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Nivedita Menon

*Outside the Grid of Secularism :
Alternative Readings of the Present India*

OMEO KUMAR DAS INSTITUTE OF SOCIAL
CHANGE AND DEVELOPMENT
GUWAHATI

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Preface

The Indian society is a complex one, and the process of its development is a long and arduous one. The present book is an attempt to explore the various dimensions of this complex society and to provide an alternative reading of the present India. The book is divided into two parts. The first part deals with the historical and cultural context of the Indian society, and the second part deals with the contemporary issues and challenges facing the Indian society.

Nivedita Menon

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The lecture is distributed free of charge

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Preface

The Indian Council of Social Science and Research (ICSSR) initiated the two programmes **ICSSR-NER Lecture Series** and the **Scholars in Residence Programme** under its ICSSR-NER Programme. Eminent scholars are invited to deliver lectures at the Institute under the former, and to spend one or two weeks at the Institute under the Scholars in Residence programme. Both the programmes are aimed at enhancing the interactions among the scholars from within and outside the region.

Nivedita Menon delivered this lecture on 16 December 2009 at the Institute's premises.

The lecture basically focuses on the master discourse of secularism and the grid of meaning it produces that in turn obscures critical factors in contemporary politics in India. She exemplified her observation by asserting that certain specific critical factors are consistently shrouded by the grid of secularism like the electoral alliances with the BJP as indicative of BSP's opportunistic support for communal politics; the Environment/Ecology dichotomy in the controversy over the Sethusamudram project, where only two positions appear possible – the anti-secular, Hindutvavadi voice opposed to the Sethusamudram project and the secular voice in support of it. Menon intends to lift the grid of obscurity by suggesting that the Sethusamudram controversy is better read through the idea that “nature” sets limits to “economic growth”. The lecture highlights her views on secularism that persists in India.

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OUTSIDE THE GRID OF SECULARISM: ALTERNATIVE READINGS OF THE PRESENT INDIA

In this paper I address the manner in which the master discourse of Secularism and the grid of meanings it produces often obscure critical factors in contemporary politics in India.

To begin with, in passing, let me offer a quick illustration that Aditya Nigam and I have discussed elsewhere at length, that is, caste. Take the fairly common reading of BSP's electoral alliances with the BJP as indicative of BSP's opportunistic support for communal politics. However, once we introduce caste into the equation, we see a different logic is at work. The secular-nationalist common-sense can see in Indian politics only a secular/communal opposition, but as far as the BSP is concerned, the secular parties in North India are parties of the Backward Castes, which (and not Brahmins) are the immediate oppressors of Dalits in North Indian villages. The BJP, on the other hand, with its largely Bania-Brahmin support base, and its initial readiness to share power with the BSP, offered the BSP the support it required. That is, the BSP, placing Dalit interests above all else, refused to participate in politics within the dichotomized secular/communal mode that claims to subsume all conflict in India. This mode presented the "secular front" as non-negotiable – you could only enter it on the terms set by the dominant partners, the OBC parties in this case, a choice refused by the BSP. (Menon and Nigam 2007).

The focus of this paper is another critical factor that is consistently obscured by the grid of secularism, that of Environment/Ecology. The first part of the paper will look at the controversy over the Sethusamudram project, in which only two positions appear possible – the anti-secular, Hindutvavadi voice opposed to the Sethusamudram project; the secular voice in support of it. The positions are clearly

demarcated and irreconcilable. However, the grid that enables this reading also shapes and disciplines the field in particular ways, limiting the range of possible interpretations. I propose in this paper to lift the grid, suggesting that the Sethusamudram controversy is better read through the idea that “nature” sets limits to “economic growth”.

In the second part of the paper, I will explore the manner in which Environment is produced by judicial discourse in India, consistently enabling particular notions of “growth” in opposition to other visions of life, livelihood and justice. Here secularism is not invoked explicitly, but to the extent that secularism in India has been intimately linked to a particular notion of Development, as we will see with the Sethusamudram Project, the grid of secularism works to both obscure and produce Environment in specific ways that we need to unravel.

I

The proposed Sethusamudram Ship Canal Project will reduce the shipping distance from the southern tip of the east coast of India to the northern parts of the coast, by constructing a route through the Gulf of Mannar to the Bay of Bengal. Thus, ships will be able to go northwards directly through the narrow Palk Strait between the east coast of India and the west coast of Sri Lanka, rather than swinging around Sri Lanka as at present. It is claimed that this project will save time and money for shipping companies, and is expected to radically increase the volume of traffic in that region. In order to build the canal, an underwater bridge connecting India and Sri Lanka along the Palk Strait would have to be destroyed. Depending on your point of view this bridge is either a natural formation of limestone shoals (Adam’s Bridge), which linked Sri Lanka, to the Asian continent in the last Ice Age, or it was built by Hanuman’s army to cross over to Sri Lanka to rescue Sita (Ram Setu).

Three petitions filed in the Madras High court, transferred to the Supreme Court, argue against the Sethusamudram Project because the planned route would cause damage to the Ram Setu, and demand that an alternative route should be adopted. There was also a demand to declare Ram Setu a “national archaeological monument” (Singh, 2007). In response, the government filed an affidavit from the Archaeological Survey of India (ASI), stating that the so-called Ram Setu was in fact a natural formation. Further, the affidavit said that the ASI is a “science and technology department”, and that while “due deference may be given to the feelings of the petitioners”, the issue has to be approached in “a scientific manner” (Sinha 2007). Therefore, mythological texts could not form the basis for government policy. “The Valmiki Ramayana, the Ramcharitmanas by Tulsidas and other

mythological texts, which admittedly form an ancient part of Indian literature, cannot be said to be historical records to incontrovertibly prove the existence of the characters or the occurrence of the events depicted therein.”¹

In the uproar that was created by Hindutvavadi formations including the BJP opposition in parliament, two officials of the ASI were suspended, the controversial passage withdrawn from the affidavit, and the government went into over drive to limit the damage. The Law Minister HR Bharadwaj said, “Ram is an integral part of our history and culture. *Ram ki vajah se saari duniya exist karti hai*. [The entire world exists because of Ram]. It is an article of faith and cannot be made a matter of litigation” (Nagi 2007).

The debate is intense. The title of one of Praful Bidwai’s first writings on the issue set up the two sides with crystal clarity: “Spineless secular government retreats when fundamentalists invoke mythology” (Bidwai, 2007). Defending the withdrawn statement in the affidavit, Bidwai said that it is crucial to refute the contention that *Ramcharitmanas* provides clinching evidence that the Ram Setu is man-made. Otherwise, it means “giving in to the idea that faith must always trump history, archaeology, even geology - which explains the existence of natural formations like Adam’s Bridge - and accepting that the project must be scrapped because of myths and scriptures, not fact” (ibid.)

This is what the grid of Secularism does – produce a field in a particular, limited, tragically predictable way. So completely does the opposition of secular/communal shape theorising on Indian politics that ideas or actors that actively constitute themselves outside of this polarity fail to be seen independently of it. Lifting off the grid often reveals a more complex field structured by some critical factor rendered invisible otherwise – in this case, that factor is ecology.

Why does the question of ecology remain invisible despite its vocal invocation throughout the debate? How is the grid of Secularism able to exclude ecology from the field of vision? To answer these questions, we need first to recognize that secularism in India, that is, Secularism as a principle of state-craft,² is not limited to the relationship between state and religious community. I have argued elsewhere (Menon 1998), extending the insights of Partha Chatterjee and Ashis Nandy, that secularism in India served the purpose of mediating three key aspects of the anti-imperialist and modernizing project of the Indian elites - a) bourgeois democracy, which here was about the inter-relations among communities, individual citizens and the state at different levels b) the capitalist transformation of the economy through the creation of the mobile unmarked citizen and c) social justice, to the extent that equality in a formal legal sense (for example, through the

abolition of untouchability and caste discrimination) was necessary for the first two.

Thus, Indian secularism is an integral part of the modernizing, nationalist project to build capitalism. Therefore, it is intimately tied to a particular idea of Development and Progress. To question the latter is apparently, to question secularism itself.

Let us look at the main secular argument once again – that the bridge is not “man-made” but natural. As Bidwai noted approvingly, the ASI affidavit quotes studies by the Space Applications Centre, Ahmedabad, which “conclusively” show that the Setu formation is “purely natural”. Claims by Hindutvavadis that the imagery collected by the US National Aeronautics and Space Administration (NASA) proves that the structure is “man-made” are refuted by the ASI, backed by the NASA, with the argument that remote visual images are not sufficient to establish the origin of the structure. Further, a study conducted by the Geological Survey of India around Adam’s Bridge, based on drilling holes into submerged rocks, also found “no evidence” of man-made structures. It revealed three cycles of sedimentation of clay, limestone and sandstone - a natural phenomenon that occurred thousands of years before humans settled in peninsular India (Bidwai 2007)

The discourse of science is thus effectively mobilized to establish the true “history” of the formation as natural, therefore not made by human beings (or “men” as they are popularly known); as opposed to the “myth” that a real living Ram, and real living beings, *made* it with their hands. The equation here appears to be Scientific History (natural formation) versus Religious Myth (created by humans)

The contestation continued with the tabling in Parliament in December 2008, of a government publication. *Images India*, published by National Remote Sensing Agency (NRSA) that comes under the Department of Space, says that satellite images have revealed an “ancient bridge between India and Sri Lanka in Palk Strait...Its structure suggests that it may be man-made...This has an echo in the ancient Indian mythological epic, the Ramayana...Studies are still on but the bridge is seen as an example of ancient history linked to the Indian mythology” (IANS 2007)

The revelations in the book, with a foreword by Indian Space Research Organisation (ISRO) chairman G. Madhavan Nair, are of course, contradictory to the government stand so far. The BJP was jubilant - “Finally, science has prevailed upon the politics of Congress. Now they have to accept the scientific evidence

and...must accept not only Lord Ram but also Ram Setu,” a party spokesman Prakash Javadekar told a news agency (IANS 2007). On the website *hindujagruti*, two kinds of arguments are given for why Ram Setu should not be damaged – “spiritual” and “physical”, the latter refer to ecological factors.

Thus, while the discourse of Secularism continually counterposes “their belief” to “our facts”, what is striking here is that Hindutvavadis, far from invoking “faith” and “belief”, are in fact insistent that the structure is “man-made” (amenable to historical proof, precisely *not mythical*) and that it is *not* natural (made by God). Thus both secularists and Hindutvavaadis claim science will determine whose version of history is the true one. It is also revealing to consider what the secularist response would have been if the evidence of science had shown that the reef was indeed “man-made” - the debate would have continued on whether the “man” involved was Ram.

What is at stake for secularists in insisting that the canal project be permitted to continue? Nothing less than Development! As we noted earlier, the claim is that the canal will increase shipping traffic through the Palk Strait, and save ships time and money in moving from the west coast of India to the east. Why should a commitment to secularism entail a commitment to this goal? Why is it implied, even by a writer as sensitive to ecological issues as Bidwai, that if a structure is *merely* natural, built up over millennia, it is secondary to the larger interest of development? On issues like the Indo-US nuclear deal, he is among the few anti-nuclear activists across the world who, untrammelled by national identity, opposes not just the bomb, but nuclear energy as well, for ecological reasons. It seems to me he is able to do this only because the latter issue is not viewed through the grid of Secularism. However, one must also note here that the article discussed above was apparently only his immediate reaction to government withdrawal of the ASI affidavit, a reaction produced precisely by the codes of the secular/communal polarity. Very soon afterwards, his signature was on a statement by civil society organizations protesting the project on ecological grounds, which I discuss below. The point however, remains – the grid of Secularism is overwhelming in its capacity to structure the field of debate.

While “science” has been invoked by both sides (the struggle over interpreting data produced by NASA, for example), another equally scientific voice has been marginalized and ignored. For example, in a national daily, on the same day as a set of stories titled “Ramayana no basis for Ram Setu: ASI”, “Faith versus necessity”, “Lord Ram is back on BJP agenda”, “Nervous government chants ‘Ram Naam’” and so on, was one titled “Recipe for disaster: scientists”³³ It quoted tsunami experts warning that the destruction of the millennia-old limestone shoals would

be disastrous for the ecology of the coast. Adam's Bridge is held to have deflected the fury of the tsunami in 2004, forcing it back into the open ocean. This story stands independently by itself, and none of the other stories, each one about the interrelation between religion and politics, refers to it. This perspective has not come up before the Supreme Court so far either, and no political party takes it into account.

Of course, as we will see in the second section of this paper, given the history of the Supreme Court over the 1990s, even if the question were to come up before it, the outcome seems predictable. Ecological concerns about the canal project seem doomed to be dismissed out of hand by the Court. But we will come to this aspect later.

When the grid of secularism is lifted from this debate, an alternative reading is enabled of the "facts" of science and history, in which religion is no longer a relevant factor. Significant alternative voices from **within science** emerge that are rendered invisible by the grid. The "facts" from this position now tell us that the Sethusamudram Project would be an unmitigated ecological disaster. More importantly, this alternative reading of the "history" of the reef as a natural formation, gives the reef *greater* value, not less.

An instance of a position like this is a website, *sethusamudram.info*, which has as its tag – "No Ram - no Ram Sethu – let's save our environment." This site says it is "dedicated to bring out an unbiased version of information related to Sethusamudram shipping canal project (SSCP). It is not about Religious Sentiments or Economic projections. It is the Ground Reality, Environmental aspects and Livelihood of thousands of Fishermen and the Benefit of the People of Tamil Nadu that should drive the Project."

It takes a clear stand on myth as distinct from history, deplores the caving in of politicians to the communal BJP, offers Tamil versions of the Ramayana in which Ravana is the hero, but is firmly opposed to the Sethusamudram project. Apart from privileging local interests (Tamil Nadu) over the national, the site additionally, highlights another neglected aspect - the concerns of Sri Lanka. Apart from general ecological questions, Hemantha Withanage expresses concern about the fact that 35% -70% of the fish stock for the Sri Lankan side comes from these coral reefs (<http://sethusamudram.info/content/view/64/38/>). Thus this site puts environment-with-people first (as opposed to bourgeois environmentalism in which something called Environment refers only to "nature" devoid of people), refuses national borders, and offers an alternative secularism detached from state-craft, the nation-state, and

Development. This is secularism with a small 's', which is not a master discourse.

A statement by civil society groups, people's movements, human rights organizations and concerned individuals put out a statement in September 2007 which said "the Sethusamudram Project was introduced by the BJP while they were in power at the centre without considering the ecological and human problems. The Sethusamudram Project will endanger a rich biosphere reserve with 400 endangered species, including sea turtles, dolphins, dugongs and whales. The project will destroy the livelihood of 15 lakh people who depend on fishing and allied areas in the waters where the canal will be dug. Several fisher people's organisations and human rights groups had protested against the project for a long time without getting any recognition from the mainstream political parties" (<http://communalism.blogspot.com/2007/09/condemn-killings-condemn.html> Downloaded May 4, 2008).

In an email message on the WaterWatch list, retired Major-General SG Vombatkere, formerly with the Corps of Engineers of the Indian Army and an activist on environmental issues, wrote "it is piquant that those who now oppose the Sethusamudram Project on religious grounds have gained media attention and those who have from the outset been opposing it on grounds of human displacement, ecological reasons and even on economic viability grounds have been side-lined and forgotten. The displacement of thousands of fisher folk and their loss of livelihood and the undoubted environmental damage that will occur due to dredging the channel to create a canal do not need elaboration, except to say that if these costs are taken into consideration, the project may actually prove economically unviable."

He points out that no economic feasibility report has been submitted to the public domain, and outlines a number of factors due to which the project is unlikely to be economically viable (Vombatkere 2007).⁴

T T Sreekumar identifies two "meta-narratives" at work in the India debate (which displays, he holds, "an astonishing ignorance and/or indifference about the decade long deliberations on the topic by social, environmental and human rights movements, scientists, writers, intellectuals, artists and fisher communities in Sri Lanka") - national security and/or economic angle and the Hindutva view (or what I have called the secular-nationalist perspective.) Disappointed in the CPI (M), he writes: "Against the grain, I want to believe that the old leadership of that party might have wanted to oppose it on internationalist and environmental principles" (Sreekumar 2007).

Despite such a long history of hesitation about the project (the idea was first mooted in the 19th C by a colonial official), and strong views expressed against it in Sri Lanka and India on the sorts of grounds outlined above, over decades as well as with greater urgency over the past year, all that is permitted to be visible in public discourse is the debate over the historical existence of Ram. Last heard, in April 2008, the question being pondered in the Supreme Court was about whether the Ram Setu is actually a place of worship, as claimed by the petitioners – “Who does puja in the middle of the sea?” the Bench remarked skeptically (Mahapatra 2008).

And so the grid of secularism does its work, automatically reproducing, regardless of the complexity of the field, an unthought-through polarity - (secular) “scientific fact” and “development” to (anti-secular, anti-modern) “myth and belief”. It is clear that a victory for “secularism” in this debate is a defeat for the future of life on the planet.

II

In the second part of this paper, I will draw your attention to the manner in which even as ecology and environmental concerns are rendered invisible in issues such as the Sethusamudram Project, a notion of Environment has emerged from state discourses that is deeply problematic. A careful study of PIL in the 1990s reveals that the Supreme Court consistently took distinctly different stands on “Environment”.

In one kind of context, “environment” began to be invoked as something to be protected:

a) The leisure and lifestyles of the urban middle classes

Thus, in cases where the government, under democratic pressure, withdrew or postponed an unpopular measure such as slum demolitions, the courts have rapped it on the knuckles for failure to protect the environment. In 1999, in response to a PIL, a court-appointed committee had recommended the demolition of jhuggis in a Delhi locality because of the ‘unhygienic’ conditions it produced. The government did not move on this order because of its inability to find an alternative site for relocating the people who lived there. In 2006, the Court hauled up various government authorities for contempt of court, and demolitions were carried out forthwith (Menon and Nigam 2007: 75).

In another chilling response in 2006 dismissing a PIL against the demolition of slum clusters that supposedly pollute the Yamuna river in Delhi, during the course of which lawyer Prashant Bhushan claimed the right to shelter as a fundamental right, the Supreme Court (Justices Ruma Pal and Markanday Katju) observed: ‘Nobody forced you to come to Delhi. Is there a right to live in Delhi only? Stay where you can. If encroachments are to be allowed on public land, there will be anarchy’ (Leena 2006).

b) Forests and wildlife, over which the state is to be the sole authority.

Once an area is declared a National Park or sanctuary, forest communities that have lived in and sustained forests for generations, overnight become illegal encroachers. It is in this context that we must understand the particular principle of international environment law that the Supreme Court has integrated into Indian environmental jurisprudence - that of “the state as trustee of all natural resources”, understood by some scholars as an advance towards recognizing the importance of the environment.

Since 1996, the Supreme Court of India has assumed the role of the principal decision maker on issues relating to forests and wildlife through its intervention in two cases, the T. N. Godavarman Thirumulkpad vs Union of India and ors concerning the implementation of the Forest Conservation Act, 1980 and the Centre for Environmental Law (CEL), WWF vs Union of India and ors concerning the issue of settlement of Rights in National Parks and Sanctuaries and other issues under the Wildlife (Protection) Act, 1972.

These cases are being heard since 1995 and are a part of what is termed as “continuing mandamus”, whereby the Court, rather than passing final judgments, passes orders and directions in order to monitor the functioning of the executive. These have led to fundamental changes in the pattern of forest administration and decision-making. As a result of such orders, no forest, National Park or Sanctuary can be de-reserved without the approval of the Supreme Court; no non-forest activity is permitted in any National Park or Sanctuary even if prior approval under the Forest (Conservation) Act, 1980 has been obtained; the removal of any dead or decaying trees, grasses, drift wood etc. from any area comprising a National Park or a Sanctuary is prohibited. (http://www.forestcaseindia.org/join_form April 21, 2008)

The question of who is an “encroacher” and who is not is a very complex one given the differing histories of peoples in different parts of India, and each of these orders is a blow to the traditional livelihood practices of forest communities, in

effect rendering their everyday lives illegal overnight. An Interim Order of May 2002 resulted in several state governments launching eviction drives against “encroachers” on forest lands, fearing action for contempt by the Supreme Court against them. The Assam forest department used elephants to raze down hutments and homesteads on land recorded as forest. In Maharashtra tribal families were evicted from farms with standing crops. Scores of houses were destroyed and hundreds were rendered homeless (“Deep in the Woods” Down to Earth January 15, 2003. Available at http://www.downtoearth.org.in/full6.asp?foldername=20030115&filename=anal&sid=8&page=2&sec_id=7).

On the other hand, when Environment is seen to come in the way of “development”, then it is not to be protected. It is assumed that the “environmental cost” will simply have to be paid, and the local people will be pacified with “developmental measures” with which the poor in India are drearily familiar. That the currency this cost is being paid in, is drastically limited, and fast running out, is not under consideration at all.

As the logic of corporate globalization took hold of the Indian elites, PIL petitions that challenged large infrastructure projects and urban development/ “beautification” projects because of their human costs and on ecological grounds were met unfavourably by the Courts. In these instances, judicial discourse spoke in the voice of the developmentalist rational state, valorizing the voice of “experts” and ignoring the pressures of democracy altogether.

Petitions on environmental grounds against the Tehri Hydropower Project and the Konkan Railway in the 1990s, and the Narmada Valley Project in 2000, were dismissed by the Supreme Court. When the rights of National Thermal Power Corporation to set up a super thermal plant was disputed in 1992 by adivasis claiming customary rights to the land NTPC had acquired, the Supreme Court allowed NTPC’s claim “in the national interest” (Upadhyaya 2000).

“Development” since the 1990s has also a new dimension, that is, the consciousness of Delhi, Mumbai and other metropolises being “world cities” with world class infrastructure – good roads, flyovers, smooth traffic, malls and multiplex entertainment places. This imagination overwhelms “environment” questions. Thus in December 2006, the Supreme Court refused to issue a stay order on construction at the Vasant Kunj Mall site in Delhi. This was despite an affidavit from the Ministry of Forests and Environment that the topography of the site is similar to that of a ridge, requiring that environmental impact of construction should have been assessed beforehand. The judgment held the Delhi Development Authority culpable for having auctioned the site without requisite clearances, but held also

that since the corporate entities involved in the construction were not aware of this fact, they should not be penalized. (Express News Service 2006). Construction is on in full swing, while conservationists have filed a review petition. Meanwhile delaying tactics of the developers of the mall to summons from environmental watch bodies of the government, ensure that it will be too late to reverse the decision even if incontrovertible evidence were to emerge that there is irreversible ecological damage.

I have termed this formula evolved by the Indian judiciary as “Environment trumps People, but Development trumps Environment”.

Of course, as we have seen, the judiciary and the government do not form a monolithic whole, nor do they work in tandem. Equally importantly, it is not always the same judges who take a particular kind of decision, and often we find such judgements from lower courts as well. How is it that particular outcomes seem to be assured once issues are taken to court? What are the processes that enable this to happen?

In order to address this question, we must first consider the assumption that the “state” and “society” are distinct spheres, which is the founding myth of the modern political order. Through this myth, the state and its institutions are seen as governing society, which stands apart from it. If however, we recognize the boundary between state and society to be indistinct, the “state” is no longer one coherent actor, but is shot through by extra-institutional loci of power. Similarly, law, as one of the institutions of the state, may seem to exist as an “abstract, formal framework, superimposed above social practice” but in fact “the mundane details of the legal process” are all “particular social practices” (Mitchell 1991:94).

After Foucault, we are compelled to see the state as “but a temporary expression of a ubiquitous will to govern... There is no overarching source of authority... only a will to govern that runs through the polity at large and which produces multiple loci of power” (Bartelson 2001:179). And of course, in Foucault’s understanding, modern forms of power do not simply oppress, they produce and regulate identity. An important technique by which this is achieved, is precisely, Law. From this perspective, while “rights of the poor and disadvantaged sections” may sometimes be protected by law, the function of the law is certainly not to do this.

To return then, to the question of how particular outcomes seem to be certain once an issue is taken to court, Nikolas Rose poses the question this way:

“How is it possible for the calculations, strategies and programmes formulated within such centers [of government] to link themselves to activities in places and to activities far distant in space and time, to events in thousands of operating theatres, conferences, bedrooms, classrooms, prison cells, work-places and homes?”

His answer is “translation” – Rose uses the term “translation” to describe the relations between micro-practices of *government* (“where authorities of all types exercise their powers over the conduct of others”) and what we may call *Government* (legislature/executive/judiciary).

It is through translation processes of various sorts that “linkages are assembled” between Government and the micro-practices of government (Rose 1999:48). “Rule ‘at a distance’ becomes possible when each can translate the values of others into its own terms, such that they provide norms and standards for their own ambitions, judgements and conduct” (Rose 1999: 50).

Further, Rose suggests that certain ideas serve to ground, at certain times, “the abstract problematics of rule” (ibid). In the early twentieth century, he says, the notion of “national efficiency” performed this function; in the 1980s in Britain it was the notion of “enterprise”.

I suggest that a critical idea that performs this function in the late-20th to early-21st century, globally, is Environment. We must read judicial intervention in the 1990s and after in India, in this context. In an era of corporate capitalist expansion, discourses of Environment serve the Green Judiciary to translate into local contexts, the global will to rule.

In this context, Thomas Lemke has pointed out that the discourse of “sustainable development” is central to “the government of new domains of regulation and intervention”-“One important aspect of the ‘new world order’ is the reconceptualisation of external nature in terms of an ‘ecosystem’. Nature, which once meant an independent space clearly demarcated from the social with an independent power to act, and regulated by autonomous laws, is increasingly becoming the ‘environment’ of the capitalist system...In an age of ‘sustainable development’, previously untapped areas are being opened in the interests of capitalization and chances for commercial exploitation. Nature and life itself are being drawn into the economic discourse of efficient resource management” (2002:55).

The key idea here is “regulation” – the environment is to be regulated in the interests of long-term extraction. Within this perspective, even renewable sources of energy are envisaged as ensuring endless consumption; there is no sense that assumptions about consumption, urbanization, and so on will have to be drastically rethought. A characteristic statement illustrating this perspective is Barack Obama’s Inaugural address, in which he declared poetically, “We will harness the sun and the winds and the soil” - to what end? “To fuel our cars and run our factories”!⁵

In conclusion then, let me say that I hope through this exercise to have revealed strands of arguments and interpretations not immediately amenable to being recovered within secular-nationalist narratives. This move clearly has the disadvantage of dissolving familiar markers, but the unfamiliar landscape may prove to be more productive for new ways of rethinking our future.

(This paper is an expanded and revised version, drawing on two presentations made in 2008 – one at a conference felicitating Professor Rajan Gurukkal at Mahatma Gandhi University, Kottayam, and another at a conference on The Judicial Nineties by the Alternative Law Forum in Bangalore.)

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¹ "Scholars divided on Setu issue" *Times of India* September 18, 2007

² Elsewhere, with a co-author, I have made a distinction between *Secularism as state-craft* and *secularism as a value* (of non-discrimination, acceptance of difference, mutual respect). See Menon and Nigam 2007

³ *Hindustan Times* September 13, 2007

⁴ Others too have argued that claims about the economic benefits of the SSCP are exaggerated. See Jacob John "Sethusamudram Canal: An expensive voyage?" *Economic and Political Weekly* July 21, 2007

⁵ Transcript of Barack Obama's Imaugural Address <http://www.nytimes.com/2009/01/20/us/politics/20text-obama.html> Downloaded June 20, 2009