

# Animal Sacrifice, Religion and Law in South Asia

Edited by

Daniela Berti and Anthony Good

ISBN: 978-1-032-25768-6 (hbk)

ISBN: 978-1-032-31813-4 (pbk)

ISBN: 978-1-003-28494-9 (ebk)

First published 2024

## Chapter 7

---

### ‘Not in the name of *dharma*’

A judgment of the Supreme Court of Nepal on mass sacrifices at the Gaḍhī Māī Melā

*Chiara Letizia and Blandine Ripert*

(CC-BY-NC-ND 4.0)

DOI: 10.4324/9781003284949-8

The funder for this chapter is Centre National de la Recherche Scientifique.

## 7 ‘Not in the name of *dharma*’

### A judgment of the Supreme Court of Nepal on mass sacrifices at the Gaḍhī Māī Melā\*

*Chiara Letizia and Blandine Ripert*

#### Introduction

##### *Sacrifice*

The former Kingdom of Nepal, having avoided British rule, preserved many socio-religious practices that were attenuated or reformed elsewhere in South Asia, and animal sacrifice is one of them. The importance of public sacrifices may be due to the persistence of the Hindu monarchy, because ‘Hindu values associate kingship with war, blood and violence’ (Toffin 2016:136). The king had to perform a sacrifice to the goddess whose power (*śakti*) he needed in order to rule. Until recently, even under the Republic, animal sacrifice had not encountered the level of criticism that has prevailed in the modern period in India, where it has been banned or regulated in many states.

\* This chapter is based on short term repeated fieldwork conducted by Chiara Letizia (in 2015, 2017, 2018, 2019) and Blandine Ripert (in 2016–2017) in Kathmandu Valley and Bara District. We wish to thank Philippe Gagnon, Bernadette Sellers and Anthony Good for correcting our English, Véronique Bouillier for commenting on our paper at the workshop *Taking Nature to the Courtroom* at the University of Edinburgh in 2017, and Sanjaya Mahato for his assistance in the interviews in Bariyarpur in 2017 and 2019. Chiara Letizia is grateful to Astrid Zotter for her precious comments and wishes to thank David Gellner, Daniela Berti, Anthony Good, Marie Lecomte-Tilouine and Christoph Emmrich for reading earlier versions of this text. Blandine Ripert wants to thank Pierre Antoine Fabre. We wish to thank the many people who kindly donated us their time and provided precious information for our research: Honourable Ishwor Prasad Khatiwada, lawyers Arjun Kumar Aryal, Hary Phuyal, Arun Kumar Gyawali, Dilli Prasad Neupane and Manoj Giri, animal welfare activists Manoj Gautam, Pramada Shah, Bikesh Shrestha, Sneha Shrestha, Govinda Tandon, Anish Adhikari and Deepjaya Sharma, the *pūjārī* of Gaḍhī Māī goddess (and in particular Mangal, Chandra Dev, Shiva, Manoj, Neules and Sambhu Chaudhary), *dhāmi* Dukhan Kachariya and the members of the Temple Management Committee in 2017 and of the Festival Organizing Committee in 2019. We also thank the President of the Federation of Animal Welfare Nepal (FAWN) for permission to reproduce Figure 7.10. This article is dedicated to the dear memory of Uttam Dahal, founder of Nepal Animal Welfare and Research Centre (NAWRC), who died of illness at the age of 33 on 26 July 2019, and to that of his beloved wife who died only a few days later. Uttam dedicated his entire life to animal welfare; he was one of the petitioners in the case we studied, and he greatly helped us at the beginning of our research.

Animal sacrifice (*bali*, *balidān*) is a widespread practice to deal with (and appease) gods and ancestors and is deeply embedded in the social networks and cosmological views of Nepalese belonging to different castes and ethnic groups, including Dalits (Adhikari & Gellner 2016a).<sup>1</sup> Typically, the animal sacrificed is a male chicken, goat, pigeon or buffalo; the animal is worshipped, it is purified by the sprinkling of water, and its quivering is taken as a sign of its acceptance by the deity and of its consent to being sacrificed. The animal can be decapitated or exsanguinated. Some parts of the animal are gifted to the deities, while the remaining parts are normally consumed by the *sacrifier* (the one who sponsors the sacrifice) and his family, clan, or caste group.

Blood sacrifice is believed to be the 'most effective way to obtain a boon, to satisfy the gods, or to contain or divert these divinities' anger' (Lecomte-Tilouine 2013:39). Sacrifice binds non-vegetarian deities and devotees: vows (*bhākal*) are commonly made, committing devotees to offer a sacrifice in exchange for a fulfilled wish. There is a widespread belief in the power and ability of deities to harm those who do not comply, by provoking diseases, earthquakes, and other disasters. Sacrificing the animal is not understood as a killing ('within the sacrifice, killing is not killing' affirm the *Laws of Manu*, quoted in Michaels 2016:195), but as a meritorious action intended to benefit the *sacrifier*, the sacrificer (the one who performs the sacrifice) and even the victim itself, which is said to greatly benefit from being sacrificed.<sup>2</sup>

Axel Michaels (2016) has described the multiple meanings and functions of shedding blood in Nepal: for a better life or for a higher rebirth thanks to the accumulation of religious merit; for the prosperity and power of the individual *sacrifier* and the group that he represents (family, clan, *guthī*, or kingdom); for protection from evil (the animal being driven out as a scapegoat); or, for building alliances. Sharing and consuming collectively the meat of the sacrificed animal mobilises and promotes social solidarity, as demonstrated, for example, by the worship of clan deities in Bahun-Chhetri communities (Adhikari & Gellner 2016a:252), on the ninth day of Dasaī (Michaels 2016:202–203) or during various festivals, among members of the Newar funerary *guthīs* (Toffin 1976).

Dasaī, Nepal's most important Hindu festival, commemorates the victory of the goddess Durgā over the forces of evil symbolised by the buffalo demon Mahiṣāsura, depicted in the myth of Mahiṣāsuramardīnī, 'Crusher of Buffalo Demon'. During Dasaī, every Hindu household sacrifices animals (or increasingly often a vegetarian substitute) on the eighth and ninth days. The sacrifice offered by the King on the same days was intended to benefit all subjects and to reaffirm the social order and hierarchy and is still celebrated in the secular state. Military elites take part in the sacrifices.

The Gorkhali rulers who created the Nepali state through military conquest or alliances starting from the middle of the 18th century, promoted their own form of Hindu religion: the imposition of Dasaī on their subjects of all castes, ethnic groups and religious traditions was key to the religious integration of the newly formed state (Krauskopff & Lecomte-Tilouine 1996) and blood sacrifices patronised by the

Gorkhali played a key role (Campbell 1995; Gellner 2001; Pfaff-Czarnecka 1996; Ramirez 1993; Zotter 2021).<sup>3</sup>

Marie Lecomte-Tilouine rightly argues that the Dasañ sacrifice can be ‘described as “total” in that it is aimed, as the primordial sacrifice, at maintaining the cosmos, the socio-moral order (*dharma*), kingship, political power at all intermediate levels between the ruler and the householder, as well as all hierarchical relations within the sphere of kinship’ (2013:49). From this perspective, any opposition to sacrifice challenges a cosmological, social and political system of relations among humans, and between humans and non-humans (deities and animals alike).

### *Modern challenges to sacrifice*

Criticism of sacrifice in South Asian religions is very ancient, dating back to the origins of Buddhism and Jainism (see Introduction, this volume), but here we focus on its contemporary manifestations. The first organised protest against sacrifice targeted the festival of Dasañ: at the beginning of their movement for emancipation in the 1990s, some indigenous (*janañāti ādivāsī*)<sup>4</sup> activists interpreted the Dasañ sacrifices as expressions of Hindu high-caste domination. They considered the festival ‘as the commemoration of the “Aryan victory” over their own ancestors’ (Lecomte-Tilouine 2013:50–51; see also Gellner et al. 2008; Adhikari & Gellner 2016b; Hangen 2010; Ikegame, this volume) and identified with the victim. As Marie Lecomte-Tilouine aptly observes, these activists did not denounce violence against animals, but rather the violence done to indigenous groups *through* their sacrifice (2020:204).

Indigenous activists launched campaigns to boycott Dasañ (Hangen 2005; Hangen 2010:144–151) in order to combat the dominance of high-caste Bāhuns (Brahmans) and Chhetris, and succeeded in establishing alternative festivals and discourses (Holmberg 2016). However, Dasañ remains the most important holiday in the national calendar, a time when everyone seeks to be with his or her family, and the practice of animal sacrifice during Dasañ does not seem to have significantly abated.

A more direct attack against the practice of animal sacrifice has come from the modernist reform promoted by activists belonging to different religious groups. These include not only Hindu reformists (Adhikari & Gellner 2016a:249–250), but also Christian missionaries among the Tamangs (Ripert 2014:54),<sup>5</sup> Theravada Buddhist activists among Newars (Leve 2017; LeVine & Gellner 2005) and among Magars (Letizia 2014:302–312), and the influence of Tibetan Buddhism among Hyolmo shamans (Torri 2016) and Sherpas (Ortner 1998).<sup>6</sup> Maoists also banned blood sacrifices during their insurgency (1996–2006): they characterised it as a ‘barbaric custom, antithetical to a progressive society’ (de Sales 2011:121; see also Zharkevich 2019). Even so, this policy became an object of contention: some villagers complained that because of the reform, the crops were not as abundant as in the past.

Since at least the early 1990s, the anti-sacrifice movement has raised the issues of cruelty and animal welfare. Govinda Tandon<sup>7</sup> set up the first organisation in Nepal to deal with animal welfare, the Society for the Prevention of Cruelty to Animals Nepal

(SPCAN) in 1991. He also initiated the first public campaign in Nepal against the killing of animals, which was broadcast both on radio and television.<sup>8</sup>

Thus, many groups and activists, with diverse motivations and vocabularies, have been demanding the end of animal sacrifice in contemporary Nepal. When the five-yearly mass animal sacrifice offered during the Gaḍhī Māī Melā (festival of Gaḍhī Māī) in southern Nepal drew local and international attention in 2009, an increasing number of animal welfare associations, as well as vegan, vegetarian and Buddhist activists, joined the anti-sacrifice movement. These educated, urban-based activists adopted new ways of opposing sacrifice, using legal actions in addition to campaigns and advocacy. This led to three separate petitions being filed at the Supreme Court of Nepal on the eve of the 2014 *melā*. In this chapter, we investigate the legal aspects of contemporary anti-sacrifice activism to understand its role in this sensitive social and religious debate.

### **Public interest litigation**

The legal procedure that allows activists to approach the Supreme Court is called Public Interest Litigation (PIL), a concept borrowed from India.<sup>9</sup> PIL is a constitutional mechanism allowing petitioners acting in the public interest to approach the Supreme Court for an order to stop or prevent the violation of fundamental rights or the implementation of unconstitutional laws, or—on the contrary—to enjoin authorities to enforce an existing law or regulation, or any other order for settling constitutional or legal questions in disputes of public interest where there is no alternative remedy. As in India, the exceptional character of PIL in Nepal lies in the relaxing of the rule of legal standing (*locus standi*), requiring that the litigant have a direct interest in the matter before the court, according to which only the aggrieved party can demand legal remedies.<sup>10</sup>

In both India and Nepal, PIL is used as a tool for changing the social system, that is, as a body of legal knowledge and practice through which activists, but also the judiciary, try to bring about societal change (Berardi-Tadié 2017:266).<sup>11</sup> In PIL the Supreme Court strays from its traditional adjudication role and extends its power into domains within the authority of the legislature and executive branch. The Court, using its extraordinary jurisdictional power and the classical common law writs (*habeas corpus*, *mandamus*, *certiorari*, *quo warranto*, etc.), may call upon the legislative and executive branches of the state to develop and implement effective standards to ensure respect for human rights, thus defining the state's priorities for social justice and the public interest (Berardi-Tadié 2017:270). As in the case studied here, the Court has even demanded the guarantee of new rights not mentioned in the constitution, initiating real legislative activity.

### **Fieldwork**

The goal of our fieldwork was to understand how this court case dealt with animal sacrifice at the Gaḍhī Māī Melā: how the court defined its place and validity, what role the court played in transforming it, but also how the activists used and understood the legal tools and the court authority. More generally, we wanted to

contribute to the growing literature that shows how South Asian courts have become key actors in shaping the place of religion in society (Berti et al. 2016: xv), and to study the role of the Supreme Court of Nepal in defining and transforming the practice of animal sacrifice in Nepal.<sup>12</sup> As we show, while it technically applies to mass sacrifices at the Gaḍhī Māi Melā only, the court decision lays down principles that are applicable to sacrifices in any temple in Nepal and ends up being a discussion of the place of animal sacrifice in Hinduism and in modern Nepal.

Our fieldwork focused on three areas. First, we dealt with the case: we examined the legal documents (the petitions, the defendants' responses, and the judgment) and we conducted interviews with the different parties (the petitioners, the defendants and their lawyers, the judge). Secondly, we studied the tradition contested in this case: we visited the temple and the *mela* and conducted interviews with the main actors (the priests of Gaḍhī Māi temple, the members of the Temple Management Committee, and the members of the Festival Organizing Committee, etc.). To contextualise the actions of the activists who filed the case, we also started looking at the larger landscape of animal welfare in Nepal, focusing on the anti-sacrifice movement. To this end, we conducted interviews with several activists and participated in their campaigns in both Bara District and the Kathmandu Valley.

After a brief description of the Gaḍhī Māi Melā and the campaigns against it in 2009 and 2014, this chapter then turns to the court case, examining the petitions, the responses and the decision of the Court. We discuss the Court's arguments, and the double logic (Hindu reformist on one hand, and secular-legal on the other) that seems to animate them. We also provide some updates on the aftermath of the judgment and on the Gaḍhī Māi Melā of 2019. They show the relevance of the Supreme Court's decision, which was continuously invoked during the campaign preceding the Melā. We conclude by drawing attention to the different conceptions of Hinduism that emerge from this case, and how this case translates the multiple religious meanings of sacrifice in legal, modernist and reformist terms.

## **Gaḍhī Māi Melā and activists' campaigns (2009–2014)**

### *The Melā*

The temple of the goddess Gaḍhī Māi is located on the outskirts of a small town, Bariyarpur, in the Mahagadhimai municipality of Bara District in southern Nepal, about 20 km from Birganj, close to the Indian border (see Figure 7.1).

The temple houses a statue of the goddess Gaḍhī Māi ('Mother of the Fort'), who the priests officiating at this temple describe as the eldest of seven sister goddesses (see Figure 7.2).

Devotees come mostly from the Terai and from Bihar, to ask the goddess favours, especially to grant them a son. According to the *pūjārī*, politicians regularly come to ask for success in elections. They bind themselves to the goddess by a vow, promising in exchange to offer the life of a living being by sacrificing it during the great festival of Gaḍhī Māi, which takes place every five years.<sup>13</sup> Only two days in the *mela* are devoted to animal sacrifices: the seventh day (*saptamī*) and eighth day (*aṣṭamī*) of the bright fortnight of the lunar month of Mangsir (mid-November to



*Figure 7.1* The temple of Gaḍhī Māī in Bariyarpur, November 2019.

*Source:* Photograph by Chiara Letizia.



*Figure 7.2* The goddess Gaḍhī Māī, March 2017.

*Source:* Photograph by Blandine Ripert.

## 8 Chiara Letizia and Blandine Ripert

mid-December); apart from these days, almost no blood sacrifices are made to Gaḍhī Māi,<sup>14</sup> though other kinds of offerings are made (coconut, flowers, sweets). The priests (*pūjārī*) all belong to the Tharu ethnic group: they are the descendants of Bhagwan Chaudhary who initiated this cult and take turns in performing the daily rituals.

The local priests claim that the temple has existed since the Sen dynasty, in the mid-17th century, but most oral sources refer to the mid-18th century. Here, we relate the story that the main *pūjārī*, Mangal Chaudhary Tharu (see Figure 7.3), shared with us in March 2017:

Our ancestor, a local landlord named Bhagwan Chaudhary, was thrown into jail in Makwānpur.<sup>15</sup> He asked the goddess Kālī of the Fort (*gaḍhī*) to set him free, pledging he was innocent. Then the goddess accepted his request and asked him to take her to his village. With the power of Gaḍhī Māi, he was set free from jail and brought Gaḍhī Māi to his village



Figure 7.3 The main *pūjārī*, Mangal Chaudhary Tharu, March 2017.

Source: Photograph by Blandine Ripert.



with a trident (*triśūl*) and soil from the Fort of Makwānpur. Thanks to the power of Gaḍhī Māī, he arrived here (Bariyarpur) overnight. Then he established a temple here and asked her what would please her. The place here was a big forest. She asked for five human sacrifices (*narbali*). 'I am Kālī,' said Gaḍhī Māī, 'so I need human sacrifice.' But it was very difficult to sacrifice a man.

The *pūjārī* explained this as the reason why, to this day, instead of the five human sacrifices drops of human blood are offered from five parts of the body (forehead, tongue, right ear, right chest, right thigh) before the festival begins. This ritual is performed in the early hours of the seventh day (*saptamī*) by a *dhāmī* (medium) (see Figure 7.4) from the village of Simari in Rautahat District, where



Figure 7.4 Dhāmī Dukhan Kachariya in his house in Simari village, November 2019.

Source: Photograph by Chiara Letizia.



Figure 7.5 The *Brahmashthān*, place of Brahma/Baram Bābā, at the foot of a *ficus* tree, December 2019.

Source: Photograph by Chiara Letizia.

it is said that Bhagwan Chaudhary stayed overnight while bringing Gaḍhī Māī to Bariyarpur.<sup>16</sup> With his offering, the *dhāmī* summons the goddess Gaḍhī Māī at the *Brahmashthān*, a holy place located at the foot of a *ficus* tree where the god Brahma (Baram Bābā) resides (see Figure 7.5).

As soon as the goddess comes ‘as a lightning thunder, a fire bolt’ says the *dhāmī*, he is possessed, and an oil lamp automatically lights up. Only at this moment can the main priest perform the *pañcabali* (sacrifice of a goat, a wild rat, a cockerel, a pigeon, and a pig). The *pañcabali* is then followed by buffalo sacrifices offered by the Chaudhari clans at a wooden sacrificial pole in front of the *Brahmashthān*. This pole, locally called Mahikāsur, is thought to represent Mahiṣāsur, the buffalo demon killed by Durga and is ritually changed before each *melā*<sup>17</sup> (see Figure 7.6).

At this point, in the nearby arena,<sup>18</sup> registered sacrificers start the beheading of thousands of buffaloes, which have been brought there by devotees in the days preceding the *melā*. Crowds of devotees gather outside the arena to observe the sacrifices from its enclosure. The scene in the arena in the midst of dawn is particularly shocking to animal rights activists, with the buffaloes being beheaded erratically (not always with one stroke, as the ethic of sacrifice in Nepal requires, and sometimes legs first) by sacrificers who walk around theatrically and threateningly among the herd with their sacrificial swords (Figure 7.7).<sup>19</sup>

On the eighth day (*aṣṭamī*), devotees sacrifice hundreds of thousands of goats and other small animals that they bring themselves. To be accepted by the goddess, this sacrifice must take place within the large limits (around 28 km<sup>2</sup>)



*Figure 7.6* The sacrificial pole Mahikāsūr, December 2019.

*Source:* Photograph by Chiara Letizia.



*Figure 7.7* Sharpening the sacrificial swords and knives on the eve of the sacrifice, December 2019.

*Source:* Photograph by Chiara Letizia.

of Gaḍhī Māī territory (*kṣetra*). In fact, most pilgrims sacrifice once they have crossed the river and entered the sacred area, without making it to the temple. The boundaries of the *kṣetra*<sup>20</sup> are ritually redefined every year in the month of Asadh (June/July) by the *dhāmī*.

The number of participants and animals sacrificed at this *melā* is impressive, but it remains difficult to determine precisely. In his petition, lawyer Arjun Kuman Aryal affirms that 500,000 animals are sacrificed at every *melā*, but the Nepalese and Indian media estimated that 18,000 buffaloes and a total of 250,000 animals were sacrificed during the *melā* of 2009, which was attended by 4 million people.<sup>21</sup> The numbers dwindled considerably in the following *melās*, in the wake of anti-sacrifice activism and legal actions.

The devotees eat the meat of the animals they have brought and sacrificed in the large area around the temple, while the meat of the buffaloes sacrificed inside the arena was traditionally taken by local Chamars (Dalit), who removed the skins and entrusted them to the Temple Management Committee, who sold them to tanneries (the buffaloes' head, blood and entrails were buried). However, from 2009 onwards, local Chamars were refusing to pick up the carcasses of sacrificed buffaloes, remarking that this was demeaning. Inspired by Dalit activists, they refused to take on the pollution associated with buffalo meat (from the high caste perspective, buffaloes are considered impure animals whose milk and dung cannot be used in rituals, unlike those of the cow):

We, as Chamars, are assigned to take care of the skins of sacrificed buffalo. (...) Dalit rights activists came to us to say that Chamars should no longer take any meat. The meat becomes dirty when it touches the mud and the sand on the ground. They said that the meat is not of good quality and sometimes it starts to stink, and it has been an object of shame in the village. (...) So we have stopped.

(Kailas Mahar, interview, 3 March 2017)

At the 2009 festival, the carcasses were left on the ground by local Chamars and rotted away before being doused in chemicals and buried. For the festival of 2014, to prevent this, the Temple Management Committee organised an auction to sell the meat to a contractor, which was locally controversial, as meat from the sacrifice is regarded as *prasād* and therefore should not be sold.<sup>22</sup> However, some Dalits, encouraged by animal welfare activists,<sup>23</sup> came at night with guns and tear gas to forcefully take the meat. According to the president of the Temple Management Committee, this incident put the Committee in breach of contract and consequently it was forced to pay compensation of 50 million Nepalese rupees.

### *The protests (2009 and 2014)*

The already mentioned Govinda Tandon was one of the first activists to react to the massive sacrifices to Gaḍhī Māī goddess as early as 1991. He described the Gaḍhī Māī Melā as a vast business in which illiteracy and blind faith were mixed up with money issues.<sup>24</sup> His arguments are widely repeated by activists today and many of

them were used by the petitioners and the Court itself. He stated, for example, that sacrifice is not mentioned in Hindu scriptures, that it is not *dharma*, but a sin (*pāp*) and a distortion of true Hinduism, itself based on non-violence (*ahimsā*). He also stated that the real sacrifice is not of the animal but of the negative passions that make humans act as beasts, and that the mother goddess, being the mother of all living beings, including animals, would not be happy about animals being killed for her sake.<sup>25</sup>

In 2009, for the first time, the festival was extensively covered by Nepalese, Indian, and international media, drawing international and local attention and prompting numerous protests. International and national celebrities made several attempts to stop the ritual: the ‘Buddha Boy,’ Ram Bahadur Bomjan, who came into the limelight for meditating in the jungle for months, allegedly without water and food, gave a famous speech against the sacrifice at Gaḍhī Māī Melā in October 2009. Brigitte Bardot and Maneka Gandhi,<sup>26</sup> founder and chairperson of *People for Animals* (PFA), India’s largest animal-rights organisation, both wrote to the Nepalese government asking it to put a stop to the killings. The Prime Minister at the time, Madhav Kumar Nepal, from the UML party (Communist Party of Nepal–Unified Marxist–Leninist), replied that they would not ‘interfere in the centuries-old tradition of the Madheshi people’.<sup>27</sup> According to activist Manoj Gautam, the Government contributed 46 lakhs to the *melā* in both 2009 and 2014.

Many Nepalese animal welfare activists involved in different campaigns (for the welfare of stray dogs, or of horses in brick factories, or against breeding monkeys for export to the United States, etc.) started federating and engaging more specifically in protests against animal sacrifice. The Animal Welfare Network Nepal (AWNN), a network with a rotating management team that served to coordinate their activities in Nepal,<sup>28</sup> played an important role in the campaigns against that led to the filing of the PILs against the Gaḍhī Māī Melā sacrifices. In 2010 AWNN stepped up its campaign with the slogan ‘Let’s stop animal sacrifice’ (*Paśubali banda garaū*). Since then, AWNN created a magazine, *Hope for Animals*, wrote and submitted an *Animal Welfare Act*,<sup>29</sup> and produced a shocking documentary, which was shown locally in Bhojpuri and with English subtitles at the international *Asia for Animals* conferences in Singapore in January 2014 and in Kathmandu in December 2017.<sup>30</sup>

Among the people who worked as heads of AWNN and were key players in the campaigns against the Gaḍhī Māī Melā sacrifices, we met Pramada Shah, co-founder of Animal Nepal in 2008,<sup>31</sup> and the charismatic Manoj Gautam, author of one of the PILs filed against Gaḍhī Māī sacrifices. Initially, a wild animal conservationist specialising in river dolphins, Manoj became involved in the fight against animal sacrifice when he realised the scale of the festival. In 2009 he decided to attend the *mela* to be in a position to document it and to make people aware of what was happening there.

Through his organisation *Roots and Shoots*, and later as head of AWNN, Manoj organised press conferences and meetings with the animal husbandry sector, the Livestock Service Department, different organisations in Kathmandu, and the members of the Gaḍhī Māī Temple Management Committee. He also organised

campaigns in more than 90 villages in Bara District, distributing pamphlets, performing street dramas, and showing documentaries in the local language to convince people to cease performing animal sacrifices.

For the 2014 *mela*, AWNN started the *Occupy Gadhimai* campaign, which gathered Nepalese, Indian and foreign activists and again received the support of international and national celebrities (Govinda Tandon, Brigitte Bardot and Maneka Gandhi). AWNN also sought support from very popular Hindu spiritual gurus, like Sri Sri Ravi Shankar and Ram Dev, to explain to people that sacrifice has no place in Hinduism. Swami Agnivesh, then president of the World Council of Arya Samaj, actively participated in the campaign and staged a fast during the festival (Michaels 2016:219): a few days before the *mela*, he gave a press conference organised by AWNN, where he made an appeal to the political leaders of Nepal to stop these ‘medieval barbaric practices’ that spring out of ‘superstition and blind faith’.<sup>32</sup> According to Pramada Shah, this greatly helped the movement.

Since its inception AWNN has received considerable support from the activists of different Indian organisations (Humane Society International, the Federation of Indian Animal Protection Organizations, the Animal Welfare Board of India) and in particular from the members of *People for Animals* (PFA), namely its chairperson, the above-mentioned Maneka Gandhi, and her close associate Gauri Maulekhi, member secretary of PFA in Uttarakhand. This collaboration with their Indian counterparts certainly inspired Nepali activists to use legal tools, because PFA had already used PIL in Uttarakhand High Court in 2010 ‘seeking a blanket ban on pashubali (animal sacrifice) across the state of Uttarakhand on the grounds that it was a social evil and not required by the “Hindu religion”’ (Govindrajan 2014:212).<sup>33</sup>

Similarly, the petition *Gauri Maulekhi v. Union of India*<sup>34</sup> was a direct outcome of the concerted actions between Nepali and Indian activists to prevent the illegal export of animals from India into Nepal at the time of the Gaḍhī Māī Melā. In October 2014, an interim order from the Supreme Court of India in response to this petition ordered that cattle no longer be exported to Nepal during the month of November when the Gaḍhī Māī Melā is celebrated. This order was directed at the states of Uttarakhand, Uttar Pradesh, West Bengal and Bihar, which share an international border with Nepal. According to one of the *pūjārīs* of Gaḍhī Māī, this ban had a big impact in reducing the number of animals sacrificed, since nearly 70% of the animals to be sacrificed entered Nepal from India.<sup>35</sup>

## **Public interest litigation against sacrifices at the Gaḍhī Māī Melā (2014)**

### *Petitions*

In November 2014, just before the *melā*, three PILs challenging the practice of animal sacrifices at Gaḍhī Māī Melā were filed at the Nepal Supreme Court.<sup>36</sup> The first petition was filed by two individuals (advocates Arjun Kumar Aryal and Saroj Kumar Neupane), while the second and third were sponsored respectively

by the Animal Welfare Network Nepal (AWNN), at that time directed by Manoj Gautam,<sup>37</sup> and the Nepal Animal Welfare and Research Centre (NAWRC), under Gita Prasad 'Uttam' Dahal.<sup>38</sup>

The petitioners saw PIL as a more powerful tool than their own social media and education campaigns, or political lobbying. One of the animal right activists saw PIL as a 'weapon' at their disposal in their war against animal sacrifice. The petitioner Uttam Dahal was sure that legal means were the only way to stop sacrifice in Nepal: 'AWNN does a lot of activism and public awareness, but I think that is not useful. People know that animals suffer, but don't change. Without law there will not be any change. Awareness programmes do not work without the enforcement of the law.'

Lawyer Arjun Kumar (who presented himself as a Hindu person concerned about the need to get rid of superstitious, globally infamous traditions), told us that he saw lawyers as 'social engineers' who see the contradiction between the law and the constitution, and who change society through the petitions.<sup>39</sup> Manoj Gautam told us that while he believed in the power of PIL, in the beginning (i.e. in 2009) he was hesitant: without sufficient preparation and experience, it was a double-edged sword carrying the risk of creating a bad legal precedent. He felt that the likelihood of failure was strong, as the Court, which 'back in those days, was not very progressive', could easily have quashed the petition in the name of the right of religion. Also, he was aware of the risk that an eventual positive decision might not be implemented or would be counterproductive, as it might ruin the dialogue that he had established with the *pūjārīs* and the Ministry of Livestock Development:

We were in a dilemma like whether or not we should file a Public Interest Litigation because that would ruin our relation with them (*pūjārīs*). I kept delaying the PIL thing because you don't want enemies, you know? If talks do, if mutual trust does, then... (...) In the past we filed a Public Interest Litigation and we won. We sued the government and till the date if I need any permission from the Department—anyone else, a new boy, just a fresh graduate will get the permission easily—I won't! People in the Department have changed—some died already, many retired, some got demoted—but the institutional memory still treats you as 'someone who dared to sue us'. So, I know what it feels like to be the victim of that kind of resentment just because you dared. So I've always been very cautious about when to strike with the judicial intervention.

In the end, Manoj filed a petition in 2014, out of what he saw as a 'responsibility' and a 'moral pressure' to do everything possible, since AWNN was getting support from all over the world.

The first two petitions requested that the court issue an order to the respondents to stop animal sacrifice altogether, while the third sought an order to compel the government to implement existing laws and regulations.<sup>40</sup> The three petitions overlapped on many points and followed two lines of argument, namely that certain laws were not being enforced, and that animal sacrifice was in fact contrary to Hindu religion.

**Implementation of existing laws (environment, public health)**

All the petitioners stressed the negative environmental impact of Gaḍhī Māī Melā and the danger it posed to public health. The petitioners pointed to the failure of the government to implement the relevant existing laws that apply to animals when they are imported, transported, kept on the sacrifice site, or subjected to the sacrifice, and then when the meat is sold and transported for consumption. They affirmed that there was no mechanism in place to control the import of animals (and referred to the Interim Order of the Supreme Court of India forbidding the exportation of animals to Nepal for the festival), to ensure their quarantine, examine the health of the animals and inspect the quality of the meat. They argued that the carcasses left in the temple area in huge numbers polluted the environment and created a public health hazard. They also raised issues of cruelty to animals, not only in the way they were killed (randomly, and often not with just one stroke) but also in connection with their transportation and general treatment before the sacrifice (without water or food or proper shelter). They also argued that all the blood and violence give rise to criminal thoughts and were having an adverse psychological effect on children (see Table 7.1).

**‘Sacrifice is not Hindu’**

The second line of argument concerned sacrifice. The first petition in particular portrayed sacrifice as a form of degeneration due to ‘superstition’ (*andhabīśvās*), contrary to what it argued to be the Vedic injunction and the spirit of ancient Hindu religion, based on the dictum *ahiṃsā paramo dharmah* (‘Non-violence is the supreme dharma’).

The idea that sacrifice is not a Hindu practice was a recurrent element in the interviews with the petitioners who said, for example, that ‘animal sacrifice is not described or prescribed in Hindu scriptures’, that ‘the real meaning of *bali* is the sacrifice of our negative passions’, and that ‘modern Hinduism must be cleansed

Table 7.1 Issues raised and laws invoked by the petitioners

<i>No mechanism in place for/absence of control of</i>	<i>Act invoked<sup>41</sup></i>
Health of animals, Quality and safety of the meat Public health	Food Act, 2023 BS (AD 1966) Animal Slaughterhouse and Meat Inspection Act, 2055 BS (AD 1999) Communicable Diseases Act, 2020 BS (AD 1964)
Quarantine of imported animals Cruelty towards animals	Animal Health and Livestock Services Act, 2055 BS (AD 1999)
Environmental issues Pollution	Art. 16 (1) of the Interim Constitution (Right to live in a clean environment) Environment Protection Act 2053 BS (AD 1996)
Impact on child psychology	Art. 17 of Convention of Rights of the Child, 1989; pursuant to Section 9 of the Treaty Act



of violence'. Sentences like *bali prathā dharma hōina* ('the custom of sacrifice is not dharma'), supported by citations from Sanskrit scriptures, were found in each leaflet that the activists distributed during their campaigns in front of temples where the devotees lined up to offer sacrifices.<sup>42</sup> The devotees were cautioned that they were acting on an erroneous belief that sacrifice was a religious activity.

The activists whom we met during fieldwork insisted that 'killing in the name of Dharma' was an aberration and that the blood defiled holy places. In the words of Pramada Shah (President of *Animal Nepal*):

I say eat meat but don't do it in the name of God. Why are you defiling the Goddess, who is supposed to be the mother, and it is now going to take a life? (...) Religious places are meant for worship and peace, where you go to feel good (...), not to see an animal being killed in front of you, not everybody likes it (...). Do it in your homes, you will do it anyway, you are eating the meat. (...) There are people who want to go to temples and not see blood, and it is really not required by the religion.

The activists told us that they were accused of attacking Hindu traditions and acting in collusion with Western Christians. To pre-empt these accusations, they strongly advocated that they were acting as Hindus. Pramada Shah, who, furthermore, is related to the royal family, observed:

The lead has to be taken by Hindus, because we live in a Hindu country and it's not easy, as there are people saying that we are going against religion (...) So it's easier for people like us (...)—to talk about it as Hindus because... maybe it is easier for people to understand when it's coming from people from their own religion.

The activists insisted that they wanted to reform the tradition exactly *because* it is valuable to their eyes, in order to preserve it.<sup>43</sup> Manoj commented on this aspect:

That's one of the challenges that we have to deal with, that you really could get tagged as a Christian missionaries-backed entity. Anti-Hindu of some sort. So, we have always made it clear that it is our genuine Nepalese initiative. We're not doing this because some foreign entities are backing that. And we are Hindus. I'm not a very super religious person, but I am a born Hindu (...) and I take pride in it. So, we needed to make it clear that it is because we are Hindus that we need to cleanse it.

We cannot keep this kind of violence going on. Otherwise, Hinduism doesn't have a future, basically, because nobody in this century supports that kind of open sanctioning of violence.

***Nepal's reputation***

The petitions also argued that the *melā* was giving Nepal a bad global reputation, as it was now infamously known as the place of the largest sacrifice in the world. This was a sensitive subject that was also taken up by the Court.

When the Gaḍhī Māī Melā became a global highlight, international activists joined the campaign, normally without respecting the cultural context. Manoj Gautam observed that while Nepali activists, aware of the sensitivity of the issue, had made a point of working respectfully and in collaboration with the locals and avoiding conflict, a bad side of the internationalisation of the campaign was the appearance of hate speech on social media calling Nepalese ‘barbarians’. AWNN on its (now defunct) website then asked, ‘all the International Supporters to realize the sensitivity of the issue, and not doing anything on behalf of AWNN that might be responsible in creating disharmony, unrest, or negativity’.

At the time, one could also read in Nepali newspapers rare comments defending blood sacrifices. However, these comments did not defend the traditional value of sacrifice nor did they assert the existence of scriptures supporting the sacrificial practices: instead, probably in the wake of the heinous messages on social media, they took the form of a nationalist reaction and resistance against the criticism of the so-called civilised West attempting to teach a lesson to the Nepali ‘barbarians’, for whom the Gaḍhī Māī sacrifice is sometimes the only meat they eat for a whole year (see Michaels 2016:214).<sup>44</sup>

Deepak Adhikari noticed that the Gaḍhī Māī Melā of 2014 was celebrated on the same date (27 November) as Thanksgiving, which has its own mass slaughter of millions of turkeys. He noticed the hypocrisy of labelling the Gaḍhī Māī Melā as barbaric and inhumane, while ‘the inside of an industrial scale abattoir in Europe is probably just as scary.’<sup>45</sup> Adhikari remarked: ‘In this battle between local organisers and animal rights activists supported by international celebrities, the issue of its cultural importance to people in India and Nepal was lost’ (Adhikari & de Vries 2014).

***An alternative sacrifice***

Referring to Nepal’s bad reputation stemming from the mass sacrifice at Gaḍhī Māī Melā, the third petition sought to ‘minimise these allegations against the nation’, and asked the Court to order the formation of a committee to promote ‘symbolic’ (*sanketik*) sacrifice and to raise awareness for ‘alternative’ (*vaikalpik*) sacrifice, with traditional vegetarian offerings,<sup>46</sup> and the first petition also proposed the offering of flowers as an alternative to sacrifice. During their campaigns in the villages of Bara District, AWNN activists had also tried to suggest that the goddess would prefer sweets to the lives of animals:

We would ask: ‘Are you really sure that Mother Gaḍhī Māī really wants it (the blood of the animal)? What makes you so sure that Mother is actually happy with this? (...) you could actually be making Gaḍhī Māī really feeling

hurt (...)’ So everything would come down to fear now. It’s psychology of fear (...) The only reason you would make them switch from a goat to a pack of sweets is the fact that they might unintentionally be hurting Mother.

(Manoj Gautam, interview, June 2017)

### *A senseless sacrifice*

During interviews, petitioners underscored the difference between a ‘traditional’ way to sacrifice (i.e. one that was familiar to them)—limited to a few animals and ‘with purpose’—and what looked like a massive, ‘senseless massacre’ at Gaḍhī Māī Melā. Lawyer Hari Phuyal affirmed that one of his arguments during the hearing was about the notion of ‘purpose’ (of sacrifice). He compared the reality of the villages in the hills where he used to live as a child, where people sacrificed and ate meat once a month, with mass sacrifices at Gaḍhī Māī Melā, which he defined as cruel, unnecessary, and senseless:

Why are you sacrificing? There must be a purpose. For example, if you go to Manakamana, people go with goats. (...) People bring home the body and eat it: it is not thrown away. The essence of sacrifice is to sacrifice, and also to eat the meat. But in Gaḍhī Māī, what is the purpose? People do not wait in a queue to get the body.<sup>47</sup> So my argument was, I cannot argue 100% against sacrifice, but it must be with purpose. And I don’t see any purpose in sacrificing such a huge number of animals in a very cruel manner. It is simply a cruel behaviour and unnecessary, without purpose, that is what I argued.

And the animal welfare activist Manoj Gautam, remembering the first time he witnessed the *melā* and saw the buffaloes being randomly and cruelly hacked:

What I knew as animal sacrifice was totally different. One individual animal (...) you worship it first. You ask the animal’s soul for forgiveness beforehand. And you make them agree. I mean it’s hypocritical but (...) I think that’s showing respect to the life of the animal at least. I grew up seeing the animal sacrifices, which used to happen in my house as well. (...) You have one strike (...) you cannot mess it up (...) You have to kill the animal, but you’re not supposed to give him any extra pain (...) And you’re not proud of what you’re doing, there’s some kind of guilt there.

*There* (in Gaḍhī Māī Melā) there was no guilt. There was no respect. There was no worshipping... when those two hundred butchers are led into that arena with these big, long knives... And then they go and start hacking. And there’s no worship. There’s no one-to-one with that particular animal. Nothing, you know? I was shocked. (...) It didn’t make any sense. Why would anyone do that in the name of the goddess? You’re not even thinking about the goddess when you’re doing that. It was just totally different from what I’ve seen.

So, I thought OK there's no religion there. There's no goddess there. There's no devotion there. So... This must be sports. This is a game basically (...)  
And then I thought OK maybe there is a chance that you can shake things because everybody says, 'it's a faith, it's a religion, fundamental rights.' So maybe there is a chance, because it clearly is not about devotion, it clearly is not about God.

## Respondents

The respondents included the Government of Nepal, several of its Ministries, as well as the Gaḍhī Māi Temple Management Committee and the Gaḍhī Māi Festival Organizing Committee.<sup>48</sup> All the parties agreed on the importance of preventing cruelty to animals and protecting public health and the environment, but they disagreed on the adequacy and implementation of laws, and on whether there was a real concern for safety.

Some of the ministries stated simply that they were not concerned, that no laws were being infringed or that other available remedies (besides the PIL) existed. Other respondents argued that the laws of Nepal do not prohibit sacrifice and that once the festival was over, there was no need to issue an order. As for the religious matter, they said that sacrifice was a matter of religious freedom and that the right of religion should be respected, but they did not offer detailed arguments.

The only exception was the written response of advocates Arun Gyawali and Dilli Prasad Neupane representing the Gaḍhī Māi Festival Organizing Committee and the Gaḍhī Māi Temple Management Committee. Their response starts by denying the *locus standi* of the petitioners, even though the exceptional character of PIL lies precisely, as we have seen, in the relaxing of this rule.<sup>49</sup> During our interview, Advocate Arun Gyawali marked his territory as a local lawyer from Bara District who lives very close to the temple and as such is helping and has already helped the Temple *pro bono*.<sup>50</sup> He insisted that the other petitioners did not have the *right* to file the petition since they were not locals,<sup>51</sup> and the question ultimately belonged to the feelings and beliefs of local people, who would never file a petition against a local tradition.

Gyawali and Neupane presented Gaḍhī Māi sacrifices as a valid and historical Hindu tradition attracting millions of deeply religious devotees and promoting tourism: they affirmed that the temple was a place of worship consecrated to the goddess (*śakti pīṭha*),<sup>52</sup> that the proper way to worship her is sacrifice, and that, ever since the Vedic era, the sacrifice of five animals (*pañcabali*) has been offered. They also dismissed any accusation of cruel treatment or mismanagement of animals. They argued that animal sacrifice was an ancient tradition widespread in Nepal, and that stopping it would infringe (*khalal pugne*) on the religious faith of the people (*dharmik āsthā*) and constitute a direct interference (*hastakṣep*) in religious traditions (*dharma paramparā*).<sup>53</sup>

In our interview, Gyawali argued that it is impossible to stop sacrifice, because devotees have made a vow to sacrifice to the goddess as per their belief. He also insisted on the power of the goddess Gaḍhī Māi and on the danger of incurring her

wrath: after explaining various supernatural events occurring during the *melā*,<sup>54</sup> he told us about a bad car accident that happened to one of the opposing lawyers, which he interpreted as a proof of the dangerous power of the goddess. This interpretation of the accident had certainly circulated: during his interview, the lawyer who suffered the incident confirmed that it was shared even by his family, and that one of his office colleagues, who comes from the area near the temple, refused to argue the case because he was scared of the power of the goddess. These stories, which emerge only in informal conversation and are not present in the court documents, show that the parties, independently from the role they had in the case, all shared the perception and understanding that the goddess is powerful and dangerous.

During the hearing, the main *pūjārī* of Gaḍhī Māī temple also used the argument of tradition and faith, stating that he had just inherited the role of priest, and his duty was to do what his predecessors did. He added that he never asked devotees to bring animals to sacrifice, and that it was up to them, according to their belief. During our interviews, the *pūjārī* affirmed:

If people are willingly making a sacrifice when their wishes are granted by Gaḍhī Māī, who are we to stop the sacrifices? The priest never asks any animal sacrifice to people and so can't force people to stop sacrificing. Even if I ask devotees not to bring animals, they will simply not believe me. It is not me asking to bring animals to sacrifice, they bring it. I can suggest not to sacrifice or offer an alternative sacrifice, but whether people will follow or not, it is up to them.

Using the same logic, the secretary of the Temple Management Committee referred to vows that bind people into performing a sacrifice and at the same time free the Committee from any responsibility to intervene and change the tradition:

People promise to sacrifice buffaloes and goats if their wishes are granted and what should they do—sacrifice or not sacrifice? They have promised and what should they do? They should offer the things that they have promised. We never told them 'You should offer this,' it's upon them. If you don't fulfil your prior commitment and if some accident happens to you, for example, if your child dies, then who will take the responsibility of it? So, people are scared of that. So, this is a matter of faith. We here are assigned only to manage the *melā*. Whatever people bring to the *melā*, money, fruits, gold, silver, animals and so on, we manage them.

With the respondent's arguments, the religious matter became central, because there was a fundamental disagreement on whether sacrifice is part of Hindu religion. Whereas the petitioners talked of a perversion of true Hinduism, the respondents presented it as a valid, historical Hindu tradition and devotion protected by the right to freedom of religion. And whereas the petitioners denied the validity of

the religious purposes that justify the mass sacrifice of animals, the respondents invoked faith and divine power.

### **Interim order (2014) and the ‘Delhi-Patna incident’ (2015)**

In November 2014, only a few days before the *melā*, Justice Gobinda Prasad Upadhyaya issued an interim order to the locals, administration and police to manage the festival as per existing laws. According to activist Manoj Gautam, the order was simply ignored and despite some superficial and pro forma actions by the Department of Livestock, everything went on as before.

Pending the court’s final ruling, the public debate exploded in July 2015 when the sensational news was published on the website of *Humane Society International—India*, announcing victoriously that ‘animal sacrifice had been banned at Nepal’s Gadhimai Mela’.<sup>55</sup> It was reported that the Temple Management Committee, during a press conference in Delhi organised by Humane Society International—India, had declared that animal sacrifice in Gaḍhī Māī Melā would stop. The news (accompanied by the text of an agreement signed by representatives of the Gaḍhī Māī Temple Management Committee<sup>56</sup> and by a statement from its chairman<sup>57</sup>) immediately circulated on Indian websites and internationally, and was reported by Nepalese newspapers.<sup>58</sup> However, on the very next day, the chairman of the Temple Management Committee dismissed the news.<sup>59</sup>

When we asked about the incident, the main *pūjārī* denied having ever made such a statement but confirmed that he and other members of the Temple Management Committee had been invited on several occasions by Maneka Gandhi and other Indian activists (in Jaipur, Patna and Delhi) where they had received a lot of pressure to declare the end of animal sacrifice at the Gaḍhī Māī Melā. This incident sparked the widespread but erroneous belief, found on many social media, on Wikipedia,<sup>60</sup> newspapers and even in academic publications, that animal sacrifices at Gaḍhī Māī Melā were abolished in 2015.

### **The judgment**

The two-bench judgment, rendered by Hon. Justices Iswhor Prasad Khatiwada and Anil Kumar Sinha on 4 August 2016, dealt with the three petitions together. The ‘pro-modernity’ and ‘for social progress’ bias of the Court is explicit throughout this forward-looking judgment, which distinguishes religion from superstition and examines the textual tradition of Hinduism to challenge the idea that sacrifice is an essential Hindu tradition. It also deplores the lack of legislation and the failure to implement existing laws and aligns with global developments in the protection of the environment and animal rights. This rich, 51-page judgment is only partially described here: for the limited scope of this chapter, we focus on the sections where the Court deals with the nature and validity of animal sacrifices (paragraphs 25–33).<sup>61</sup> We also refer to two interviews with Justice Iswor P. Khatiwada, in May 2017 and July 2018.

### ***A matter of public interest***

Since the respondents had argued that the petitioners did not have *locus standi*, that is, that they did not meet the necessary qualifications to file such a petition, the Court made a thorough analysis of the right to institute a PIL, and summarised the jurisprudence on this matter in Nepal.<sup>62</sup> The Court affirmed that determination of the 'public interest' is to be made on a case-by-case basis: not every matter of public concern is justiciable. Also, it agreed that an applicant must have a 'meaningful relation or substantial interest' in the matter in dispute, and show that he or she is able to adequately represent the issues. After reviewing the relevant facts and arguments, the Court decided that several elements of this case were 'by nature and at *prima facie* of public interest', that this case did not concern only the people of Gaḍhī Māī area and that the petitioners could represent the interest of the public. It is worth noting that among the issues of public interest (public health, environment, etc.), the Court included the superstition of some Hindu people, which it treated as an obvious 'matter of concern to Hindu citizens in the country'.

### ***Getting rid of superstition and old beliefs***

The Court acknowledged that animal sacrifice is a widespread tradition in Nepali society, practised by a large segment of the Hindu population<sup>63</sup> but asserted that the modern, scientific age should not accept 'superstitions':

The present age is 'the age of science and awareness' (*vigyān ra cetanāko yug*). The modern age (*ādhunīk yug*) cannot accept conservative superstitions (*ruḍhivādī andhabīśvās mānyatā*) (...) To establish new practices, it is necessary to replace the old ones. The old concepts (*purāṇo mānyatāharu*) prevailing in society under various names, like rituals (*sanskār*), tradition (*paramparā*) and customs (*prathā*), need to be set aside (...) If we accept that whatever has been done in the past is good and unchangeable (*aparivartanīya*), there is no possibility of modern social change (*sāmājiko ādhunīk parivartan*). We should dare to give up wrong things (*galat kurā*) and accept good ones (*asal kurā*). Animal sacrifice should also be considered from this angle.

In our interview in 2017, Justice Khatiwada presented himself as a Hindu, and observed that one should distinguish religion, based on philosophical and rational principles, from superstitious beliefs, which are 'unwanted and unnecessary later accretions' that should be abolished.

### ***The authority of the court to deal with religious matters and discuss Hindu texts***

To the question whether it is the role of the Court to determine what religion is and what a superstitious addition is, Justice Khatiwada replied that if the issue at hand is purely a religious matter,<sup>64</sup> not coupled with any legal question, giving a religious

interpretation is not a matter for the Supreme Court, but for priests and *paṇḍits*. However, when the religious question is entangled with legal issues, he said, *then* the Court has to intervene in the religious matter.

For Justice Khatiwada, animal sacrifice is obviously not a purely religious matter, because it is entangled with other matters falling within the purview of the Court, like the protection of the environment and public health, cruelty towards animals (and, a bit surprisingly, he added to the list the matter of ‘cultural deviation’, which we discuss below). In the judgment, the Court observed that the parties themselves had placed religion at the centre of the dispute (the petitioners having raised questions of belief and superstition, and the respondents having invoked the right of religion), putting the Court in a position where it had to adjudicate on these questions.

Moreover, the Court affirmed its authority to discuss Hindu texts and practices and make some religious analysis. When asked whether for his discussion of the scriptures in the judgment, he had consulted a priest, Justice Khatiwada responded that it was his own argument, based on his own understanding: he said that he owns and regularly reads Hindu scriptures, he does not need to quote *paṇḍits*. With this authority, the Court proceeded to determine whether animal sacrifice is a valid expression of Hinduism.

#### *Animal sacrifice is not part of Hinduism*

The Court found that the practice of animal sacrifice could not be considered an essential part of the original Hinduism<sup>65</sup> (and therefore should be stopped), because it was not supported by Hindu scriptures.<sup>66</sup> The Court declared that Hindu scriptures (Vedas, Upaniṣads, Purāṇas, the Rāmāyaṇa, the Mahābhārata, and the Bhagavadgītā)<sup>67</sup> did not mention animal sacrifices in relation to gods and virtuous persons, and that *yogis*, *mahārṣis*, and *sants* did not perform sacrifices in their ‘*hom*’ or ‘*yagya*’ rituals. It then distinguished Hindu gods like Kṛṣṇa and Rām (not associated with sacrifice and providing good examples to inspire and guide our lives) from demons with an evil nature, like Rāvaṇ and Kaṃsa, who are associated with animal and human sacrifice, and should not be followed. Moreover, the Court remarked that the practice of animal sacrifice actually goes against Hindu norms of non-violence and, as such, should not be taken as a valid practice of this religion. Echoing a recurrent theme of the activists’ discourse, the Court affirmed that ‘we should sacrifice (*bali dinu*), renounce (*tyāg garnu*) to evil tendencies like lust (*kāma*), anger (*krōdha*), greed (*lobha*), delusion (*moha*), and jealousy (*irṣyā*)’.<sup>68</sup>

To the respondent’s argument that devotees believe animal sacrifice is necessary in order to ‘please’ (*kuṣī pārnū*) the goddess Bhagawati, the Court responded that according to the scriptures, the goddess Bhagawati is known as ‘she who gives birth to the world’ (*Jagat Janani*); and as the Mother of all life, she could not be happy with the sacrifice of her beloved children.<sup>69</sup>

To the argument that people sacrifice animals to gain power (*śakti*), the court responded that getting power is a matter of work, willpower, context and chance, and that to rely on unseen (*adr̥śya*) and ‘imaginary’ (*kalpanātīti*) things to gain power



under the guise of religion will not permit a progressive change in society. Raising social awareness (*sāmājīk sacetanā*) in this context is therefore essential.

The Court concluded that brutally killing thousands of animals 'in the name of religion or tradition' (*dharma vā parampārako nāmma*) is not suitable for the modern civilisation of the twenty-first century: it is just a misconstrued practice based on superstition and must be abolished. The Court did not mention the killing of animals at the butcher's shop or in slaughterhouses, but this type of killing seems implicitly validated by the Court's discussion of laws on animal cruelty and public health. As Justice Khatiwada mentioned in our interview, one should distinguish killing to eat meat (which is still appropriate) from killing to fulfil a religious purpose (i.e., 'in the name of Dharma'), even though the two are intermingled in animal sacrifice, one clear function of which is to consume and share the meat of the sacrificed animal:

My personal view is that in the end, if we can, sacrificing animals in the name of religion should be finally prohibited. Eating meat, being non-vegetarian, is one thing; and sacrificing in the name of religion is a different thing: and they should be separated.<sup>70</sup>

### *Nepal as a holy land*

The Court stressed that Nepal is a holy land (*punya tapobhūmi*) of various *ṛṣis*, *sadhus*, and *sants*, the birthplace (*janma-bhūmi*) of various national heroes including Sita and Gautam Buddha, guided by the notion that 'non-violence is the supreme dharma', and its social values are guided by love and goodwill. Accepting the petitioners' argument, the Court deplored that this holy Nepal has become known as the land of the largest animal sacrifice in the world, in circumstances that 'cannot become a matter of pride in modern society'.

### *Animal rights, public health, the right to a clean environment*

The Court turned to the legislation of foreign countries and the guidelines of international organisations, noting that many have extended the principle of right to life to animals, and it gave an overview of the relevant international organisations and legal instruments.<sup>71</sup> It summarised the history of animal rights, quoted from American literature on animal rights, citing Peter Singer in *Animal Liberation* and referring to his concept of speciesism (Singer 2009),<sup>72</sup> and noticed that no law on animal rights has been enacted in Nepal so far. Then the Court considered the issue of cruelty against animals, referring to the physical and mental stress experienced by animals, as discussed by Temple Grandin and Catherine Johnson (2004). Looking at the laws of 14 foreign countries, the Court concluded that legislative efforts in Nepal have been weak, since cruel behaviour towards animals is not even addressed, let alone penalised.<sup>73</sup>

The Court decided that it was necessary to order the Government to work for the effective implementation of the Animal Health and Livestock Services Act, 2055 BS so as to define and penalise cruel behaviour against animals.<sup>74</sup>

The Court also considered public health issues, linking them with environmental protection. It explained in detail the danger created by the mass animal sacrifice at Gaḍhī Māī Melā, cited the lack of effective and reliable management in matters of animal quarantine examination and meat inspection, and turned to the Acts that should be implemented (Animal Slaughter and Meat Inspection Act, The Food Act).

The Court finally referred to cases that decided that the right to a clean and healthy environment comes under the right to life (and thus, it has a status equal to a fundamental right under Nepal's 2015 constitution) and affirmed that there is an urgent need to protect this right.<sup>75</sup> The Court concluded that 'from any point of view: religious, social, cultural, ecological, moral and logical, the existence of the practice of animal sacrifice is inappropriate, and therefore it should be eventually stopped'. The Court gave two orders: a directive order and an order of *mandamus*.<sup>76</sup>

***Directive order (nirdēśātmak ādēśa): abolish, but gradually***

Acknowledging sacrifice as an ancient practice deeply rooted in Nepali society, the Court did not deem it appropriate to issue an order to stop it immediately. Instead, it issued a directive order, to ask the Government and concerned ministries<sup>77</sup> to make a strategic plan to end sacrifice within a specific time frame, and in the meantime, to raise public awareness and develop policies aimed at reducing and discouraging sacrifices,<sup>78</sup> and to submit sacrifices to effective health and environmental controls. Importantly, the court also asked the government to enact laws for defining and ensuring animal rights, to control cruel behaviour against animals and promote animal welfare. The Court pointed out that it would be necessary to study the example of other countries and enact laws that accorded with Nepal's social context.

Justice Khatiwada commented:

In the directive order (...) I just asked the government to fix some target and then, starting from that particular date, sacrifice should be stopped (...) So there will be a gap between the date of the enactment of the law, and the date of the enforcement of the law. Between these two dates (...), the government has the time to educate people, and to make them aware that after that particular date, sacrifice will be penalised, so people will be mentally prepared and they will accept it. That is the way.

***Order of Mandamus (paramādeśko ādēśa)***

The Court also issued a *mandamus* ordering the government to take immediate measures while sacrifice was still taking place, to minimise the suffering of animals, ensure public health and safety, and safeguard the environment. It ordered it to set up a committee pursuant to section 27 of the Animal Health and Livestock Services Act to prohibit cruel behaviour towards animals and birds when performing sacrifices or transporting animals for this purpose; to fully implement the Animal Slaughter and Meat Inspection Act; to institute the mandatory and effective

quarantine inspection and certification of imported animals, and set up check posts; to control environmental pollution that may occur during the Gaḍhī Māī Melā; to maintain a clean and healthy environment in and around Gaḍhī Māī temple; and to manage the meat and the skin of the sacrificed animals so that it will not adversely affect public health; and importantly, to refrain from inspiring or supporting any animal sacrifice directly and to discourage such acts.<sup>79</sup>

During the interview, Justice Khatiwada explained the different nature of the two orders. The *mandamus* orders an authority found to be in default of its legal obligations to act in accordance with the law. Ignoring such an order can become an issue of contempt of Court. The directive order (which he called 'a soft order') draws the attention of the legislators to an area that needs their immediate intervention. Thus, the directive order did not simply order the enforcement of existing laws, but intervened actively to start a process of legislative work, demanding the guarantee of new rights and proposing new values and orientations. As noted above, the PIL procedure extends the Court's power into domains within the authority of the legislature and the executive branch.

### **A few remarks on the judgment**

#### *An important precedent*

This decision ends up being a discussion of the place of animal sacrifice in Hinduism. A first important element is that it sets an important precedent, because it lays down principles that have a broad application. During our interview in 2018, Justice Khatiwada called his ruling a 'benchmark' and observed:

Technically, the order applies only to Gaḍhī Māī Melā sacrifices; however, this is a judgment of the Supreme Court, so (...) we are laying down principles that can apply to other temples. For, if such a thing is not permitted or acceptable in Gaḍhī Māī, why should the same thing be permitted in other places? (...) The same principle could be replicated in another place.

#### *The two perspectives of the judgment*

Two fundamental and interrelated perspectives seem to animate this judgment: one secular legal, the other Hindu reformist. In the first perspective, what authorises the Court to intervene to restrict or reform religious practices (here sacrifice) is that this religious practice infringes on other fundamental rights, which we consider as the negotiation and legal definition of the space of religion in a secular state. As mentioned above, for Justice Khatiwada, animal sacrifice is entangled with other matters that fall within the purview of the court.

In the second perspective, what authorises the Court to intervene is the fact that these practices are considered non-Hindu on the basis of a reformist religious argument. It is from this perspective that the judge adds the above-mentioned notion of 'cultural deviation', which enters the domain of Hindu religious reform (see Table 7.2).

Table 7.2 The two perspectives of the judgment

<i>Secular/Legal arguments</i>	<i>Religious/Reformist arguments</i>
The court intervenes when a religious practice infringes on fundamental rights	The court intervenes because the religious practice is not Hindu (i.e. not mentioned in religious scriptures regarded as authoritative: it is a later accretion to be corrected)
Negotiation of the space of religion in a secular state	Cleansing Hinduism from superstitions
Religion entangled with matters regarding the protection of the environment/public health/cruelty to animals	Religion entangled with matters of ‘cultural deviation’
Judicial authority to order the implementation of Acts	Religious authority to discuss religious texts, to define the essence of religion and the reform of practices

The arguments and language of the second perspective echo many themes of Indian jurisprudence, in particular the distinction that post-colonial courts have made between the ‘essential part of religion’—which enjoys constitutional protection, and for which the principle of non-interference has been reaffirmed—from ‘superstitious beliefs and practices’, which may be abrogated in the name of social progress (Berti et al. 2016: xvii; Tarabout 2018; Good, this volume).<sup>80</sup> Justice Khatiwada in our interview defined ‘superstitious practices’ (like animal sacrifice) as ‘later accretions’, echoing the term used by reformist Justice B. P. Gajendragadkar in delivering the judgment for *Durgah Committee Ajmer v. Syed Hussain Ali* in 1961. This decision affirmed that constitutional protection is only given to the ‘essential and integral part of a religion’, and this excludes not only secular practices, but also practices that, even though a community believes them to be essential to their religion, may have sprung from superstitious beliefs and may be in that sense ‘extraneous and unessential accretions to religion itself’ (Bhagwati 2005:46; Fuller 1988:229; Tarabout 2018).<sup>81</sup> Thus, as Berti et al. remark: ‘In a way, judges never interfere in religion, solely in practices they deem to be superstitious’ (2016:xxix).

### *The ‘Dharmaśāstrification’ of Hinduism*

The discourse against superstition is a discourse on what constitutes a proper religion. To distinguish original religion from superstition, modern Indian Courts referred to Sanskrit texts (like the Vedas and Upanishads) deemed authoritative for the whole of Hinduism (Berti et al. 2016:xxix; Fuller 1988:242). A tradition not prescribed by a textual authority was deemed not to be an essential part of Hinduism, and scriptures were treated as a principal form of evidence. The Court followed this line of argument. Its interpretation not only limits Hinduism to texts, but also to certain kinds of texts, like Veda and Dharmaśāstra, excluding texts like Tantras, which abundantly mention and prescribe animal sacrifice and blood offerings.

The development of this textual vision of religion affects the legitimacy of rituals of popular Hinduism and promotes a text-based, Sanskritic, Brahmanical form

of Hinduism (Fuller 1988; Galanter 1971; Sen 2010). As Berti et al. (2016:xxiv) have noted, this was 'in keeping with colonial courts which similarly aimed at "rationalising" religious practices and institutions, and sought authority in Sanskrit sources, first with the collaboration of Pandits and later by getting judges to claim to have a similar knowledge of the Brahmanical normative texts, the dharmashastras'.

Modern courts have become the primary agents of Hindu reform in post-independence India. Justice Bhagwati (Chief Justice of India from 1985 to 1986) has written that 'it was necessary to bring about social reforms with a view to lifting India out of medievalism, obscurantism, blind superstition and anti-social practices' (Bhagwati 2005:43, cited in Tarabout 2018:6). Gilles Tarabout observes that even if 'this endeavour is rooted in a secular agenda, it sometimes seems to converge with the vision developed by Hindu reformist movements in the nineteenth century (Brahmo Samaj, Arya Samaj) which projected an ideal of Vedic purity free of alleged later "superstitions"' (Tarabout 2018:6). Among those superstitions, these movements listed *sati*,<sup>82</sup> polytheism and idolatry.

During our interviews with activists, animal sacrifice was very often likened to *sati*, as a practice that would disappear with time, modernity and education. Radhika Govindrajan argues that the animal rights organisation People for Animals (PFA) 'framed its acts of animal rescue in terms that were familiar with other projects of rescue in colonial and post-colonial India—as acts of liberating speechless victims from barbaric oppressors rooted in a savage, superstitious tradition' (2018:15). She interviewed Gauri Maulekhi of the PFA, who argued that sacrifice 'had to be eradicated in much the same way as other unpalatable superstitions such as *sati* or child marriage' (2018:54).<sup>83</sup>

It seems undeniable that Justice Khatiwada's decision made use of Indian jurisprudence and looked at sacrifice from this modern Hindu reformists' perspective with a distinctive 'Brahmanical cast, reflected in its predisposition to define religion as that which is sanctioned by authoritative scripture' (Fuller 1988:243). However, it would be a mistake to reduce his judgment merely to the Hindu reformist discourse as found in Indian jurisprudence: as we have shown, this rich judgment is also in tune with important global developments in the fields of environmental protection and the protection of animal rights, and many of its arguments are in keeping with the aspirations and agenda of animal welfare activists, who already in 2010, had conceived and submitted to the Nepali parliament a draft Animal Welfare and Protection Act.<sup>84</sup>

### **Aftermath of the judgment and Gaḍhī Māī Melā 2019**

A brief statement made at the Supreme Court on 4 August 2016 announced the order, but the full judgment was released over a month later. The *Rastriya Samachar Samiti* (National News Agency) reported initially that the Supreme Court had ordered the government to stop animal sacrifice at the Gaḍhī Māī Melā and many Nepali newspapers enthusiastically published the news.<sup>85</sup> But just as with the Patna/Delhi incident, the sensationalistic news about 'the end of the Gadhimai massacre' was first published and then retracted.<sup>86</sup> The interval between the statement and

the full judgment, and their supposedly different messages, gave rise to a series of speculations (e.g., that the judge had tried to stop the sacrifice but had been intimidated) that were occasionally reported by our interviewees.

### ***Reactions to the judgment***

On 18 August 2016, a rally to support the judgment was organised by various animal welfare groups (Sneha's Care, NAWRC, Vegetarian Association) to welcome and respect the Supreme Court's decision regarding the Gaḍhī Māī Melā. The activists we interviewed expressed a general satisfaction with the judgment, which they found progressive and encouraging, and saw as a tool for their activism. They felt that it sanctioned, and gave them arguments for, their actions and anti-sacrifice campaigns. In the words of Manoj Gautam:

That's how progressive, that's how solid, that's how comprehensive the final order from the court was. And I don't think Nepal has seen anything like that ever before. You can really see that serious effort has been put into this. And that's a good sign, considering the fact that the concept of animal welfare is not even in the surface.

Pramada Shah was of the same opinion:

For Nepal it is a great verdict. I knew that they were not going to ban it. (...) Our mission is to ban sacrifice in Nepal, and at least this verdict has touched upon it (...) I can see so much happening already with this, this verdict is for me a great verdict. For such a conservative society to come up with a verdict like this, it took the judge some guts.

For the last five years, the animal welfare activist Bikesh Shrestha, founder of the *Non-Violence Lovers Vegetarian Association*, has been organising protests on Tuesdays and Saturdays (the auspicious days for sacrifice) at temples particularly famous for sacrifice, like the temple of Dakshinkali (see Figure 7.8). He felt that the judgment further sanctioned his actions and told us that he now had one more argument to respond to the criticism of angry people who attacked him during these campaigns.

In July 2018, during a campaign in Pashupatinath temple, activists were quoting the judgment in banners and in pamphlets shown and distributed during the demonstrations against the annual sacrifices offered to the god Bhairava, acknowledging the authority that the judgment represented for their actions and also for the public (see Figure 7.9).

Interestingly, the members of Gaḍhī Māī Temple development committee and the main *pūjārī*, when asked in March 2017 to comment on the judgment, affirmed laconically that thanks to the power of Gadhimai, they had 'won the case', as the Supreme Court had not requested the government to stop animal sacrifice, but only to manage it.



Figure 7.8 The activist Bikesh Shrestha tries to convince devotees to give up sacrificing a goat, while they queue to worship the goddess. Dakshinkali Temple, June 2017.

Source: Photograph by Chiara Letizia.



Figure 7.9 The Supreme Court judgment is presented in the banners used during the anti-sacrifice demonstrations. Pashupatinath Temple, July 2018.

Source: Photograph by Chiara Letizia.

### ***Foundation of FAWN***

AWNN was dismantled in 2016 due to ‘internal conflict’, and during our fieldwork in 2017 we noticed the fragmentation of the relatively small world of animal rights activism in the Kathmandu Valley. The activists knew each other well and were all friends on Facebook, but it soon became clear that, despite having the same goals and ideals, they were often in open competition with each other, to the point where it made us think of a ‘network of mistrust’.<sup>87</sup> These internal fractures also characterised the campaigns for the 2019 *mela*.

A new umbrella organisation, the Federation of Animal Welfare Nepal (FAWN) was founded in November 2017 and reunited many of the associations that once were federated in AWNN,<sup>88</sup> with the notable exception of Manoj Gautam who became the Founder and Executive Director of the Jane Goodall Institute Nepal (JGIN). As we will see, FAWN and JGIN did not collaborate in the campaign against Gaḍhī Māi Melā 2019. From the outset, FAWN was extremely active: it signed a Memorandum of Understanding with Humane Society International in September 2018, and on 14 June 2019 organised a rally in Kathmandu (with activists wearing masks of various animals) to launch the ‘Stop Animal Sacrifice’ campaign.<sup>89</sup> This event gathered many associations, religious groups, lawyers, students, teachers, artists, and the then Miss Newar.

### ***The campaign for a ‘Bloodless Gadhimai’ (2019)***

From the summer of 2019, FAWN activists, supported by *Humane Society International*, started an intense campaign against the mass sacrifice expected at the 2019 Gaḍhī Māi Melā with the slogan *Bloodless Gadhimai*. The campaign was launched on social media through a series of effective posters—among others, one showing a loving and fairly white goddess (opposed to the dark, bloodthirsty Kālī?) hugging a baby buffalo with the picture caption *kaskō lāgi* (‘for whom?’), and another inviting viewers to sacrifice blind faith instead of animals (see Figure 7.10).

This campaign was modelled on the campaigns that AWNN had conducted in 2014. Starting in September 2019 activists multiplied the initiatives in Bara, Parsa, and Rautahat districts, and also across the India-Nepal border, to convince local people to stop sacrificing. This included performing street drama and singing events (*kirtan-bhajan*); organising awareness programmes in schools in collaboration with the local activist Kalawati Paswan, chair of the *Bara Mahilā Bikāsh Manch*; holding meetings with local journalists to sensitise them on animal rights issues; distributing pamphlets; diffusing cartoons;<sup>90</sup> and setting up large posters along the Kalaiya-Bariyarpur road.<sup>91</sup> Starting from the month of October, the activists offered training to volunteers who would patrol the India-Nepal border to control the illegal import of animals.<sup>92</sup> On November 22, a *kalas jātrā* was organised, during which over 150 women carried pots filled with water and flowers from different villages to the Gaḍhī Māi temple to demonstrate the validity of alternative vegetarian sacrifices.





Figure 7.10 Posters from the Facebook public page of the campaign *Bloodless Gadhimai 2019*.

Source: Used with permission of FAWN.

### *Agreement with the temple management committee*

On 9 November 2019, FAWN organised a meeting with the Gaḍhī Māi Temple Management Committee in the presence of the Chief District Officer of Bara District and the Mayor of Mahagadhimai Municipality. The meeting led to an agreement whereby the Temple Committee committed not to sacrifice buffalo calves, to support a Pigeon Conservation Programme at the temple premises that would ban the killing of pigeons, and to accept donations of money as an alternative to animal sacrifice, donations that could be used for the development of the temple.

This agreement was presented as a 'big achievement' by FAWN, as it tried to implement some of the measures suggested by the Supreme Court to discourage animal sacrifice—notably determining the minimum age for the sacrificed animals—and constituted a first step towards its abolition.<sup>93</sup>

Mahesh Jaiswal, the treasurer of the Temple Management Committee, suggested the prices for this alternative sacrifice (money donations instead of animal sacrifice): buffalo Rs. 8000, goat Rs. 4000, etc. He said that ‘giving the money will be exactly like sacrificing the animals’. However, the *pūjārīs* interviewed strongly disagreed. Chandra Dev Chaudhary said, for example:

Look, we do not say anything, it’s the decision of the committee, it’s upon them (...) But I don’t think that people who promise animals as a vow (*bhākaī*) will then offer money. Someone has made a vow to offer an animal, can it be replaced by money? In my opinion, if you say for example, ‘I will offer a goat’ and finally you change your promise, it’s not a good thing, Mata will not be satisfied by that.

And in the words of Mangal Chaudhary:

It’s the temple committee, not us. It’s their decision but not ours, we have never said that people can offer money equivalent to sacrifice, nor we have asked people to bring any offerings. It’s their wish. But can you eat money instead of food? Can you equate *kubhindo* (ash gourd) to animals? We never affirmed the equivalence of anything, nor have we asked any *bali* from people. Its people who make a vow for their wish, and once their wishes are fulfilled, they come to offer what they promised.

### *Activists attacked*

In November 2019, activists were attacked on Facebook and accused of being Christians financed by Westerners.<sup>94</sup> A local person posted on his Facebook page a photo of three famous animal rights activists accusing them of being ‘followers of the dollar’ (*dollarvādīs*), funded by foreign organisations, and inviting the crowd to block their access to the *melā*. This attack was often associated with a video filmed in September 2019, showing an activist supposedly eating meat in a hotel before an anti-sacrifice programme, and being mobbed by a crowd accusing him of hypocrisy.

The activists defended themselves by firmly rejecting the labels of Christian and *dollarvādī*, recalling their role as Nepalese Hindu citizens, respectful of the goddess and the beliefs of others, and invoking the Supreme Court’s ruling that organisations discouraging sacrifice should be supported. The Supreme Court has often functioned as a safeguard for the validity of the activists’ actions, against accusations of Christian militancy, or even against attacks by other activists.

### *(Lack of) Implementation*

In Nepal, legal provisions and PIL court orders often remain a ‘dead letter’ unless they are followed by a series of petitions asking for their implementation,<sup>95</sup> and in some respects, the directive order seemed to be more a moral proclamation than an

order to be fully enforced. As Lawyer Hari Phuyal affirmed during our interview in 2017:

In Nepal having a judgment is not sufficient. There must be some advocacy and activism. Someone must see where the judgment is and check what the government has done. We have a Public Interest Litigation unity office of the Prime Minister, you have to go and ask where is the implementation of this judgment. There must be a media report, media campaign (...) Since the verdict, I don't think that much has been done.

And in the words of the activist Manoj Gautam, in the same year:

Nobody has made any moves so far. Despite the direct directive from the Supreme Court and the fact that we now have slightly more than two years [i.e., before the next *melā*], the Department of Livestock hasn't done anything. The Ministry of Culture hasn't done anything (...) The temple committee hasn't done anything... So now basically our move from now onwards is to send media guys.

Pressured by JGIN, the Judgment Execution Directorate of the Supreme Court of Nepal organised an awareness programme to implement the judgment. It was held in Birganj on 26 September 2019. However, this meeting was not successful because the main stakeholders, the members of the Temple Management Committee, did not attend.

Again under the pressure of JGIN activists, respectively on 4 and 5 November 2019, the Ministry of Culture, Tourism & Civil Aviation and the Nepal Home Ministry jointly published a notice in the newspaper *Gorkhāpatra*, appealing to all the devotees, related organisations and stakeholders to cooperate for the implementation of the Supreme Court judgment. The appeal cited the Court's order that animal sacrifices at Gaḍhī Māī Melā should be discouraged. JGIN activists turned the text of this appeal into big signs to put up on the streets between Birganj and Bariyarpur.

In the end, the *melā* took place with great participation and without visible obstacles. According to the activists, an important consequence of the protests and legal disputes is that in 2019 the Government stopped contributing financially to the *melā*. The agreement with the activists not to sacrifice young buffaloes was ignored, while a big case was made for the protection of the pigeons. It seems that the legal actions and the local campaigns—above all the patrolling of the border—had an important effect on the *melā*. According to the *pūjārīs*, between 7000 and 8000 buffaloes were sacrificed in the arena and tens of thousands of small animals were sacrificed in the temple sacred territory, which represents a sizeable reduction in numbers when compared to previous *melās*. The Chamars issued a statement to the effect that they would not take the meat of the sacrificed buffaloes, but this time the Temple Management Committee did not hire a contractor to sell the meat as it had done in 2014. Eventually, the meat was taken by some Dalits, both locals and from other districts, and by local Pahārīs.

**Contempt of court**

Just hours before the *pañcabali*, on 2 December 2019, Manoj Gautam and his brother Niraj Gautam—already petitioners in 2014—filed a contempt of court motion against the Government of Nepal and the Gaḍhī Māī Temple Committee for failing to implement the Court’s directives.<sup>96</sup> In the press conference held to announce the contempt of court, the applicants expressed their regard towards the religious sentiments of all the worshippers who go to Gaḍhī Māī temple every five years and put the responsibility on the government for failing to sensitise them, and on the Temple Management Committee for ‘setting up a sacrifice organising committee this year which gives the message that people can engage in sacrifices’ and for not being able to implement the Court order inside temple premises. The applicants were given an order to show cause, and as of January 2020, the procedure was still pending.

**Conclusions**

In its judgment, the Supreme Court of Nepal appears to follow three lines of argument, which we may call ‘reformist,’ ‘secular’ and ‘activistic’. They stem from different perspectives, but complement each other in affirming the legitimacy of the Court’s intervention and of its suggestion for an eventual ban on the practice of animal sacrifice. The ‘reformist’ argument asserts the legitimacy of the Court’s intervention on the basis of a distinction between ‘religion’ and ‘superstition’ (and the Court claims authority to determine what is a ‘Hindu Scripture’ on which such a distinction is made): the Court ascribes animal sacrifice to superstition, echoing the modernist discourse against ‘social evils’ of nineteenth-century Hindu reformist movements and of the post-colonial Indian courts.

The ‘secular’ argument, on the other hand, supports the legitimacy of the Court’s intervention when a religious matter infringes on fundamental rights. Finally, the Court also argues the need to uphold ‘global’ animal rights values and calls on the government of Nepal to define and ensure the rights and welfare of animals, meeting the aspirations of the petitioning activists.

The activists’ argumentation does not always coincide with the Court’s. One strand in their argument does focus on Hindu reform and on cleansing Hinduism: it is not necessarily against the killing of animals, as long as it is *not* for dharma. But according to another line of argument, focused on animal rights, killing animals is never correct, let alone for religious purposes; it is often associated with a vegan ideal.<sup>97</sup> What seems to unite these three discourses is that religion can never be the main source for the legitimation of animal sacrifice.

What runs right through these lines of argument and makes them possible is a transposition of animal sacrifice vocabulary into legal and reformist terms. In this court case, animal sacrifice is portrayed not as the common and popular ritual celebrated everywhere in Nepal at the local and national level, but as a superstitious deviation from (textual) Hinduism. The religious terms of the practice of animal sacrifice are described with a legal vocabulary raising environmental and health

Table 7.3 Transposition of the sacrificial language into legal and reformist terms

<i>Sacrificial terms and notions</i>	<i>Legal and reformist terms</i>
Faith in the power of the goddess, fear of her anger	Blind faith, gods imaginary or without agency
Vows and commitment; reciprocity	Display of violence with 'no purpose', 'without worship'
Materiality of blood offering	Real sacrifice is the one of negative passions. Vegetarian alternatives to sacrifice
Blood for life and prosperity	Pollution of the environment, hygiene issues, defilement of holy places
Sacrifice is not killing (Laws of Manu)	Cruelty towards animals, killing in the name of Dharma, exposure to violence
Devotion	Deviation
Animal as a ritual subject	Animal as a rights-bearing subject

concerns: its multiple social, religious, and cosmological meanings are conflated into the term 'superstition' and reduced to a target of the Hindu reformist discourse for the eradication of 'social evils' (*bikṛti*)<sup>98</sup> (see Table 7.3).

The devotees we spoke with referred to animal sacrifice in the context of their relation with the goddess. They referred to an exchange with her (a request is made, a vow to offer an animal is expressed, a boon is received and the vow has to be honoured), they talk about the goddess's emotions (satisfaction, anger) and about their own emotions towards her (gratitude for the grant received, eagerness to honour the vow, anxiety over sparking the goddess's anger, fear of misfortune; they attributed any problem or accident to the goddess's response to their incorrect behaviour).<sup>99</sup>

However, the worshippers' devotion to the goddess, their belief that the ritual addressed to her can give power, their fear of her rage and of the disasters she can provoke unless she is appeased, are all seen by the Court (and the activists) as blind faith and superstitious beliefs; the goddess's agency or her role in the sacrificial relation is questioned (and sometimes her very existence, like when the judge declares that such power does not come from 'imaginary things' but from hard work). In the words of Justice Khatiwada:

You take some cattle, some chicken and sacrifice in front of the temple, and do you think that God will be very happy and fulfil all your desires and wishes? I think it is a blind belief (...) People naturally say: 'God save me!' But he is God, how can he save you? It is very difficult. He is God, should he obey your order?

The activists themselves often questioned the goddess's power: one activist, after learning about an accident involving a bus of returning devotees from the *melā*, observed that, sadly, the goddess that was supposed to grant them favours did not help them at all. To discourage people from performing sacrifices, another activist would often point out to the devotees that the former king of Nepal, who used to offer many sacrifices, ended up not having any success.<sup>100</sup>

The logic of sacrificial exchange, based on the vow to offer a sacrifice after being granted a wish, and on the commitment to honour such a vow, is denied by the affirmation that sacrifice at Gaḍhī Māī Melā is an ostentatious display of violence without purpose and a ‘sports game’ without worship. The importance of the material offering of blood as the appropriate way to appease the goddess and receive life for life is refuted by the affirmations that the true sacrifice is that of negative passions, and that a vegetarian offering is just as valid.<sup>101</sup> The notion that shedding blood brings life and prosperity is denied by the remarks on hygiene, contamination of the environment, and on defilement of sacred places. Whereas the sacrificial logic sees ‘killing’ as ‘not killing’, in this case animal sacrifice is seen as a cruel killing and violence in the name of religion, which also exposes children to violence. The sacrificial practice, which finds its logic in devotion to the goddess, is reformulated as a deviation from true Hinduism.

This act of transposition challenges the sacrificial logic, which entails a system of relationship between humans and non-humans (animals and goddess), based on relatedness, mutuality and violence (Govindrajan 2015). In this way, the goddess’s role in the sacrificial relation is removed or denied, and the status of the animal is radically transformed from a ritual subject acting on behalf of the sacrificial community<sup>102</sup> into a legal rights-bearing subject whose rights are infringed by violence and cruelty (Sethi 2019).<sup>103</sup>

In this case two contrasting understandings of Hinduism emerge: first, a textual and mainstream neo-Hindu Brahmanical conception promoted by the petitioners and the Court. In line with Indian post-colonial jurisprudence, the Court upholds freedom of religious belief or practice only if it is supported by an authoritative textual prescription and redefines animal sacrifice as a non-essential or deviant practice on the part of insufficiently well-informed Hindus, a practice that must be reformed. The second understanding to emerge is a conception based on traditional ritual practice, devotion and commitment to the goddess, defended by the respondents who invoke the right to religion. Radhika Govindrajan (2014) equally read the debates over the practice of animal sacrifice that she documented in Uttarakhand as conflicts between different concepts of what it means to ‘live as a Hindu in the Himalayas’, a Brahminical and Sanskritic Hinduism versus locally meaningful forms.

The declaration that ‘sacrifice is not Hindu’ has a different meaning depending on who utters it and in which context. For the activists during the campaign, it can be a way of discouraging the devotees from practising something that, according to the activists, is not really dharma. But it can also be a way of pre-empting the accusation of being financed by an obscure ‘Christian conspiracy’ to destroy the Hindu religion: activists underscore their belonging and allegiance to Hinduism, and their will to preserve it by cleansing it of non-Hindu practices. For the Court, affirming that sacrifice is not Hindu is tantamount to affirming that it is unessential according to the doctrine of essential practices and that, therefore, it should be denied the protection afforded by the right of religion.

When the Court affirms that sacrifice is not Hindu and proposes an eventual ban applicable to all of Nepal, it seems to ignore the vast religious diversity of the

country and the existence of non-Hindu sacrificial traditions (and never considers the fact that the cult to Gadhimai is a Tharu tradition). When asked during an interview if the judgment could also be applied to the ritual killing of animals during the Muslim festival of Eid, the judge admitted that the Court had not dealt with other types of religions. Thus, it appears that the rich religious and ethnic diversity of traditions that perform animal sacrifices are not easily taken into account by a court where non-high-caste Hindus remain underrepresented.

This also shows the continued importance of the reflections that Marc Galanter made more than 40 years ago on the fact that the Indian Supreme Court was becoming a forum for promulgating official interpretations of Hinduism. His questions seem still relevant for Nepal’s situation: ‘Is it a Supreme Court of Hinduism?’ (Galanter 1971:481) ‘What equips judges to prescribe the nature and content of Hinduism?’ (idem:482). Galanter noticed that many judges were accomplished in Hindu learning, but what about a Judge meagrely acquainted with Hinduism or holding an idiosyncratic view of it, and what about the non-Hindu judge?

In this case it is also possible to see some echoes of the difficult relation between the Madheshi people living in Tarai (the plains in the South Nepal where the temple is located) and the Pahārī, the people from the Hills (many of whom have settled in the Tarai since the 1960s). Madheshis have complained of being treated as second-class citizens by a Kathmandu-centric government that equates Hills culture with the national *ethos*.<sup>104</sup> This can be inferred from the discourse of the Gaḍhī Māi Temple Committee lawyer, who defended local traditions against the critical discourse of activists based in the Kathmandu Valley and insisted that the latter did not have *locus standi*.

Despite the existence of local, energetic anti-sacrifice activists, the main *pūjārī* told us that all the protesters were ‘outsiders’ (*bāhirako mānche*). The *pūjārīs* and members of the Gaḍhī Māi Temple Committee deplored that, unlike the support granted to sacrificial traditions in the Kathmandu Valley, theirs received no development support or financial help from central government and there was no guarantee that they would be provided alternate resources if the sacrifices at the *melā*, which are a big source of revenue, were to come to an end.

While a certain opposition between Tarai and the hills is occasionally confirmed by some informants, another overlapping opposition seems more central: the opposition between different ways of sacrificing<sup>105</sup> between a good or at least acceptable, familiar sacrifice and a bad or shocking one. We have described the remarks of the activists who, in their interviews, compared the monstrous exceptionality of the Gaḍhī Māi sacrifices—presented as an unnecessary, senseless and cruel spectacle, with no religion or devotion—to the more familiar, small-scale sacrifices in the villages located in the hills of Nepal, presented as a more respectful way to eat meat in a traditional society.

What makes Gaḍhī Māi Melā so shocking, and to whom? And why, as Axel Michaels has observed, is it this particular festival that provokes the most criticism, ‘while many other animal sacrifices that are performed in Nepal almost every day remain widely unreported?’ (Michaels 2016:217). For example, why target Gaḍhī

Māi Melā and not the festival of Dasaī with its bloodbath? Dasaī is also a stage for protests against animal sacrifice, but it has not been legally challenged.

One may add the question: why do the shocking images shared by the media and activists only concern the buffaloes sacrificed in the arena, while not one photo can be found of the tens of thousands of goats and other smaller animals also sacrificed on the following day in the temple's sacred territory? In the days preceding the *melā*, activists expressed on Facebook a growing concern over the arena that was filling up with buffaloes, but nothing was said of the thousands of devotees who cheerfully arrived at the *melā* with their animals.

Here, we propose a few tentative elements of response to these questions that will require further research. First, and more obviously, buffalo sacrifice is a grander spectacle than the sacrifice of goats and is the climax of the *mela*, because of the close connection between the goddess and the “impure” buffalo incarnating the demon Maḥiṣāsura.<sup>106</sup> Second, the sacrifice of “pure” goats is much more a community and family ritual activity (devotees bring and kill their own goat and share the meat with family and allies) and seems to be increasing: as some Tharu friends told Letizia, since the *melā* was publicised by the media, several families in their village now go to sacrifice to the goddess.

In contrast, the buffalo carcasses are not recovered by the people who offer them for sacrifice. Offering buffaloes for the *melā* has been a prerogative of the landlords of the Indian and Nepali Tarai, and the buffalo is the sacrificial animal par excellence to worship the goddess. However, in accord with the negative view of buffalo in Brahmanical texts, high-caste people do not eat buffalo meat, which they consider polluting (Govindrajan 2018:56), and which they make the Dalit eat, thus affirming their inferior position.<sup>107</sup> The sponsors of sacrifice do not consume the impure meat of the buffalo and the carcasses are left there to be picked up by Chamars, who are increasingly refusing to do so. As we said, this provides a further negative image of the *melā*: journalists have spread the news that at Gaḍhī Māi Melā the carcasses are regularly left on the ground to rot.<sup>108</sup> The social identity of the buffalo calls for some reflections on ‘bovine politics’ (Adcock & Govindrajan 2019; Hardy 2019) that would require further research, but upper-caste views on the impurity of buffalo and the refusal of Dalits to act as downgraded receivers of its meat could be a factor explaining the focus on buffalo sacrifice.

The activists interviewed distinguished between the sacrifice of buffaloes and of goats in terms of institutional participation: the activist Manoj Gautam explained that the object of their activism (and also of their motion for contempt of court) was not the sacrifice of the many animals brought by individual devotees, but the *institutional* aspect of the buffalo sacrifice, which directly contravened the Court *mandamus* not to encourage sacrifice (the buffaloes brought at the arena are received and registered by the Melā Organising Committee; the low-caste people willing to act as sacrificers must register, obtain a licence and they are also compensated by the Melā Organising Committee). In Manoj's opinion, the sacrifices of individual devotees cannot be easily discouraged or stopped; people can be only sensitised through awareness campaigns. The Melā Organising Committee, on the



other hand, has a role in the management of the buffalo sacrifice and has some power to bring change.

And why target the Gaḍhī Māi Melā and not the festival of Dasaī for the first legal case against sacrifice? It is certainly easier for the activists, by their own admission, to attack a sacrificial tradition of the Tarai which has suffered a historical exclusion from national polity and ideas of 'nepaliness', than to directly face the big buffalo sacrifices performed under state patronage during Dasaī, which are connected with the political and military power of former royal dynasties and have even resisted dramatic political change and the shift from a Hindu monarchy to a secular republic. As one activist told us, 'challenging Dasaī would be too difficult and there would be many more ramifications'. Gaḍhī Māi Melā is a much easier case to use in order to set a precedent, also because it is globally infamously known, and the activists can count on international support.

Since 2009, when activists took up the fight against animal sacrifices at Gaḍhī Māi Melā, there has been continuous debate on this issue, nourished by an increasing media presence that presented mainly the discourse of the festival's opponents<sup>109</sup> and by the PILs discussed here. By pitting the rule of law against tradition, the PILs have brought the issue of animal sacrifice, once part of the relation between some gods and humans, into the public arena as a practice contested in the public interest. It is safe to say that animal sacrifice in Nepal can no longer be taken for granted and practitioners are increasingly put in a position where they have to provide some explanations, demonstrate some reflexivity and, as in this case, mount a legal defence.

The lack of implementation of the judgment does not mean that it has no real effect on society: for the activists, the Supreme Court has become an authority on which to base their campaigns and their own credibility; the number of animals killed was significantly reduced due to the litigation and activism legitimated by the judgment and—as we have observed—the decision sets a precedent with potentially broad application that may be the object of future judicial activism. On the basis of this precedent, all the sacrificial traditions of Nepal, even those more rooted in the staging of political power, could be challenged by the association of the globally connected campaigns for animal rights and the reformist aspiration to cleanse Hindu tradition.

## Notes

- 1 Sacrifice is practised by Newars, both Buddhists (Owens 1993) and Hindus (Levy 1990; Michaels 2004), by Bahun-Chhetris (Hindu high castes of the hills) during worship of clan deities, ancestors and local deities (Adhikari & Gellner 2016) and by members of all ethnic groups of the country, from Magars in the west to Kirantis in the east, during shamanic rituals, for lineage deities, or through ritualised hunts (Mumford 1989). The Muslim minority also practises it during the festival of Eid.
- 2 On the role of the victim as a full ritual subject, see Patton (2009) and Govindrajana (2015).
- 3 Some groups, like the Newars, already observed Dasaī before the conquest, but others were forced to participate in Dasaī and to perform sacrifices probably as early as the beginning of the Rana period (1846–1951) (Zotter 2021:212).

- 4 *Janajāti Ādivāsī* ('indigenous nationalities') is a collective identity created in 1994 (recognised as a governmental category in 2002) to unite the Nepalese ethnic groups seeking recognition by the state.
- 5 At the end of the 1990s and the beginning of the new century, blood sacrifice became one of the chief targets of Christian missionaries and their converts. The main argument of western missionaries was that the practice was backward and reflected superstitions, and that since Christ had given his life for the forgiveness of humanity, there was no longer any need to sacrifice living beings. As a matter of fact, Nepalese Christians refuse to eat meat that has been consecrated through sacrifice. This has created tensions in a community where only a part of the population has become Christian (Ripert 2004:460).
- 6 Torri (2016) shows that blood offering has become a sensitive issue with the emergence of Buddhism as a key factor in the contemporary revival of Hyolmo identity and the recognition of Helambu as a holy land blessed by Padmasambhava. Many shamans, influenced by Buddhist ideas and a certain degree of social pressure, are adapting their rituals.
- 7 At the time of our research, Tandon was general secretary of Pashupati Area Development Trust, which has been established to conserve and operate the Pashupatinath Hindu temple, charitable institutions and regular worshipping activities in the Pashupatinath area located in Kathmandu Valley.
- 8 At that time, he was accused of no longer being Hindu, an accusation that many other anti-sacrifice activists face, as shown below.
- 9 PIL is a codification of the common law recognition of PILs by the Supreme Court of India since 1979, and more generally a development in the field of 'public interest law', which originated in the United States in the 1960s as a tool for legal advocacy. Nepal has adopted the developments of the Indian PIL, but has enshrined this procedure in specific provisions of its constitutions of 1990 (art. 88), 2007 (art. 107) and 2015 (art. 133). For an excellent analysis and a history of PILs in Nepal, see Berardi-Tadié (2017).
- 10 See Cunningham (1987:498) for the question in India and Berardi-Tadié (2017:293) for Nepal. To ensure that the underrepresented interests of individuals or groups would enjoy legal representation, Indian judges mitigated the rules concerning the standing of the petitioners and allowed any citizen or advocacy group (who is not strictly speaking the aggrieved party) to take legal action on their behalf, or for cases of public interest. As in India, PIL in Nepal has facilitated access to justice on behalf of disadvantaged sectors of the population, and civil society associations and social activists have utilised PIL as a privileged tool to achieve social justice (however, see Bhuwania 2014, 2016 for a critical view).
- 11 A growing judicial activism invokes human rights and constitutional rights through this legal procedure in order to intervene in traditional religious practices and reform them (e.g., see the cases involving the Supreme Court of Nepal discussed in Letizia 2011, 2013, 2016).
- 12 Our work started from where an article by Axel Michaels (2016) on blood sacrifice ends. Michaels discusses the petitions against Gaḍhī Māī sacrifices in 2014, affirming that 'it will be fascinating to see whether Nepal will want to keep animal sacrifice in the public sphere or whether it will follow the Indian way and increasingly prohibit such blood rituals' (2016:216). Marie Lecomte-Tilouine's book on sacrifice and violence in Nepal (2020) deals with this court case in chapter 6; unfortunately, our chapter was already finalised when the book came out, so we could not use her text or refer to it for our own arguments. Since we do not stress the same points, our work is rather complementary to hers.
- 13 The duration of the *mela* has varied over the years: it lasted one week in the past, was set at ten days in 2004 and now lasts one month.
- 14 With the notable exception of Māghē Saṅkrānti and Phāgu Pūrṇimā.
- 15 Some *pījārī* affirm that he was imprisoned in Nakhu jail in Kathmandu. Gaḍhī Māī was a goddess from the royal Fort of Makwānpur, probably connected with the Sen dynasty,

- but according to the main *pūjārī*, 'they did not take good care of her', so the task came to the Tharu descendants of Bhagwan Chaudhari.
- 16 *Dhāmī* Dukhan Kachariya has been performing this *pūjā* for the last 45 years. During our interview in his village, he said that in his father's time the *melā* was quite small and that the number of devotees and of sacrifices keeps increasing every year because the wishes are fulfilled. He said that he has a very close relationship with the goddess: he receives instructions from her during his dreams and he has to offer his blood every time he enters the sacred territory of the temple. He explained: 'Gaḍhī Māi asked five human heads as a *pūjā* to our ancestor. But he said that he could not make that, and he committed to offer blood from the five parts of their body instead. *Pūjās* of Gaḍhī Māi are done in all the places where Bhagwan Chaudhary stopped to take rest while bringing Gadhimai to Bariyarpur: Simari, Bara Jitpur, Bodhgai, Telkunwa.'
  - 17 While Gaḍhī Māi is said to 'eat the *pañcabali*', and Mahikāsūr 'eats the blood of buffaloes', Brahma/Baram receives vegetarian offerings, and according to the *pūjārī* and *dhāmī*, there is a divine exchange: Gadhimai comes to the *Brahmashān* to receive the blood offerings and Brahma/Baram goes to the temple to receive the vegetarian ones.
  - 18 The arena, a vast enclosure of 13 km<sup>2</sup> surrounded by high walls, was built in 2008 thanks to funds from the then Finance Minister Baburam Bhattarai, and every five years, it is used as a slaughter area (for the buffaloes). Most of the year it is used as a stadium, and young people from Bariyarpur play cricket inside it. It is located near a small temple considered to be Bhagwan Chaudary's memorial (*samādhi*).
  - 19 We did speak to some of these sacrificers, who insisted on the pride they felt for their task and mentioned the divine power that gave them the strength to behead a large number of buffaloes and the energy to continue.
  - 20 According to *pūjārī* Shiva Chaudhary, the limits of the holy area are the following: Northern—Ganj Bhawnipur; Western—Pashah river; Eastern—Babuain; Southern—Majhariya.
  - 21 An AWNN flyer cites the head of Gadhimai temple, who claims that in 2014 500,000 animals were sacrificed, with 10 million devotees attending the festival.
  - 22 However, this practice has historical precedent: in the past, buffalo carcasses were sometimes auctioned after the sacrifice (Astrid Zotter, personal communication to C. Letizia; Zotter 2021:210).
  - 23 As related by Manoj Gautam, in our interview on 5 December 2019.
  - 24 Govinda Tandon's articles opposing sacrifice were published in the *Annapurna Post* before each Gaḍhīmāi Melā on 17 November 2014 and 16 November 2019. In his 2014 article, he states that in this *melā* sacrifice is being driven by the leather industry mafia, and 'has nothing to do with religion'.
  - 25 For a much more detailed account of his arguments, see Tandon (2069 B.S.). Govinda Tandon's activism was based on a strong vegetarian ideal: the meetings at the Ram Mandir in Battisputali, Kathmandu, inspired the activist Bikesh Shrestha, who since 2015 has led weekly no-sacrifice demonstrations on Tuesdays and Saturdays at the major temples of Kathmandu Valley where sacrifice is offered. Bikesh Shrestha succeeded Tandon as director of SPCAN in 2018 and was an important actor in the 2019 campaign against the Gaḍhīmāi Melā.
  - 26 Maneka Gandhi, widow of Sanjay Gandhi, was Indian Union Cabinet Minister for Women and Child Development in Modi's BJP government.
  - 27 *Setopati*, 14 November 2014.
  - 28 Among them *Animal Nepal, Roots and Shoots* (which later became the *Jane Goodall Institute of Nepal*), *Kathmandu Animal Treatment Center*, *Society for the Prevention of Cruelty to Animals*.
  - 29 First developed by a veterinary council in 2006, an Animal Welfare Act was revised and expanded by the Animal Welfare Network Nepal (AWNN) in 2010 and submitted to the Chairman of the Natural Resource Committee of the Constituent Assembly by Shanta Chaudhary in 2011, to no avail.

- 30 Many organisations joined the movement against blood sacrifices. Michaels (2016:211) cites the participation of the Bhaktapur Animal Welfare Society (BAWS), the Society for the Prevention of Cruelty to Animals (SPCAN), the Devoted Radical Environment Animal Movement Society (DREAMS), People for the Ethical Treatment of Animals (PETA Nepal), and so forth.
- 31 Pramada Shah took part in some campaigns in Gadhī Māi Melā but in 2017, she had been working with the Ministry of Livestock Development, to help them develop welfare standards, and trying to draft an animal welfare law, activities which, according to her, have obliged her organisation to maintain a ‘moderate position’.
- 32 The Press release from Agnivesh, which appeared on the AWNN website, was entitled: ‘Animal sacrifice is a diabolical sin in Vaidik Sanatan Dharma.’ It qualified the sacrifice as ‘barbaric,’ ‘superstitious,’ ‘bigot (sic),’ ‘nonsensical’, and as a barbaric evil like *sati* and untouchability, which Hindus should abandon.
- 33 This petition was a follow-up to the 2008 PIL requesting a ban on animal slaughter in the Devi Temple at Deoghat in Almora District (Govindrajan 2014:2012). An animal rights activist filed a similar PIL at the High Court of neighbouring Himachal Pradesh in 2013 (Govindrajan 2018:55; see also Berti, this volume).
- 34 *Gauri Maulekhi v. Union of India*. W.P. (Civil) 881/2014. Supreme Court, 17 October 2014 (<https://indiankanoon.org/doc/34059374/>; accessed 30/11/2021).
- 35 The *pūjārīs* told us that animals were then offered and left in the name of the goddess at the border, and that a lot of them died there, from lack of care and food.
- 36 *Arjun Kumar Aryal and Saroj Kumar Neupane v. Government of Nepal and Gadhimai Festival Organizing Committee; Rajyalaksmi Golchha, Manoj Gautam and Niraj Gautam v. Government of Nepal et al.; Gita Prasad Dahal and Ram Krishna Banjara v. Supreme Court*.
- 37 Manoj was supported by lawmaker Rajyalaskmi Golcha, who hired at great cost the prominent lawyer Shambu Thapa.
- 38 Former finance administrator at the Kathmandu Animal Treatment Centre (KAT) and founder of NAWRC, Uttam decided to file a petition outside of the AWNN umbrella. He consulted the legal advisor of the KAT, Ram Krishna Bandhara, who introduced him to advocate Hari Phuyal at Pacific Law Associates, who helped write the petition.
- 39 According to Ronojoy Sen (2010:164), Dean Pound’s formulation of law as a process of ‘social engineering’ profoundly influenced the thought of Prahlaḍ Balacharya Gajendragadkar, Chief Justice of India in the 1960s. The reasoning used by the Court in the case studied seems to often echo the arguments of this overtly reformist judge.
- 40 The lawyer who helped draft this petition explained that since the procedure under art. 107(2) of the constitution serves essentially to get the government to do what the law obliges it to do, there was no legal basis to ask for a total ban on the practice itself; instead, the focus of the petition was to find all kinds of applicable laws left unimplemented that applied to the animals or to their meat.
- 41 The titles of the Acts mentioned in Table 7.1 were found on the Law Commission website ([www.lawcommission.gov.np/en/](http://www.lawcommission.gov.np/en/)), together with their respective years of promulgation using the Nepali calendar (Bikram Samvat). The Gregorian year is given in brackets.
- 42 For example, in the leaflets one could read the affirmation that ‘the Veda does not allow any kind of *bali*’, supported by verses quoted from Yajurveda. To the best of our knowledge, there was no effort on the part of people defending the practice of animal sacrifice to quote those passages from the R̥gveda that require the sacrifice of many animals, including cows (Jha 2002).
- 43 This was also an argument by the petitioner in the ‘Kumari case’. The petitioner, Pun Devi Maharjan, argued that unless the human rights of the children involved were fully guaranteed, the tradition could eventually die out. See Letizia (2016).
- 44 See for example the eloquent posts in Sushma Joshi’s blog. <http://sushma.blogspot.com/2009/11/are-we-civilised-yet.html> and <http://sushma.blogspot.com/2010/10/>

- 45 *República*, 8 December 2014 (quoted in Michaels 2016:20), and republished in the *Nepali Times* (Adhikari & de Vries 2014).
- 46 Lawyer Hari Phuyal who conceived this argument, explained 'symbolic' as 'the fact that one kills few animals, and not in huge numbers'. By 'alternative', he meant non-animal sacrifice, using 'vegetarian offerings' instead. At the hearing, he gave the examples of *kubindō* (ash gourd) and *ghiraulā* (luffa/sponge gourd).
- 47 Note that for Hari Phuyal, pleasing the god is not a purpose valid in itself. For him, sacrifice was the way to eat meat: 'Have you seen how the goat is cut in the hills? They cut it, then they call different villagers, and they divide the meat. This could be because in the hills they are poor, and they do not eat meat frequently. I remember when I was a kid in the village, eating meat was a one-month thing, every *saṃkrānti*. That was the day that we expected meat.'
- 48 The respondents identified by the petitions were The Government of Nepal, The Prime Minister's Office and the Council of Ministers, The Ministry of Science, Technology and Environment, The Ministry of Culture, Tourism and Civil Aviation, The Ministry of Home Affairs, The Ministry of Health and Population, The Ministry of Agriculture Development, The Central Animal Quarantine Office, The District Administration Office Bara, The District Police Office, Bara, The Gaḍhī Māi Festival Organizing Committee, the Gaḍhī Māi Temple Management Committee and the Village Development Committee of Bariyapur (VDC).
- 49 The lawyers had some legal basis to do so: as explained by Berardi-Tadié (2017:283, n. 342), in the PIL *Radheyshyam Adhikari v. Cabinet Secretariat of His Majesty's Government & Ors* (2047 B.S.), the Court had set restrictive parameters for the determination of the petitioner's *locus standi*, according to which the extraordinary jurisdiction of the Court could not be invoked on the basis of a mere interest, but only by demonstrating a 'substantial interest' and a 'meaningful relationship' with the subject matter of the dispute. According to Berardi, these parameters have been occasionally applied to reject some PILs. However, she mentions that these criteria were criticised by legal activists, who played a significant role in the relaxation of *locus standi* norms observed in subsequent proceedings, where the Court asserted that every citizen has a 'significant relationship' with matters of public interest that concern his or her country.
- 50 Together with advocate Dilli Prasad Neupane, he assisted Bariyarpur VDC, where Gaḍhī Māi temple is located, in filing a PIL against a nearby village, Jitpur, which wanted to change its name to Gadhimai municipality when the new administrative divisions were being established. This led eventually to the name Mahagadhimai being adopted for the municipality where Bariyarpur is located.
- 51 He noticed for example that one lawyer was a Jain and did not have the right to interfere in the feelings of Hindus; moreover, she was from eastern Nepal and did not have the right to interfere with traditions of central Nepal; he added that other petitioners, despite being Hindu, were from the hills, and therefore were not locals.
- 52 The *śakti pīṭha* 'seats of Shakti' are supposed to mark spots where the goddess's body parts fell according to the myth relating the death of Saṭī.
- 53 The lawyer is indirectly using the vocabulary of the Constitution 2015 (art. 26. Right to religious freedom), and quotes the provision in the Muluki Ain *Adalko mahal* (miscellaneous), 19/1-A that protects religious places and religious practices.
- 54 Many people in Bariyarpur evoke these supernatural events attributed to the power of the goddess, such as the light that would 'automatically' light up after the ritual of offering blood from the five parts of the body of the *dhāmī*, the absence of flies on the carcasses, the unexplained death of people having acted against the goddess, etc.
- 55 <http://www.hsi.org/world/india/news/releases/2015/07/gadhimai-festival-animal-sacrifice-cancelled-indefinitely-072815.html> (accessed 30/11/2021).
- 56 <http://www.hsi.org/wp-content/uploads/assets/pdfs/gadhimai-declaration.pdf> (accessed 30/11/2021).

- 57 <https://www.hsi.org/wp-content/uploads/assets/pdfs/gadhimai-temple-trust-statement-ram-chandra-shah.pdf> (accessed 30/11/2021).
- 58 Videos and photos of the declaration in presence of members of the temple committee and of Nepalese and Indian activists are available online. This video was shown by Manoj Gautam at the end of his panel at the 10th *Asia for Animals Conference* in December 2017. He had invited the head priest to be present for the panel.
- 59 Yadav, P.K. & R. Tripathi. 'Gadhimai Trust dismisses reports on animal sacrifice ban'. *República*, 29 July 2015 (hyperlink no longer valid).
- 60 The English version has been corrected in December 2019.
- 61 In this chapter we use the English translation made by advocate Ananta Raj Luitel, certified by the Notary Public on 8 January 2017 and revised by Mr Luitel and Chiara Letizia in June 2017. A more recent English translation by advocate Bijaya Prasad Mishra (certified by the Notary Public on 8 August 2019) has been published by The Jane Goodall Institute Nepal.
- 62 In paragraphs 21–23 of the judgment, the judge referred to art. 133 of the Constitution of Nepal 2015 and the already-mentioned PIL, *Radheyshyam Adhikari...* (see Note 49 above).
- 63 The Court also qualified the adherence of some Hindus to the practice of sacrifice as an 'infatuated attachment' (para 25). As noted in our conclusion, there is no reference in this judgment to non-Hindu sacrificial practices, which are equally part of Nepali society.
- 64 Here the Judge is probably referring to the category of 'purely religious' introduced by Indian Justice Sinha in *Saifuddin Saheb v. State of Bombay* in 1962 (Baird 2005:29). When an Act is not 'purely religious', this means that there are civil consequences to the activity under consideration.
- 65 In an interview in 2018, the Judge specified that sacrifice was 'a later development in the course of time, not original Hindu culture'.
- 66 The tradition of the living goddess Kumari, challenged by a PIL invoking a violation of children's rights in 2007, was appreciated in a similar way: the Supreme Court argued that the rules traditionally applied to Kumaris were not based on written documents but on 'oral traditions and beliefs', and thus were not inherent to the tradition as such. Thus, children's rights violations were not demonstrated in the Kumari tradition *per se*, and those rules could therefore be modified by Newars, considered by the Court as 'agents of change in their traditional customs and practices in tune with the times' (Letizia 2013).
- 67 Note the limitation the judge applies to what is to be considered a Hindu scripture, and the fact that he mentions texts that are not relevant for goddess worship (except for the Puranas, which do mention blood sacrifice to the goddess).
- 68 Many of our informants quoted these negative passions to be renounced instead of sacrificing animals, but we were never given the same list!
- 69 This is also a *topos* in activist discourse, very often brought forward by anti-sacrifice activists to the people lining up to offer a sacrifice in temples.
- 70 A similar separation, which may have influenced the judge, was established in 2011 by the Uttarakhand High Court in its ruling of 2011 on a PIL calling for a ban on animal sacrifice. The High Court declared that animals could no longer be sacrificed for the purpose of appeasing the Gods, 'but only for the purpose of arranging food for mankind' (Govindrajan 2018:36).
- 71 The World Society for the Protection of Animals, The Universal Declaration of Animal Welfare, and the guidelines of the World Organization for Animal Health (OIE), citing the five fundamental freedoms of animals (on which, see Introduction, this volume).
- 72 Peter Singer owes the term 'speciesism' to English psychologist Richard D. Ryder, and defines it as 'a prejudice or attitude of bias in favour of the interests of members of one's own species and against those of members of other species' (2009:35).

- 73 The Court noted that the few provisions found in the Animals Chapter of the Mulukī Ain (Nepal's general code of law) concern only the beating and killing of cows and oxen; they 'seem to be inspired by the worship of the cow as Laxmi under Hindu religion', and 'do not mention other cruel behaviour against other animals or birds'. The statement of the Court here belies a previous judgment that quashed a PIL filed by human rights lawyer Om Prakash Aryal in 2007, asking the Court to declare unconstitutional the articles of the Mulukī Ain that criminalise cow slaughter (Aryal 2007, discussed in Letizia 2016). The Court left the ban on cow slaughter unquestioned in the secular state on the tenuous grounds that the cow had been declared Nepal's national animal, and therefore the ban on cow slaughter found its justification and legitimacy in this 'secular' protection of the national animal (and not in Hindu beliefs). Despite the efforts of the Court, one cannot doubt that Hindu beliefs were the original reason for both the ban on cow slaughter and the declaration of the cow as the national animal. In an interview in 2010, Om Prakash told Letizia that, had he been present at the hearing, he would also have argued that the national bird, the Himalayan pheasant (*danphe*), is not protected like the cow, which may invalidate the argument that the cow is protected simply on the ground that it is the national animal.
- 74 The law was adopted 17 years ago, but Article 27 called for the formation of a committee to implement the Act and no such committee was formed. The Court took a very close look at this issue, and offered a very detailed argumentation, in an apparent exercise of putting the government to shame.
- 75 The right to clean environment was created thanks to a previous PIL quoted in this judgment, *Surya Prasad Sharma Dhungel v. Godawari Marble Industries Pvt. Ltd. and others*, N.K.P. 2052, concerning the environmental pollution caused by the Godawari Marble Industries in the Godawari Pulchok, a forest in the Kathmandu Valley (Berardi-Tadié 2017:283). As Barbara Berardi remarked (Berardi-Tadié 2017:204), this PIL importantly recognised the right to a healthy and clean environment as an extension of the right of life. This decision, followed by a series of *mandamus*, led to the promulgation of the *Environmental Protection Act* (EPA), in 1997. A series of petitions to implement this law has finally permitted the formulation of the right to a clean and healthy environment and the right to a remedy in case of violation in the Constitution of Nepal 2015 (art. 30 (1) and (2)).
- 76 From the Latin 'we command'. This writ of command is issued by the Supreme Court or High Court when the government, or a public authority is legally bound to perform a public duty but fails to do so.
- 77 Office of the PM and Council of Ministers, Ministry of Home Affairs, Ministry of Health and Population, Ministry of Science, Technology and Environment, Ministry of Culture, Tourism and Civil Aviation, Ministry of Agricultural Development, Animal Quarantine Office.
- 78 The Court suggested for example that the Government attempt to decrease the quantity of animals by collecting high fees, establishing a maximum number of animals to be sacrificed, determining minimum and maximum ages for sacrificed animals, prohibiting the sacrifice of sick and unhealthy animals, and prohibiting sacrifice in open and public spaces.
- 79 This sentence was particularly important in the eyes of the activists and was the basis for filing a motion for contempt of court.
- 80 According to Fuller (1998:228–229), the judgment of the 'Shirur Mut' case, decided in 1954 by the Supreme Court, was the first to mention 'the essential part' of a religion (*Commissioner, Hindu Religious Endowments, Madras v. Sri Laskhmindra Thirtha Swamiar*; see also Baird 2005:25).
- 81 On the development of the doctrine of essential practices and on the role of Chief Justice of India Gajendragadkar, see Sen (2010:41), who observes that 'the most striking aspect of the essential practices doctrine is the attempt by the Court to fashion religion in the

- way a modernist state would like to be, rather than accept religion as represented by its practitioners’.
- 82 Sati refers to the self-immolation of widows on the funeral pyre of her husband. In Nepal, it was abolished in 1920 by Prime Minister Bir Shamsher Rana.
- 83 Anthropologist Naisargi Dave (2014:435) has also noted the close relationship between animal welfare in contemporary India and the pro-women reform in colonial India.
- 84 In 2010, AWNN developed a draft Animal Welfare Act for Nepal. It was handed over to Constituent Assembly representative Shanta Chaudhary on 5 June 2010, to no avail. In 2016, animal rights activist Sneha Shrestha filed a PIL asking the Court to issue an order to prevent cruel, violent, torturous and unjust improper acts against animals, to make proper arrangements for animal rights, and to make proper legal arrangements relating to animal welfare.
- 85 <http://www.onlinekhabar.com/2016/08/462220/> (accessed 30/11/2021).
- 86 The English-language newspaper *Repubblica* diffused the correct news, quoting the Supreme Court’s Deputy Spokesperson Bishwor Raj Paudel, to explain that ‘the order tells the government to create an environment that discourages people to carry out the wrong tradition of animal sacrifice and give it up themselves’. (<http://www.myrepublica.com/news/3272/?categoryId=23>; accessed 30/11/2021).
- 87 Facebook was the main communication channel of their campaigns: not only did activists post every single animal found or cured, every rally or action of protest, but they also competed for international attention and funds: and some of them expressed the worry that others would appropriate and take credit for their action, asking for funds for campaigns that they never made. ‘He/she is a Facebook activist’ (in the sense that he/she does not actually do what he/she boasts about on the Internet), was a common accusation against competitors. Comments on Facebook were also used as a tool for protests (for example some posts were ironically wishing a good ‘Visit Nepal 2020’ campaign on the backdrop of crude scenes of buffalo beheading at the *melā*).
- 88 FAWN members in December 2018 were: *Sneha’s Care*, *Himalayan Animal Rescue Trust* (HART), *Save the Animal Nepal*, *Nepal Animal Welfare and Research Center* (NAWRC), *Animal Nepal*, *Society for the Prevention of Cruelty to Animals Nepal* (SPCA Nepal), *Voice of Animal Nepal*.
- 89 See Setopati: ([https://www.setopati.com/social/182645?fbclid=IwAR0IJ04NT\\_MkIukZx8-rCvjcFpVBj6W2hfCfxYqB-VXJopv0a-s1\\_qBFZ1s](https://www.setopati.com/social/182645?fbclid=IwAR0IJ04NT_MkIukZx8-rCvjcFpVBj6W2hfCfxYqB-VXJopv0a-s1_qBFZ1s); accessed 30/11/2021).
- A few interviews with activists made clear that anti-sacrifice campaigns gathered people with very different ideals and motivations: Hindu reformists, animal rights activists, but also vegans, vegetarians, Theravada Buddhists, Tibetan Buddhists, Kabir panthis, ISKCON, Osho, Ramanandi, etc.
- 90 For example, in one cartoon animation the couple Rambilas and Dhaniya decide to sacrifice a coconut instead of a goat to thank the goddess after their son obtains a visa to go abroad. ([www.facebook.com/bloodlessgadhimai/videos/547458866091412/](http://www.facebook.com/bloodlessgadhimai/videos/547458866091412/); accessed 30/11/2021).
- 91 Posters contained slogans insisting that sacrifice is not a religious act (e.g., *dharmako nāmmā adharma nagaraiṅ*).
- 92 The Supreme Court of India had ordered the provinces bordering with Nepal (Bihar, Uttar Pradesh, West Bengal, Jharkhand, and Uttarakhand) ‘to set up mechanisms to prevent the transportation of animals to Gadhimai and to increase awareness against animal sacrifice’ (<https://www.downtoearth.org.in/news/environment/animal-sacrifice-at-nepal-s-gadhimai-temple-banned-50614>; accessed 30/11/2021).
- 93 However, some activists who have been leading the campaign since 2009 felt that this agreement had undermined their long-term work by legitimating ‘categorised killings’ and allowing the creation of a Sacrifice Organising Sub-Committee for the mela—instead of a ‘Sacrifice Discouraging Sub-Committee’.



- 94 This is part of a larger wave of suspicion directed at NGOs, Westerners, and Christians in Nepal. For example, some FAWN activists, who had welcomed Letizia in the previous campaigns in the Kathmandu Valley, declined opportunities to meet during the *Gadhī Māi Melā*. They explained that her presence would have 'irritated the locals'. In this sensitive situation, her very presence would have automatically validated suspicions of foreign sponsorship.
- 95 For example, in this judgment, the court shamed the government for failing to implement the Animal Slaughter and Meat Inspection Act, seventeen years after it was adopted. As the Court remarked, the legislature had given some time for groundwork to be done in order to implement the Act, but this was not intended to be an indefinite postponement.
- 96 The full text was posted on Jane Goodall Nepal's Facebook page, and the national daily newspaper *Repubblica*, posted a few excerpts: 'Contempt of court case against govt., Gadhimai Trust for animal sacrifice' ([https://myrepublica.nagariknetwork.com/news/contempt-of-court-case-against-govt-gadhimai-trust-for-animal-sacrifice/?fbclid=IwAR1wO58Hqn7QvsGNTFcKUqctJUK9m\\_uKsbYDXHvrn3cssz0MD5xq1e9iSWE](https://myrepublica.nagariknetwork.com/news/contempt-of-court-case-against-govt-gadhimai-trust-for-animal-sacrifice/?fbclid=IwAR1wO58Hqn7QvsGNTFcKUqctJUK9m_uKsbYDXHvrn3cssz0MD5xq1e9iSWE); accessed 30/11/2021).
- 97 Being against sacrifice does not mean to be vegetarian necessarily, even if many activists do not eat meat and are vegan. Being vegan is perceived as a source of authority and looked upon with respect (and the fact of eating meat has been seen as hypocritical, as in the video mentioned above showing an activist being trashed for eating meat before an anti-sacrifice event).
- 98 As observed by Barbara Berardi, the vocabulary of the eradication of social evils is characteristic of all social movements in Nepalese civil society and can be traced back to campaigns launched from the 1950s by King Mahendra in the official propaganda of the Panchayat regime, which promoted development and modernity in opposition to the 'backward' practices of the Rana period (Berardi-Tadié 2017:65, quoting Tamang 2000:132).
- 99 We mentioned the car accident of the lawyer of the adverse party, but many other stories can be quoted: for example, the *dhāmī* told Letizia that he was violently ill because he had not offered his blood once he entered temple territory as he was expected to do; during the *melā* an old Tharu devotee got lost in the crowd and was not found for days, which was readily interpreted as the result of some fault he had committed against the goddess. He suddenly and miraculously reappeared when his son asked the goddess for help and made a vow to offer a sacrifice at the next *melā*.
- 100 To quote again the same activist: 'One day in my Facebook page I wrote, "Lord Pashupatinath has no power because he can't do nothing to stop the *pañcabali* in his own temple premises: how can he save the people of Nepal during the earthquake?" I wrote this on my Facebook status. And so many angry people commented, "you are anti-Hindu, you are a bad man. If you don't delete this, I will take action," oh, so many bad words. I don't believe that the goddess has any power.'
- 101 However, as Florence Burgat aptly observes (2017:246), 'We should not confuse the substitution made possible by the classificatory logic specific to the sacrificial ritual, with that which is commanded by a deliberate reorientation of the sacrificial practice towards the nonviolent offering' (C. Letizia's translation). The author notes that when Evans-Pritchard remarks that among Nuer a cucumber is worth an ox, this epistemological equivalence is made for lack of an ox and not with a view to refuting sacrificial violence: it is not the fruit of a deliberate intention with a moral aim (Burgat 2017:247).
- 102 For the 'agency, purpose, identity and metaphysical standing' of the immolated subject see Patton (2009:402).
- 103 The animal rights activists are all urban-based individuals whose families have stopped sacrificing, and the criticism of sacrifice is also related to a changing economy and livelihood: the animal's status changes from that of a subject living in intimate proximity with human caregivers, which entails both care and violence, to that of a pet to be preserved from cruelty and given love and affection.

- 104 On the origin and history of this complex relation, see Gaige (1975) and on the more recent developments see among others Sijapati (2013).
- 105 It is important to make a distinction between critiques of sacrifice and a ‘competition over the meaning and purpose of animal sacrifice’ (Ullucci 2011:57).
- 106 This matches the analysis of Astrid Zotter (2021:208), who notices that at the Dasaī festival the buffalo sacrifices are put centre-stage, announced by music, even if goats are sacrificed in even larger numbers. The explanation lies in the intimate connection between the goddess and the buffalo demon.
- 107 As Zotter in her study of buffalo sacrifice in Dasaī affirms, “The distributing of (from the high-caste perspective) impure buffalo meat constituted, perpetuated, and thus reinforced Hindu notions of ritual impurity (Zotter 2021:197). See also Lecomte-Tilouine (2013:50).
- 108 For example, journalist Sushma Barali wrote in the *Nepali Times* of 6 December 2019 that ‘Unlike religious sacrifice, the animals at Gadimai are not slaughtered to be eaten later, but left to rot’ (<https://www.nepalitimes.com/here-now/cruelty-and-compassion/>; accessed 30/11/2021) (Barali, 2009).
- 109 See for example the series of articles in the *Nepali Times* over the years (Adhikari & de Vries 2014; Bhattarai 2019; Dulal 2016; Mishra 2018; Tandon 2014; Thapa 2009) or the series of articles published in the *Annapurna Post* from September to December 2019.

## References

- Adcock, Cassie & Radhika Govindrajana. 2019. ‘Bovine politics in South Asia: rethinking religion, law and ethics.’ *South Asia: Journal of South Asian Studies* 42(6):1095–1107. doi:10.1080/00856401.2019.1681726
- Adhikari, D. & L. de Vries. 2014. ‘Overkill in Gadhimai. Two divergent perspectives on the mass sacrifice of animals at Gadhimai on 27 November.’ *Nepali Times*, 14–20 November.
- Adhikari, Krishna P. & David N. Gellner. 2016a. ‘Ancestor worship and sacrifice: Debates over Bahun-Chhetri Clan Rituals (Kul Puja) in Nepal’. Pp. 227–259 in David N. Gellner, Sondra L. Hausner & Chiara Letizia (eds.). *Religion, Secularism, and Ethnicity in Contemporary Nepal*. New Delhi: Oxford University Press.
- Adhikari, Krishna P. & David N. Gellner. 2016b. ‘New identity politics and the 2012 collapse of Nepal’s Constituent Assembly: when the dominant becomes ‘other’.’ *Modern Asian Studies* 50(6):2009–2040. doi:10.1017/S0026749X15000438.
- Baird, Robert D. 2005. ‘Religion and law in India: adjusting to the sacred as secular.’ Pp. 7–34 in Robert D. Baird (ed.). *Religion and Law in Independent India* (2nd enlarged edn.). New Delhi: Manohar.
- Barali, S. 2019. ‘Cruelty and compassion.’ *Nepali Times*, 6 December.
- Berardi-Tadié, Barbara. 2017. *L’ère des droits. Vers une anthropologie des associations de la société civile au Népal*. Ph.D. Dissertation, Paris: EHESS.
- Berti, Daniela, Gilles Tarabout & Raphael Voix (eds.). 2016. *Filing Religion. State, Hinduism, and Courts of Law*. New Delhi: Oxford University Press.
- Bhagwati, P. N. 2005 [1993]. ‘Religion and secularism under the Indian constitution.’ Pp. 35–49 in Robert D. Baird (ed.). *Religion and Law in Independent India* (2nd enlarged edn.). New Delhi: Manohar.
- Bhattarai, S. 2019. ‘Activists decry animal cruelty at Nepal temple.’ *Nepali Times*, 19 November.
- Bhuwania, Anuj. 2014. ‘Courting the people: the rise of public interest litigation in post-emergency India.’ *Comparative Studies of South Asia, Africa and the Middle East* 34(2):314–335. doi:10.1215/1089201X-2773875.

- . 2016. *Courting the People: Public Interest Litigation in Post-Emergency India*. Delhi: Cambridge University Press.
- Burgat, Florence. 2017. *L'Humanité carnivore*. Paris: Le Seuil.
- Campbell, Ben. 1995. 'Dismembering the body politic: contestations of legitimacy in Tamang celebrations of *Dasain*.' *Kailash* 17(3–4):133–146.
- Cunningham, Clark D. 1987. 'Public interest litigation in Indian supreme court: a study in the light of American experience.' *Journal of the Indian Law Institute* 29(4):494–523.
- Dave, N. N. 2014. 'Witness: humans, animals, and the politics of becoming.' *Cultural Anthropology* 29(3):433–456. doi:10.14506/ca29.3.01.
- de Sales, Anne. 2011. 'Time, identity and historical change in the hills of Nepal.' *European Bulletin of Himalayan Research* 39:106–126.
- Dulal, K. 2016. 'Ode to goat.' *Nepali Times*, 13 October.
- 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.
- Gaige, Frederick H. 1975. *Regionalism and National Unity in Nepal*. Berkeley, Los Angeles, London: University of California Press.
- Galanter, Marc. 1971. 'Hinduism, secularism, and the Indian judiciary.' *Philosophy East and West* 21(4):467–487. doi:10.2307/1398174.
- Gellner, David N. 2001. 'Religion, politics, and ritual: remarks on Geertz and Bloch.' Pp. 61–82 in David N. Gellner (ed.). *The Anthropology of Buddhism and Hinduism: Weberian Themes*. New Delhi: Oxford University Press.
- Gellner, David N., Joanna Pfaff-Czarnecka & John Whelpton (eds.). 2008. *Nationalism and Ethnicity in Nepal*. Kathmandu: Vajra.
- Gellner, David N., Sondra L. Hausner & Chiara Letizia (eds.). 2016. *Religion, Secularism and Ethnicity in Contemporary Nepal*. New Delhi: Oxford University Press.
- Govindrajan, Radhika. 2014. 'How to be Hindu in the Himalayas: conflicts over animal sacrifice in Uttarakhand.' Pp. 204–227 in Mahesh Rangarajan & K. Sivaramakrishnan (eds.). *Shifting Ground: People, Animals, and Mobility in India's Environmental History*. New Delhi: Oxford University Press.
- . 2015. "'The goat that died for family": animal sacrifice and interspecies kinship in India's Central Himalayas.' *American Ethnologist* 42(3):504–519. doi:10.1111/amet.12144.
- . 2018. *Animal Intimacies. Interspecies Relatedness in India's Central Himalayas*. Chicago, IL: University of Chicago Press.
- Grandin, Temple & Catherine Johnson. 2004. *Animals in Translation: Using the Mysteries of Autism to Decode Animal Behaviour*. London: Harvest.
- Hangen, Susan I. 2005. 'Boycotting *Dasain*: history, memory, and ethnic politics in Nepal.' *SINHAS* 10:105–133.
- . 2010. *The Rise of Ethnic Politics in Nepal: Democracy in the Margins*. London: Routledge.
- Hardy, Kathryn C. 2019. 'Provincialising the cow: buffalo–human relationships.' *South Asia: Journal of South Asian Studies* 42(6):1156–1172. doi:10.1080/00856401.2019.1680484.
- Holmberg, D. 2016. *Tamang Lhochhar and the New Nepal*. Pp. 302–325 in David N. Gellner, Sondra L. Hausner & Chiara Letizia (eds.). *Religion, Secularism, and Ethnicity in Contemporary Nepal*. New Delhi: Oxford University Press.
- Jha, Dwijendra Narayan. 2002. *The Myth of the Holy Cow*. London: Verso.
- Krauskopff, Gisele & Marie Lecomte-Tilouine. 1996. *Célébrer le pouvoir. Dasañ, une fête royale au Népal*. Paris: CNRS Éditions.

- Lecomte-Tilouine, Marie. 2013. 'Does sacrifice avert violence? Reflections from Nepal and the People's war.' *Antropologia* 13(16):37–56. <https://doi.org/10.14672/ada2013197%25p>.
- . 2020. *Sacrifice et violence. Réflexions autour d'une ethnographie au Népal*. Sesto San Giovanni: Mimésis.
- Letizia, Chiara. 2011. 'Shaping secularism in Nepal.' *European Bulletin of Himalayan Research* 39:66–104.
- . 2013. 'The goddess Kumari at the Supreme Court: divine kinship and secularism in Nepal.' *FOCAAL-Journal of Global and Historical Anthropology* 67:32–46.
- . 2014. 'Buddhist activism, new sanghas, and the politics of belonging among some Tharu and Magar communities of Southern Nepal.' Pp. 286–322 in Gérard Toffin & Joanna Pfaff-Czarnecka (eds.), *Facing Globalisation in the Himalayas. Belonging and the Politics of the Self*. New Delhi: Sage.
- . 2016. National gods at the court. Secularism and the judiciary in Nepal. Pp. 34–68 in Daniela Berti, Gilles Tarabout & Raphael Voix (eds.), *Filing Religion. State, Hinduism, and Courts of Law*. New Delhi: Oxford University Press.
- Leve, Lauren. 2017. *The Buddhist Art of Living in Nepal: Ethical Practice and Religious Reform*. Abingdon: Routledge.
- LeVine, Sarah & David N. Gellner. 2005. *Rebuilding Buddhism: The Theravada Movement in Twentieth Century Nepal*. London: Harvard University Press.
- Levy, Robert I. 1990. *Mesocosm: Hinduism and the Organization of a Traditional Newar City in Nepal*. Berkeley, CA: University of California Press.
- Michaels, Axel. 2004. *Hinduism: Past and Present*. Translated by B. Harshaw. Princeton: Princeton University Press.
- . 2016. Blood sacrifice in Nepal. Transformations and criticism Pp. 192–225 in David N. Gellner, Sondra L. Hausner, & Chiara Letizia (eds.), *Religion, Secularism, and Ethnicity in Contemporary Nepal*. New Delhi: Oxford University Press.
- Mishra, A. 2018. 'The sacrifice of animal sacrifices.' *Nepali Times*, 12 October.
- Mumford, Stan R. 1989. *Himalayan Dialogue, Tibetan Lamas and Gurung Shamans in Nepal*. Madison, WI: The University of Wisconsin Press.
- Ortner, S. 1998. 'The case of the disappearing shamans, or: no individualism, no relationalism.' Pp. 239–267 in Debra Skinner, Alfred Pach & Dorothy Holland (eds.), *Selves in Time and Place: Identities, Experience, and History in Nepal*. Lanham: Rowman & Littlefield.
- Owens, Bruce McCoy. 1993. 'Blood and Bodhisattvas: sacrifice among the Newar Buddhists of Nepal.' Pp. 258–269 in Charles Ramble & Martin Brauen (eds.), *Anthropology of Tibet and the Himalaya*. Zurich: Ethnological Museum of the University of Zurich.
- Patton, Kimberley. 2009. 'Animal sacrifice: metaphysics of the sublimated victim.' Pp. 391–403 in Paul Waldau & Kimberley Patton (eds.), *A Communion of Subjects Animals in Religion, Science, and Ethics*. New York: Columbia University Press.
- Pfaff-Czarnecka, Joanna. 1996. 'A battle of meanings: commemorating the goddess Durga's victory over the demon Mahisa as a political act.' *Kailash* 18(3–4):57–92.
- Ramirez, Philippe. 1993. 'Drama, devotion and politics: the Dasain festival in Argha Kingdom.' Pp. 47–59 in Gérard Toffin (ed.), *Nepal, Past and Present*. Paris: Editions du CNRS.
- Ripert, Blandine. 2004. 'Le lama pasteurisé'. Vers de nouvelles figures d'autorité religieuse chez les Tamang de l'Ouest.' Pp. 453–467 in Véronique Bouillier & Catherine Servan-Schreiber (eds.), *De l'Arabie à l'Himalaya, Hommages à Marc Gaborieau*. Paris: Maisonneuve et Larose.

- . 2014. 'Improbable globalization: individualization and Christianization among the Tamangs of Central Nepal.' Pp. 45–62 in Gérard Toffin & Joanna Pfaff-Czarnecka (eds.). *Facing Globalisation in the Himalayas. Belonging and the Politics of the Self*. New Delhi: Sage.
- Sen, Ronojoy. 2010. *Articles of Faith: Religion, Secularism, and the Indian Supreme Court*. New Delhi: Oxford University Press.
- Sethi, Aarti. 2019. 'Mahadev's gift: men, bullocks and the community of cultivation in Central India.' *South Asia: Journal of South Asian Studies* 42(6):1173–1191.
- Sijapati, Bandita. 2013. 'In pursuit of recognition: regionalism Madhesi identity and the Madhes Andolan.' Pp. 145–172 in Mahendra Lawoti & Susan Hagen (eds.). *Nationalism and Ethnic Conflict in Nepal: Identity and Mobilization after 1990*. Oxford, New York: Routledge.
- Singer, P. 2009 [1975]. *Animal Liberation: A New Ethics for Our Treatment of Animals*. New York: Harper Perennial Modern Classics.
- Tamang, Seira. 2000. 'Legalising state patriarchy in Nepal.' *Studies in Nepali History and Society* 5(1):127–156.
- Tandon, G. 2069 B.S. (2012). *Pashubali, Nished Cetana*. Kathmandu: Puprinters.
- . 2014. 'No sacrifice.' *Nepali Times*, 17 November (translated from *Annapurna Post*).
- Tarabout, Gilles. 2018. 'Ruling on rituals: courts of law and religious practices in contemporary Hinduism.' *South Asia Multidisciplinary Academic Journal* 17. doi:10.4000/samaj.4451.
- Thapa, R. 2009. 'Animal fights.' *Nepali Times*, 20–26 November.
- Toffin, Gérard. 1976. 'Le *si kā bheāy*, festin de la tête chez les Newar.' *Kailash* IV(4):329–338.
- . 2016. *Imagination and Realities. Nepal between Past and Present*. New Delhi: Adroit Publishers.
- Torri, Davide. 2016. 'To kill or not to kill? The issue of blood sacrifice and the transformation of ritual patterns in Hyolmo shamanism.' *European Bulletin of Himalayan Research* 47:15–39.
- Ullucci, Daniel. 2011. 'Contesting the meaning of animal sacrifice.' Pp. 57–74 in Jennifer Wright Knust & Zsuzsanna Várhelyi (eds.). *Ancient Mediterranean Sacrifice*. Oxford: Oxford University Press.
- Zharkevich, Ina. 2019. *Maoist People's War and the Revolution of Everyday Life in Nepal*. Cambridge: Cambridge University Press.
- Zotter, Astrid. 2021. 'Who kills the buffalo? Authority and agency in the ritual logistics of the Nepalese Dasāī festival.' Pp. 193–220 in Ute Hüsken, Vasudha Narayanan & Astrid Zotter (eds.). *Nine Nights of Power: Durgā, Dolls and Darbārs*. Albany, NY: State University of New York Press.