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Navigating the Intersections of Environmental and Social Sovereignty: A Comparative Analysis of India and South Africa

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ABSTRACT

This article offers a comparative analysis of both environmental and social sovereignty in India and South Africa, placed within the complexities of their colonial legacy – their path-dependent challenges of governing natural resources and environment on one hand, and arriving at equitable social justice on the other. By examining the role of British colonial rule on their environmental landscapes and social orientations, we illustrate some common experiences of the two countries, which share both a plural society transformation-legacy of the colonial period but also a divergence in the trajectories of postcolonial development carried down from that colonial past. We begin with some definitional clarity, follow up with historical antecedents, contemporary legal frameworks, and a comparative understanding of the struggles between development, conservation and social justice, as well as postcolonial attempts in social mobilization and political agency to articulate and advance these varying aims while striving for some form of environmental and social sovereignty. We situate this analysis by examining these countries' legal and governance frameworks, social justice movements, and the role of indivisible indigenous knowledges within environmental management, and close with four recommendations on leveraging development and environmental sovereignty through indigenous knowledges, strengthening legal architectures, and advocating public participation in decision-making processes of development such as land use. In summary, this comparison can clarify a much-discussed complex problem of environmental and social sovereignties in post-colonial states.

Keywords*: Environmental sovereignty, social sovereignty, India, South Africa, Sustainable development, social justice movements.*

I. INTRODUCTION

Together, these questions constitute the nexus of environmental and social sovereignty for all

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post-colonial states struggling to pursue development in more equitable and sustainable ways. These questions are especially urgent in two contexts: first, in understanding the struggles to forge a new relation between nation-states and the environment under the shadows of inherited colonial burdens; and, second, in unravelling how concepts of sovereignty are created, sustained, contested and reconfigured by a variety of actors beyond the state. This review opens with a definition of colonialism and its impacts on modern states, particularly post-colonial states such as India and South Africa. We delve into their deep colonial histories, the radically different colonial ideologies behind them, and use the compounded complications of these histories to open up and dissect the layers of the post-colonial sovereignty struggle. We conclude by arguing that it is profitable to think of India and South Africa as empirical sites, where the state grapples with sovereignty and its limitations in an age of Planetary Urbanization. Studying the evolution of the policies, problems and political economy in these post-colonial politics can deepen our understanding of what it takes for the twin constructions of social and environmental sovereignty to materialize along market-driven, democratic political forms in the post-colonial present. We hope that the analysis elucidates for states today who are pursuing sovereignty in the face of existential struggles, the pathways for negotiating the essential freedoms required to sustain and equitably inhabit a society and an environment. What and how do we organise our thinking about the environment and society – and the nexus between them? What are the internal dynamics and interconnectedness of subsystems and relations within or across the nexus of environment and society? As human society has grown, its understanding of this relationship has also augmented. Today, we broadly agree that the two are not independent, but directly impact one another. They generate one another and each demand to be regulated for equilibrium.

Environmental sovereignty is broadly understood as the right of a state to administer its ecosystems and the natural resources that sustain them, within the framework of international environmental law and norms. It includes the right of the state to pass laws, formulate policies, and take actions that are relevant to sustained utilization and the sustainable management of natural resources and ecosystems. Social sovereignty, in the context of national sovereignty and the right of the people within the nation to determine 'their social, economic, political, cultural and environmental systems', may be defined as the right of all people to achieve equality and justice in society. It embodies the right to self-determination in the social sphere.

It is where the governance of natural resources plays out in direct relationship to the social, economic and cultural rights of the population. The nexus between environmental and social sovereignty is arguably the most important fissure to study as nations work through issues of

economic development, natural resource distribution and environmental justice.

In these post-colonial states with a legacy of imperial conquest, two primary challenges often emerge as the responsibility of government. On the one hand, the oligopoly of the state by a former metropolitan is supposedly what has caused the historical injustices and inequality in the first place, and acknowledging this is an acknowledgment of the state's new autonomy, its responsibility to correct its wrongs, and what the role of government ought to be. By this logic, it is not only an apology for past wrongs, but also a recognition of current autonomous statehood. On the other hand, there is the problem of new development, a need for environmental and social sustainability. But here we confront the colonial legacy and its role in creating environmental and social injustice. This legacy remains fresh in post-colonial states where the conditions of economic and ecological inequality (redistribution) and governance (transformative statehood) are a direct result of imperial extraction and destruction. The modern state has been accompanied by the colonization of nature, the expropriation of common possessions (such as land and water), the subjugation of foreign peoples and the compounding of inequality. These create enduring legacies of environmental and social injustice that are deeply intertwined with state sovereignty.

II. INDIA AND SOUTH AFRICA'S HISTORICAL CONTEXT UNDER BRITISH INFLUENCE

Like India, South Africa was a British colony and both countries offer valuable case studies in the connections between environmental and social sovereignty. The British colonial practices in India reach back to 1858 and lasted until the end of Empire in 1947. Extracting natural resources from India, populating it with British settlers and unfettered bounty hunters, exploiting Indian labor, and superimposing British legal and governance structures left India with contested land rights, degraded environments and enduring social inequalities.

South Africa's own decades of British rule set conditions for similar patterns, only on a larger scale, especially when rescue and recovery measures between the late 19th and early 20th centuries nearly emptied the country of its smart workers and social assets – such as land, labor, livestock and human affections – in the push to mine and harvest for cash profits, spurring social segregation in urban areas through the Cape Colony (including the city of Johannesburg) and setting the legal stages for apartheid. The fundamental elements of environmental and social policy in that time, now residual lineaments of the South African state itself, have defined the country's capacity to manage natural resources and grow into a less polarized social landscape.

The colonial legacies of these two countries play a large role in shaping their post-independence

legal and governance frameworks around critical issues of environmental management and social justice; as they articulate their sovereignty on these fronts, how do they grapple (or not) with the challenge of reconciling their developmental aspirations with environmental sustainability and social equity? This brief comparative analysis attempts to explore the subtle differences in how India and South Africa are doing (or not doing) this, and what this can tell us about the pathways toward environmental and social sovereignty in a broader post-colonial context.

(A) Definition of Environmental Sovereignty

Environmental sovereignty derives from the notion that 'a state is free to: (a) formulate and implement environmental policies and laws and regulatory measures to meet their environmental objectives; (b) have the authority to apply policies relating to its territory and natural resources; (c) exercise primary jurisdiction to manage land and water;(d) conduct environmental assessments; and (e) implement treaty and other obligations to protect the environment.' It contemplates a right of the country to 'conserve its environment and use its natural resources, free from external interference or coercion in accordance with its registered treaty obligations, among others, in accordance with international environmental law in the pursuit of globally applicable and achievable principles of environmental sustainability.' It's a broad-based notion that includes, among others, the regulation of land use and tenure, biodiversity conservation, hydraulic and mineral resources, and extraction of energy from within its borders. It's about being able to decide on the balance between human activity and ecological concerns within the country.

(B) Definition of Social Sovereignty

In contrast, social sovereignty refers to a society and its people having the inherent right to decide, articulate and pursue their social, economic and cultural objectives, without other nation states dictating to them governance systems that violate inherent rights to self-determination, justice and equity. Social sovereignty is the principle that a population has the authority to decide the social structures, policies and practices of their lives. Social sovereignty as a principle complements national sovereignty and democracy, ensuring that all levels of governance are responsive to the needs of the people. It is founded on values of participation and empowerment, including human rights and just resource allocation. Social sovereignty calls for accountability over historical violations, an indignation at colonial legacies, and a return to, and continuation of, Indigenous cultures, languages and social practices.

(C) Intersectionality of Environmental and Social Sovereignty

The intersections of environmental and social sovereignty are located at a nexus where, through means of natural resource management, the recognition of particular socio–economic rights, understandings of cultural diversity and wellbeing of populations is crucial for the prosperity of those in power and those living at the grassroots. The recognition of why the intersections of environmental and social sovereignties are important can help to explain both why environmental policies and programmes can cement social injustices – and the inverse, how, through environmental decisions and policy, equitable and sustainable development can be a possibility. One of the main fights around decentralization, sovereignty of indigenous peoples and environmental governance over the last 25 years is that land-use policies and decisions oriented towards conservation areas and nature reserves do not always emphasise the rights of users or citizens, such as indigenous peoples. As a consequence, conservation measures that ignore the tenure of land-use, property rights and access can create social displacement and disenfranchisement of one sector of the population, which needs to leave to maintain its and its families' livelihood in another place. Contrarily, many social welfare programmes that don't consider environmental sustainability or the need in resources to buffer society into the future can lead towards environmental degradation, which, in turn, can harm the health and economic future of all of society. What then is to be gained from a better understanding of the environmental and social sovereignty nexus? While out of control activities that affect nature involve the wellbeing of the entire society and its future, the failure to appreciate the sometimes different and competing needs and value of different social groups not only reflects conflicts between these groups, but can also perpetuate injustices.

III. THEORETICAL PERSPECTIVES ON SOVEREIGNTY AND POST-COLONIAL STATES

Given the historical nature of sovereignty – which in the case of most post-colonial states involves the suppression or elimination of local forms of rule, the extraction of natural resources, and the ethnocentric promotion of cultural and other norms foreign to the colonized populations – post-colonial theoretical reflection on sovereignty has a particularly privileged role to play. Among the most penetrating post-colonial thinkers on sovereignty and humanity's vessel state are Frantz Fanon, Edward Said and Homi K Bhabha. They reveal the historical struggle for sovereignty and the imperatives for many post-colonial states to assert sovereignty over environmental and social domains.

In these states, environmental sovereignty is also understood, from a post-colonial perspective, as a recovery of silenced cultural identities and indigenous knowledge systems; it entails rejection of neo-colonial practices by multinational companies and international agencies

prioritizing profit over environmental sustainability and human wellbeing.

 Correspondingly, in a post-colonial context, social sovereignty means the recovery of social justice, equality and self-determination inside all sub-groups in society, and by extension the decolonization of all power structures still presents in the social fabric. It means that governmental structures must responsively and explicitly take account of and respond to the plurality of cultures, languages and social practices of the nation.

IV. HISTORICAL CONTEXT AND COLONIAL LEGACIES

(A) India

The history of colonial control of India by the British East India Company began in the early 17th century and lasted until 1947. Although the Company had arrived in India to trade, it soon became engaged in political and military affairs. After gaining control over large parts of the Indian subcontinent, the Company was placed under direct control of the British Crown by the mid-19th century, after the Indian Rebellion of 1857. During the direct colonial rule by the British, known as the British Raj, British legal, political and economic structures were imposed, virtually changing the very fabric of Indian society.

 To do this, the colonial state created a more centralized mode of governance, consolidating India's diverse array of kingdoms, principalities and peoples into a colony, part of an emerging British Empire. In the process, the British laid down the infrastructure for the current legal system by dismantling, subverting or circumventing indigenous mechanisms of dispute resolution and governance. English common law and a host of statutes influenced the most mundane as well as the most critical aspects of life, such as land tenure and criminal justice.

a. Impact on Social Structures and Governance

Just as social structure and governance were imbricated before the British arrived, so British colonial rule further reshaped Indian social orders in ways that produced – and strengthened – social stratifications and intergroup rivalries. The British reshaped Indian society by rearranging pre-existing social stratifications between and within territorial states, and by inventing new divisions and administrative categories of identity. The most fateful of these was the Permanent Settlement of 1793, which aimed to maximize revenue by fixing land taxes and thus created a new class of landowners (Zamindars) tied to the British. As a result, thousands of peasants lost their rights and acquired a tenancy under the new zamindari relationships.

 Related to this was a divide-and-rule policy that helped to set more permanent social divisions. The British propped up Indian society as a nest of religious and caste differences, and rewarded

some communities for administrative work while neglecting others. Whereas prior to British occupation India, and indeed most of Asia, had relatively uprooted societies and citizens with multiple loyalties, the British helped to foster ethnicity, religion and caste differences as a basis for political solidarity and social segregation.

Additionally, the education system and the civil service of the British encouraged the rise of an English-educated class of Indians who acted as intermediaries in governance, yet might have been ethnically, linguistically and culturally deracinated. This elite had a key role in governance, yet also in the independence movement. Even this imperial history of social engineering is more ambiguous than it first appears.

b. Environmental Exploitation during the Colonial Period

Environmental depredation characterized the British colonial period in India. Driven by the demands of the British industrial complex, they captured vast amounts of raw materials and, buoyed by the invisible hand of the market, promoted the cultivation of cash crops that could be traded globally. Among the first casualties was the forest. Logging operations started to deplete forests to supply timber to feed British shipbuilding and railway-building. The British government promulgated the Indian Forest Act of 1865, with many subsequent amendments, nationalizing large swathes of forest, regulating access, and turning a large class of forest-dependent people into wage labor, thus transforming and detrimentally impacting indigenous conservation practices and ecology.

The growth of cash crops such as indigo, tea and cotton and their prominence over traditional food crops all added to India's eventual proneness to food insecurity and famine, including the Great Bengal Famine of 1943. In addition to causing food insecurity, the onslaught of new crops sowed during British occupation led to land use changes that also degraded soil health and flavor, causing the steady reduction of agricultural biodiversity in British occupied India. The 'across-the-board' colonial focus on sowing monoculture plantations was also influenced by a new, intrusive plant geography.

Furthermore, the construction of extensive railroad infrastructure, the development of mills and mines facilitated the large-scale extraction and export of commodities, with both processes causing serious environmental damage. Frequently, they were undertaken without any considerations for environmental impact: the pollution of rivers, the denuding of forests, the local ecosystems destroyed by the shocks and tumult of industrialization.

(B) South Africa

A colonial order contested by indigenous peoples, Dutch and then British colonial settlers

(Boers) is at its core. British interest in the southern tip of Africa started at the end of the 18th century, focused on controlling the sea lane to India and initially confined to Johannesburg. This colonial episode expanded after diamonds were discovered in the 1860s and gold in the 1880s, spreading British power through the two Anglo-Boer wars and permanent British supremacy.

In 1910, the four separate colonies joined to form the Union of South Africa – a dominion of the British Commonwealth. This marked the beginning of a unification of the territory under a system of racial segregation that would culminate in apartheid. British colonial rule in South Africa was defined by British legal, economic and social structures, established to serve the needs of the minority white colonists at the expense of the majority of indigenous Africans.

a. Apartheid and its Social Implications

While apartheid was officially instituted in 1948 under the aegis of the National Party government, it was grounded historically in institutionalized practices for segregation and systems of racial discrimination that date back to the colonial period. Under apartheid, the rights of the black majority were severely curtailed and racial discrimination underpinned every aspect of life, including access to education, health care, jobs and land ownership.

The social consequences of apartheid went hand in hand with its disastrous political and economic components. The creation of 'homelands or Bantustans and the Pass Laws went a long way in keeping the various groups apart – except that they were not truly separate. There were some 10 or 13 homelands, depending on what the authorities decided. They cut across a country where 20 million black South Africans lived. People were often forced to live, in often impoverished circumstances, in areas far away from the cities that had a great need for workers. The Pass Laws kept the black people out of regions and cities, except when the system permitted it. But this social separation also led to a disastrous economic consequence, as millions of people were kept out of the core of the economy. The nature of apartheid meant that these people were denied basic rights and a sense of dignity. This then led to resistance. The rest of the world condemned apartheid.

Apartheid was enshrined in laws such as the Group Areas Act, which assigned residential areas to people of different races; and the Land Acts, which restricted black South Africans to the homelands. These laws allowed for the large-scale dispossession and marginalization of black South Africans, and the effects are still being felt in the present through the country's struggles with inequality and social cohesion.

b. Environmental Degradation and Exploitation

The impact of British colonial rule and the later apartheid regime on South Africa's environment has been intense since the extraction and use of scarce natural resources, which form the economic foundation of the South Africa we know today, deserves the lion's share of responsibility. Mining has been a mainstay of South Africa's economy since the discovery of diamonds in Kimberley in 1867 and gold in the Witwatersrand a few decades later. A mining boom started in 1870 and continued until 1950, ploughing up the land, polluting water bodies and creating processing sites, or mine dumps, that still scar the landscape.

Widespread commercial exploitation of vegetation for forestry, mining and hydro-electric plants along with settlement led to more deforestation and reduced biological diversity, following previous patterns of colonialism and apartheid. Large-scale plantations and crop farming pushed out small-scale indigenous agriculture and food production. This resulted in pressures on labor, poverty and forced removals.

Water resources have been similarly hit by both the colonial and the apartheid state, when water for mining and agriculture was diverted to serve the needs of big industry at the expense of those of local communities, while environmental policies of the day rarely accounted for the long-term sustainability of water use.

V. INDIAN LEGAL FRAMEWORKS

While the Indian Constitution – adopted in 1950 – does not explicitly reference the right to a clean and healthy environment that we have in the United States and elsewhere, the development of environmental norms in India has been greatly influenced by the Indian judiciary's interpretation of the Constitution as involving environmental protection as part of the right to life guaranteed by Art 21. This general and expansive interpretation of Art 21 has, in turn, provided the early basis for environmental laws and policies in India. The Water (Prevention and Control of Pollution) Act of 1974, the Air (Prevention and Control of Pollution) Act of 1981, the Environment (Protection) Act of 1986 and the Forest (Conservation) Act of 1980, among other legislations, aim to prevent pollution, protect forests and wildlife, and preserve environmental quality.

It was the effect of a policy shift manifested in the National Green Tribunal Act of 2010, which created the National Green Tribunal (NGT), a fast-track court for environmental disputes. Commitment to environmental governance and social and environmental rights was now emphasized.

(A) Social Justice and Rights Movements

India has a long and proud history of environmentalism and ecological social justice movements, consisting of politically organised advocacy on behalf of the most marginalized communities, who are often the worst affected by development projects. The Save the Narmada Movement (also known as the Narmada Bachoo Andolan) was a protest movement against a series of hydroelectric projects on India's longest river, the Narmada, in western India, planned between the 1960s and '90s, which faced nationwide and international opposition. The opposition movement was launched by tribal indigenous peoples who would have been displaced by the dams.

The second tree-hugging action was the Chipko Movement, in the 1970s, in which women from rural villages in the Himalayan state of Uttarakhand embraced trees to ward off axes and save them from being cut. Such movements made it clear that an unbridled development led to not only environmental but also social costs. Alongside the urgent need to acknowledge the position of river and forests as living and sentient entities, these developments have underscored the need for incorporation of public and local voices into decision-making processes.

(B) Case Studies: Land Rights and Environmental Activism

The environmental politics of land struggle also thrives in India. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, colloquially known as the Forest Rights Act, is a landmark piece of legislation recognizing the collective rights of indigenous tribes and other traditional forest dwellers to the requisite number of hectares of forest resources, if they produced evidence of having occupied the forest before 13 December 2005. After decades of activism by indigenous tribes and their supporters across the globe calling for the legal acknowledgement of their ancestral lands and their role in biodiversity conservation, the government was compelled to recognize and rewrite history.

VI. SOUTH AFRICA LEGAL FRAMEWORK

South Africa's Constitution 1996, which is widely considered the one of the most progressive constitutions in the world, has a Bill of Rights that includes a right to 'an environment that is not harmful to their health or wellbeing', and that 'everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that – inter alia – promote a safe, healthy and adequate environment, and diverse and productive ecosystems'. South Africa's environmental policy and legislation has been underpinned by this constitutional commitment.

These environmental legislations are reinforced in South Africa by the National Environmental Management Act (NEMA) of 1998, which provides the framework for strategic environmental management. Its main purposes are to deliver sustainable development, the polluter pays principle, and to ensure public participation in environmental decision-making processes.

(A) Environmental Legislation and Policies

Besides NEMA, there are specific laws dealing with issues such as biodiversity, air quality, waste and other activities, such as the National Water Act of 1998 and the Biodiversity Act of 2004, dealing with the sustainable use of water resources and conservation of biological diversity respectively. The combination of case and scenario approaches ensures that learners work with data in different formats Before joining CASA, I'd already worked for many years in developing countries, including some poorer South African provinces. The conversations we had with academics and civil-society organisations working in environmental fields yielded many stories about why the world cannot be saved.

(B) Case Studies: Mining, Land Rights, and Community Impacts

Although mining has been a major driver of economic development in South Africa, it has also been the source of significant environmental degradation and grave social conflict. The Marikana massacre in 2012, when police shot 34 miners who were striking for higher wages and better living conditions, turned the spotlight on South African mining and the role of mining in development and environmental harm.

Second is the question of land rights; redressing the legacy of apartheid is still key to this. The right to restitution of land in the possession of the state is enshrined in the Land Restitution Act of 1994 as a response to the dispossession of black South Africans from their land; it remains unaddressed today. Despite being a theoretically progressive piece of social justice legislation, the pace of land restitution and reform has been slow and ongoing claims for restitution of land and resources remain unresolved in many communities across the country.

VII. Conflicts between development and environmental conservation in India

India's economic growth has often set in sharp tension with environmental preservation. Ambitions of hulking industrialization and urbanization have caused extensive environmental damage, including rampant deforestation, air and water pollution. Biodiversity has been lost or eroded, and many of the country's industrial projects related to its economic development have run into conflict with environmentally protected zones. For instance, the Sardar Sarovar Dam

on the river Narmada, a project which promised to, among other things, provide irrigation water and hydroelectric power, bypassed environmental controls to divert the river despite strong resistance, centred around questions of flooding and the displacement of around half a million people, the majority of them indigenous tribes.

(A) Social Inequities and Access to Resources

India has some of the world's most serious social inequalities, which have a direct impact on how people access nature: poor and marginalised communities, including indigenous peoples, and lower-caste populations are often systemically excluded from water, fertile land and clean air. Further barriers are often put in place through legal and administrative measures that make it difficult for these communities to assert their rights. The Forest Rights Act, 2006, which is meant to give rights to forest-dwelling communities, serves as an important example here. Implementation has been patchy – a common finding in countries where legal regimes are weighed down by inequities and corruption.

(B) Legal and Political Challenges in Implementing Sovereignty

There are significant legal and political challenges to using environmental and social sovereignty. The centralization of environmental governance can increase the mismatch between some policies and local needs, impeding management of natural resources. The judicial system can drag on for years, rendering it another ineffective tool in the environmental toolbox, even though it is actively trying to be a landmark player in the field of environmental law. And political will is uneven, swinging between prioritizing economic-development concerns at the expense of issues such as climate change and conserving air and water quality.

VIII. CONFLICTS BETWEEN DEVELOPMENT AND ENVIRONMENTAL CONSERVATION IN SOUTH AFRICA

Environmental justice – here an ideal rather than a political proposition – has roots in the history of racial inequality in South Africa: marginalized communities still experience the brunt of environmental destruction and pollution, especially as many live in close proximity to mines and industrial plants. Those effects of history are also tied to the spatial planning of the apartheid regime's country. Post-apartheid policies have actively the country's formidable challenges.

(A) Conflicts over Land and Natural Resources

Though almost 20 years have passed since the end of apartheid, conflicts over land and natural resources remain a focal point for much of the contestation over who has rights to what and why. What was taken away with great dispatch during the height of apartheid and colonialism

– the expropriation of land from customary and previously owning communities – continues to be a source of tension. Forms of contestation, therefore, include dealing with attacks on land restitution mechanisms, as communities struggle to gain recognition for their historic claims and/or simply seek to access resources needed for their communities. The mining sector in particular has been and remains an epicenter of contestation, as communities' demands grow louder against projects that they deem to pose severe threats to the environment they would seek to maintain or livelihoods they would similarly want to preserve. As recent events at Marikana have shown, the potential for violence is not far away, given the disputed and contested nature of these claims. The demand for water is similarly on an accelerated trajectory across all sectors, from agricultural use to industry and domestic consumption.

(B) Legal and Political Challenges in Environmental Governance

South Africa is beset by massive challenges in the realm of environmental governance, both legal and political in nature: environmentally progressive legislation and policy are often stymied by economic realities, particularly where the mining sector – handsomely remunerative and bulky in relation to the size of the economy – has entrenched interests. The implementation of such legislation is often hampered by a lack of capacity, by corruption, and by political interference. The process of land restitution and reform is complicated, slow, and prone to delay.

a. In India: The Narmada Dam Project: A Clash of Environmental and Social Sovereignty

The Narmada Dam, a massive hydroelectric project that forms part of the construction of a canal and a series of large hydroelectric dams on the Narmada, is one of the most controversial environmental and social projects taken on by the Indian government in recent times. Supporters argue that the project is needed to help India fight its power shortage and supply irrigation and drinking water to thousands. It has been opposed by environmental activists and Adivasi peoples.

On the one hand, there is the painful environmental damage and the displacement of tens of thousands of families – including many tribal people – pitted against the hope that people across the millions of households in the affected states would have access to safe drinking water and developmental power. The upward struggle against the dam by the Narmada Bachao Andolan (NBA) – the platform that brings together villagers and urban professionals across many states in India – has brought the question of inadequate rehabilitation and resettlement of thousands affected by the dam, and the ecological damage inflicted by massive works, to the fore. The NBA's cases include Narmada Bachao Andolan v. Union of India. The fact that the political-

economic question of social development finds a 'juridical justice' in courts reflects the underlying conceptual contradictions and the normative tensions in development projects, environmental protection and human rights. The messy and complex relations between economic development, environmental sovereignty and social sovereignty raises many interesting questions at the boundary where law and ecology meet.

b. In India: Forest Rights Act: Empowering Indigenous Communities

At long last, the Forest Rights Act (FRA) 2006 brought a new focus on the nexus between land tenure, livelihoods and forests. Such recognition was critical because colonial-era forest laws had deprived many groups of formal legal rights over their ancestral lands. Additionally, as a result of long colonial rule, limited land reforms, fierce discrimination and many other factors, by 1986 nearly all the Van Gujarati had been evicted from their lands, except for those who had converted to Christianity or Islam. With this backdrop, the FRA was an attempt to reverse centuries of injustice: to give the legal right of possession over forest land and resources to its traditional occupiers – indigenous groups and other forest dwellers who derive a substantial part of their livelihood from forest produce. Such groups had lobbied for decades to pass the law, contrary to vested interests, especially those of the forest bureaucracy.

The Act grants communities' rights to inhabit and use forest lands and manage its resources – if they can demonstrate they've had tenurial claim on the forest land. While the FRA is a landmark piece of legislation for environmental and social sovereignty, its rollout has differed greatly from state to state, met with competing interests including bureaucratic inertia, resistance from forest departments and conservation groups. However, where the FRA has been used successfully, communities are demonstrating how rights to forest land and resources can enable the most marginalized populations to secure livelihoods, safeguard biodiversity and manage forests more effectively.

c. In South Africa: The Marikana Massacre: Social Injustice in Mining Communities

Continuing this pattern, the infamous Marikana massacre in August 2012 exposed the injustices of South Africa's mining sector when police shot dead 34 striking miners outside the Marikana platinum mine, which is owned and operated by the corporation Lonmin Plc. The management of the mine called in the police to force the workers back to their jobs with the cheapest wages and worst living conditions. The police massacred a large crowd of miners protesting low wages and high unemployment. The Marikana massacre drew global attention to the realities of mining communities in South Africa.

The massacre is also symbolic of the economic and racial polarizations of post-apartheid South

Africa in relation to labor rights and capital, and the disparities between corporate interests and the rights of workers, as well as the tensions in the country between the environmental and the social. Since Marikana, advocates have appealed for reforms in the legal and policy frameworks governing labor, community engagement and environmental and sustainability issues associated with mining activity, which is an economic engine as well as a major source of environmental degradation.

d. In South Africa: The Traditional and Khoi-San Leadership Act: Balancing Tradition and Modern Governance

The Traditional and Khoi-San Leadership Act was signed into law in 2019. It recognizes Khoi-San communities and their leaders for the first time in South African law. Its provisions also enable the traditional leadership and governance of the Khoi-San. An Act such as this is essential to the process of providing the Khoi-San of South Africa with citizenship and full integration into state structures and governance.

But the Act has also sparked heated debates about whether, in a misguided nod to tribal authority and in a backslide to authoritarian politics, parliament is trying to consolidate chiefly and other traditional power at the expense of community rights and empowering them to exclude community members from decision makings, especially regarding land tenure and environmental management. The Act is significant for environmental and social sovereignty because it touches upon the management of communal lands and natural resources in ways that could give chiefs a major role.

IX. SUGGESTIONS

Here are several suggestions to preserve sovereignty and environmental equilibrium without external interference:-

- India and South Africa should integrate indigenous knowledge and practices in the governance of the environment and in social relations. Policies should be created in consultation with indigenous and local communities that have traditional rights to land and resources.

- Intensifying efforts to build and, where appropriate, reform legal systems that offer effective environmental safeguards and enforce the social rights of disadvantaged communities – such as the Forest Rights Act of India adopted in 2006, or the Traditional and Khoi-San Leadership Act of South Africa adopted in 1998.

- Encouraging development that supports both successful economic growth and

environmental sustainability, for example through cleaner technologies, investment in renewable energies and greater environmental impact assessment for development projects.

- Creating meaningful public engagement in environmental decision making, for example, by creating more open and accessible avenues for community participation.

- Increasing the power of courts to provide timely and effective environmental and social remedies (for example, through expansion of national green courts, such as India's National Green Tribunal).

X. CONCLUSION

Nonetheless, this story of difference, of the complex interaction in the postcolonial present between visions of environmental sovereignty and expressions of social sovereignty in India and South Africa, suggests a continuity of common problematic in the postcolonial states of India and South Africa today. There are three underlying filaments. Though ever so fundamentally different on the ground – in history, culture, language, law, started by two radically different colonizing states and underlying their utterly distinct developmental trajectory – India and South Africa shared two things: colonial legacies remained in place for both countries when they entered their respective postcolonial nation states within which the co-option or subordination of the state and/or society by the state or aided by private capital represent a formidable impediment to effectively working legal and political frameworks required for realizing the promises of environmental sovereignty and social sovereignty. Both countries remain infested with inimical development projects today.

These findings show that policies must address the basic social inequalities and ecological challenges that underlie land abuse. Policy solutions include the recognition of indigenous science; reformation of legislative structures; the promotion of green development; raising public awareness; and formation of international partnerships. In both countries, good governance involves a holistic view that considers both environmental and social concerns.

Yet their futures suggest that ecological sustainability and social equity will go hand in hand, and that this is likely necessary for national economic well-being over the longer term. Such change will be difficult, and there will be many traps along the way. But if the new India and South Africa can achieve an inclusive form of governance and strong laws enforced in an environment that allows active and robust engagement of civil society, bolstered by international support, their course need not be as difficult as it might seem. Both countries can earn a place in a just and sustainable world, where the cultural and ecological heritage of its

peoples are conserved through socially just and equitable use of nature.

Finally, but most importantly, this comparative portrait shows the most difficult challenge that post-colonial countries could lie, namely the seemingly irreconcilable dilemma of environmental and social sovereignty, and the meaning of such conflicts for the future of climate action. It provides a useful roadmap for both post-colonial countries like India and South Africa with their diverse population of citizens to strengthen their sovereignty in both these two important domains. It highlights the need to intensify negotiations with diverse stakeholders along sustainable and social-equity paths.

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