuses to lift ban on animal sacrifice in Kulu Dushara.' *News18.com*. (https://www.news18.com/news/india/sc-refuses-to-lift-ban-on-animal-sacrifice-in-kulu-dushara-718984.html; accessed 31/10/2020).

India TV News Desk. 2015. 'Don't interfere in social reforms, Himachal CM tells courts.' *India TV*, 25 February. (https://www.indiatvnews.com/news/india/himachal-cm-tell-court-dont-interfere-in-social-reforms-47972.html; accessed 02/11/2020).

Johnson, Philip. 2013. 'Mahatma Gandhi hoax quote Greatness of a nation and its moral progress can be judged by the way that its animals are treated.' *Animals Matter to God. Animals in Theology, Ethics, History and Law: A Review*. (https://animalsmatter-

togod.com/2013/09/13/mahatma-gandhi-hoax-quote-greatness-of-a-nationand-its-moral-progress-can-be-judged-by-the-way-that-its-animals-are-treated/; accessed on 08/03/2018).

Joshipura, Poorva. 2014. 'Animal sacrifice has no place in space-age India.' *International Business Times*, updated 17 October 2014. (https://www.ibtimes.co.uk/animal-sacrifice-has-no-place-space-age-india-1470505; accessed 29/10/2020).

Kabeer, Naila. 1994. *Reversed Realities: Gender Hierarchies in Development Thought*. London/New York: Verso.

Kaplan, Carol M. 2000. 'The devil is in the details: neutral, generally applicable laws and exceptions from Smith.' *New York University Law Review* 75:1045–1084.

Krauskopff, Gisèle & Marie Lecomte-Tilouine (eds.). 1996. *Célébrer le pouvoir. Dasaĩ, une fête royale au Népal*. Paris: CNRS Éditions/Éditions de la Maison des Sciences de l'Homme.

Manta, Dipankar. 2017. 'Nod to animal sacrifice at Kullu Dashera.' *The Tribune*, Chandigarh, online edition, 5 September. (https://www.tribuneindia.com/news/archive/himachal/nod-to-animal-sacrifice-at-kullu-dasehra-462141; accessed 08/11/2020).

Mehta, Pratap Bhanu. 2010. 'India: The politics of religious reform and conflict.' Pp. 174–193 in John Malloy Owen & J. Judd Owen (eds.), *Religion, Enlightenment, and the New Global Order*. New York: Columbia University Press.

Moodie, Deonnie. 2019. 'On blood, power, and public interest: the concealment of Hindu sacrificial rites under Indian law.' *Journal of Law and Religion* 34(2):165–182. doi:10.1017/jlr.2019.24.

O'Brien, David M. 2004. *Animal Sacrifice & Religious Freedom: Church of the Lukumi Babalu Aye v. City of Hialeah*. Lawrence: University Press of Kansas.

Ohri, Priyanka. 2014. 'How a woman is ending animal sacrifice in Himachal Pradesh.' *Women's Web*, 10 November. (https://www.womensweb.in/2014/11/sonali-purewal-ban-on-animal-sacrifice/; accessed 31/10/2020).

Peabody, Norbert. 1997. 'Inchoate in Kota? Contesting authority through a North Indian pageant- play.' *American Ethnologist* 24(3):559–584. doi:10.1525/ae.1997.24.3.559.

Phull, Archana. 2017. '"Animal sacrifice" tradition to be back in Himachal Pradesh.' *The Statesman*, Shimla, online edition, 14 April. (https://www.thestatesman.com/cities/animal-sacrifice-tradition-to-be-back-in-himachal-pradesh-1492172385.html; accessed 08/11/2020).

Phull, Rajiv K. 2014. 'Himachal Excellence Awards 2014.' *Divyahimachal*, 22 November. (http://www.divyahimachal.com/2014/11/himachal-excellence-awards-2014/; accessed 31/10/2020).

Pundir, Dushyant Singh & Abhinav Vashisht. 2014. 'Deities against interferences in traditions. 270 representatives take part in Dev Sansad to review ban on animal sacrifice.' *The Tribune*, Chandigarh, 27 September. (https://www.tribuneindia.com/2014/20140927/himachal.htm#2; accessed 31/10/2020).

Rajagopal, Krishnadas. 2015. 'SC rejects plea to ban animal sacrifices in festivals.' *The Hindu*, online edition, 28 September. (https://www.thehindu.com/news/national/sc-rejects-plea-to-ban-animal-sacrifices-in-festivals/article7699034.ece; accessed 08/11/2020).

Rao, Ursula. 2010. *News as Culture: Journalistic Practices and the Remaking of Indian Leadership Traditions*. New York/Oxford: Berghahn Books.

Rives, James B. 1999. 'The decree of Decius and the religion of empire.' *The Journal of Roman Studies* 89:135–154. doi:10.2307/300738.

Rudolph, Lloyd I. & Susanne Hoeber Rudolph. 1965. 'Barristers and Brahmans in India: legal cultures and social change.' *Comparative Studies in Society and History* 8(1):23–49. doi:10.1017/S0010417500003881.

Salzman, Michele Renee. 2011. 'The end of public sacrifice in post-Constantinian Rome and Italy.' Pp. 167–183 in Jennifer Wright Kunst & Zsuzsanna Varhelyi (eds.), *Ancient Mediterranean Sacrifice*. New York: Oxford University Press.

———. 2017. 'From *superstitio* to heresy: law and divine justice (fourth–fifth centuries CE).' Pp. 245–256 in Mu-Chou Poo, Harold Allen Drake & Lisa Ann Raphals (eds.), *Old Society, New Belief: Religious Transformation of China and Rome, Ca. 1st–6th Centuries*. New York: Oxford University Press.

Savage, David G. 1992. 'Justices revisit unsettled issue in Santeria case: Law: Arguments about a city's ban of "ritualistic animal sacrifice" will weigh religious expression against animal rights.' *Los Angeles Times*, online edition, 1 November. (https://www.latimes.com/archives/la-xpm-1992-11-01-mn-1856-story.html; accessed 07/11/2020).

Sedhuraman, R. 2015. 'Supreme Court rejects PIL on animal sacrifice at shrines.' *The Tribune*, online edition, 28 September. (https://www.tribuneindia.com/news/archive/himachal/supreme-court-rejects-pil-on-animals-sacrifice-at-shrines-139023; accessed 08/11/2020).

Sen, Ronojoy. 2007. *Legalizing Religion: The Indian Supreme Court and Secularism*. Washington: East-West Center.

———. 2010. *Articles of Faith. Religion, Secularism and the Indian Supreme Court*. Delhi: Oxford University Press.

Sharabi, Asaf. 2019. 'Is it God speaking? Agency of deities in the Western Himalaya.' Anthropological Forum.' *Anthropological Forum: A Journal of Social Anthropology and Comparative Sociology*, 29(4):356–373.

Sharma, Ashwani. 2014. 'Kullu religious body decides to continue with animal sacrifice despite HC ban.' *Indian Express*, 26 September 2014. (https://indianexpress.com/article/india/india-others/kullu-religious-body-decides-to-continue-with-animal-sacrifice-despite-hc-ban/; accessed 30/10/2020).

Sundar, Nandini. 2001. 'Debating Dussehra and reinterpreting rebellion in Bastar district, Central India.' *The Journal of the Royal Anthropological Institute* 7(1):19–35. doi:10.1111/1467-9655.00048.

Tanaka, Masakazu. 2000. 'Sacrifice lost and found. Colonial India and postcolonial Lanka.' *ZINBUN* 34(1):127–146. doi:10.14989/48772.

Tarabout, Gilles. 2016. 'Birth vs merit: Kerala's temple priests and the courts.' Pp. 3–33 in Daniela Berti, Gilles Tarabout & Raphaël Voix (eds.), *Filing Religion. State, Hinduism and Courts of Law*. Delhi: Oxford University Press.

TNN. 2014. 'More deities give up animal sacrifice in Himachal Pradesh.' *The Times of India*, 6 November 2014. (https://timesofindia.indiatimes.com/india/More-deities-give-up-animal-sacrifice-in-Himachal-Pradesh/articleshow/45053391.cms; accessed 30/10/2020).

———. 2015. 'Deities threaten to boycott Mandi Shivaratri over animal sacrifice.' *The Times of India*, 21 January 2015. (https://timesofindia.indiatimes.com/india/Deities-threaten-to-boycott-Mandi-Shivratri-over-animal-sacrifice/articleshow/45960943.cms; accessed 30/10/2020).

Turner, Bertram & Thomas G. Kirsch. 2009. 'Law and religion in permutation of order: an introduction.' Pp. 1–24 in Thomas G. Kirsch & Bertram Turner (eds.), *Permutations of Order. Religion and Law as Contested Sovereignties*. Farnham: Ashgate.

Urban, Hugh B. 2001. 'The path of power: impurity, kingship, and sacrifice in Assamese Tantra.' *Journal of the American Academy of Religion* 69(4):777–816. doi:10.1093/jaarel/69.4.777.

———. 2018. ‘Death, nationalism, and sacrifice: ritual, violence, politics, and tourism in Northeast India.’ Pp. 156–184 in Hugh B. Urban & Greg Johnson (eds.), *Irreverence and the Sacred: Critical Studies in the History of Religions*. New York: Oxford University Press.

Vidal, Denis. 1988. *Le culte des divinités locales dans une région de l’Himachal Pradesh*. Paris: Éditions de l’ORSTOM.