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Colonial courts, judicial iconography and the Indian semiotic register

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ABSTRACT

In *From the Colonial to the Contemporary: Images, Iconography, Memories, and Performances of Law in India's High Courts*, Rahela Khorakiwala brings together germinal works on the uses of architecture and iconology in and by law with thick descriptions and a close study of the semiotics and symbolisms of the three colonial High Courts (HCs) in Bombay (now Mumbai), Calcutta (now Kolkata) and Madras (now Chennai). This visual analysis of the court site is integral to understanding how the law operates and how the state wishes the public to perceive the law. Khorakiwala weaves through her engaging examination of the legal aesthetics of the courts an examination of them as sites of memory and memorialization and the role that they play in preserving colonial history in a post-colonial state. She helps us understand how these colonial HCs act as sites of contestation upon which newer anti-colonial and postcolonial memories and ideals can be layered to reflect the complex history of the site. However, the book is most interesting when Khorakiwala attempts to scrutinise the ways in which legal symbolism drawn from the local semiotic register is overlaid over Western and colonial legal iconology that dominate the Indian courts. While doing so she gently leads us to the question that pervades the book but remains ultimately unanswered – Is there a unique Indian judicial iconography that can be recognized and deciphered?

KEYWORDS Court architecture; colonial courts; judicial iconography; legal semiotics; law and colonialism; law and memorialization

After decades of quasi-informal rule over the Indian sub-continent through the East India Company, the Uprising of 1857 brought India directly under the British Crown and the newly established formal British Empire lost no time in establishing a new legal culture. Integral to this new culture was not just the way in which law was to be meted out in the colony, but also the ways in which it was to be architecturally and symbolically projected by the state to be perceived by the native Indian population. Towards this

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end, a Letters Patent in 1862 arising from the Indian High Courts Act 1861 consolidated the existing courts in the three main British colonial cities in India and sanctioned a High Court (HC) in each. Though the three HCs soon began their operations, over the next few decades they moved to newly designed, purpose-built premises – the Calcutta High Court in 1872, Bombay High Court in 1878 and lastly the Madras High Court in 1892 – and all continue to be in use today.

In *From the Colonial to the Contemporary: Images, Iconography, Memories, and Performances of Law in India's High Courts*, Rahela Khorakiwala brings together germinal works on the uses of architecture and iconology in and by law by authors such as Peter Goodrich,¹ Piyel Haldar,² Linda Mulcahy³ and Costas Douzinas,⁴ with thick descriptions and a close analysis of the semiotics and symbolisms of the three chosen colonial HCs. She offers us a study of the various images available inside the court buildings, from their architecture to their floor plan, to the statues, portraits and paintings that adorn them and intersperses this analysis with extensive interviews of those who regularly use the courts. Khorakiwala puts forward her analysis against the background that the Indian judiciary remains ever fearful of relinquishing control of its image and therefore bans photography, videos and even drawings of the courtroom. As Khorakiwala mentions, she was not allowed to photograph the courtrooms, even on holidays when no legal proceedings were in session, or even stand outside the courtroom and note her observations.⁵ Similarly, photographing the building from the road outside was also prohibited. And yet, her thick descriptions of the court premises, interspersed with images where she could find them, does not allow the reader to feel this visual lack.

The visual analysis of the court site is integral to understanding how the law operates and how the state wishes the public to perceive the law. Sharma this in turn helps us to understand the citizen's existence and self-perception as a legal subject. As Pierre Legendre and Peter Goodrich have persuasively argued,⁶ it is through the image that law captures the subject and institutes subjectivity within her; it uses images to hide the fact that its core is empty, that law's legitimacy is not external to it, and that all legal systems are self-legitimizing. Grand buildings, ornate structures and carefully

¹Peter Goodrich, *Languages of Law: From Logics of Memory to Nomadic Masks* (Weidenfeld and Nicolson, London 1990).

²Piyel Haldar, 'In and Out of Court: On Topographies of Law and the Architecture of Court Buildings' (1994) 7 *International Journal for the Semiotics of Law* 185–200.

³Linda Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law* (Routledge, New York 2011).

⁴Costas Douzinas, 'The Legality of the Image' (2000) 63 *The Modern Law Review* 813–830.

⁵Rahela Khorakiwala, *From the Colonial to the Contemporary: Images, Iconography, Memories, and Performances of Law in India's High Courts* (Hart, Oxford 2019) 92.

⁶Pierre Legendre, *Law and the Unconscious: A Legendre Reader*, tr. and ed. Peter Goodrich (Palgrave Macmillan London, 1997); Goodrich (n 1).

crafted visuals all serve to mystify the role and operation of the law. But while judicial iconography mystifies, it also, at the same time, makes hierarchies within the courtroom abundantly clear. Often while doing so, courtrooms privilege the ocular over the auditory, a point that Khorakiwala's research bears out when she discusses the lack of audibility in the courtrooms and the continuous struggle to get participants to wear their mics.⁷

There is another facet to this book, one that attempts to bring together the work on judicial iconography with works on Indian colonial legal history. Khorakiwala weaves through her analysis of legal aesthetics an examination of these HCs as sites of memory and memorialization and the role that they play, often inadvertently, in preserving colonial history in a post-colonial state. To do so, she borrows from foundational texts on Indian colonial legal history, including works by Radhika Singha,⁸ Mithi Mukherjee,⁹ Bernard S Cohn¹⁰ and Elizabeth Kolsky,¹¹ to ask how courts can become spaces of political contestations when law memorializes history. The juxtaposition of these two fields is a novel endeavour that allows us to excavate even deeper meaning from the High Court sites. Towards this end, the development of events and practices at the Bombay HC are particularly revealing. Khorakiwala draws our attention to a public interest litigation (PIL) that was filed in 2010 seeking the removal of statues and photographs of British judges from the Bombay HC courtrooms alleging that they 'lowered the dignity and patriotism' of Indian freedom fighters and ordinary citizens.¹² The PIL sought their placement in museums built on the premises. One such portrait was of the Parsi judge, Justice Dinshaw Davar, who had found the Indian leader Bal Gangadhar Tilak (1856–1920) guilty of sedition and sentenced him to six years' transportation to Mandalay (in Myanmar) and a substantial fine in 1909. In fact, Tilak was tried for sedition by the British three times over as many decades and found guilty and imprisoned twice. Today, Davar's portrait still hangs within the court premises. In the central courtroom, however, a marble slab recording Tilak's statement after his guilty verdict along with his portrait have been installed,¹³ and the Bombay HC holds an annual service to commemorate Tilak's death anniversary in

⁷Khorakiwala (n 5) 123.

⁸Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Oxford University Press, New Delhi 1998).

⁹Mithi Mukherjee, *India in the Shadows of Empire: A Legal and Political History (1774–1950)* (Oxford University Press, New Delhi 2009).

¹⁰Bernard S Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton University Press, Princeton 1996).

¹¹Elizabeth Kolsky, *Colonial Justice in British India: White Violence and the Rule of Law* (Cambridge University Press, Cambridge 2010).

¹²Khorakiwala (n 5), 134; 'Take down photos of judges who convicted freedom fighters: Plea', *The Hindustan Times* 10 August 2010, <https://www.hindustantimes.com/mumbai/take-down-photos-of-judges-who-convicted-freedom-fighters-plea/story-eKNFNBFXeWtto2Sr20bBQI.html> (accessed on 31 January 2022).

¹³Khorakiwala (n 5) 17.

August each year. On the day, the portrait is placed on a table and garlanded by the Chief Justice, and each judge in order of seniority folds their hands in front of the portrait before touching the base to pay their respects to Tilak.¹⁴ The iconology surrounding Tilak that has been deliberately installed with the Court illustrates how, despite their colonial origins, certain legal spaces can act as sites of contestation upon which newer anti-colonial and postcolonial memories and ideals can be layered to reflect the complex history of the site and how it is perceived by the viewer.

It is when Khorakiwala turns to the conflict between the Indian and colonial iconographies of the law that the book is at its most interesting. She takes two examples of the figures of Lady Justice to analyse what it may mean when legal symbolism is drawn from the local semiotic register rather than the colonial one. Her first example is the statue of Lady Justice in the Indian Supreme Court in New Delhi, which Khorakiwala describes as a 'nationalised conception of justice'.¹⁵ This figure is not blindfolded: she is dressed in classical Indian dance attire, holds scales in one hand and a book in the other, is perched on a lotus, and shares the mural with Gandhi and the Ashoka *Chakra* (a depiction of the Buddhist *Dharmachakra* that is also found at the centre of India's national flag). Khorakiwala compares this with a statue of Lady Justice that she had commissioned from a local sculptor in Mumbai as a law student, and remarks how she was struck by the way in which the sculptor had produced an Indianized figure that borrowed from Hindu iconography. She uses these examples to argue that 'the image of justice has a meaning only when a person can localise and imbibe it into their own culture'.¹⁶

What, then, can this conflict between Indian and colonial iconographies of the law reveal to us about the three colonial High Courts? At first glance, it seems that this conflict is subdued within these Courts. As noted earlier, their construction in the post-Uprising period coincided with the British desire to impose an imperial idea of law that was not necessarily linked to indigenous forms. Towards this end, the Calcutta and Bombay HCs were deliberately built in the Gothic revival style to maintain what the British considered their 'imperial image'. Built a few decades later, the Madras HC eschewed gothic architecture in favour of the Indo-Saracenic style. Despite this turn to the seemingly 'indigenous' this building was no less incongruous in its surroundings, for the Indo-Saracenic style sought to bring together 'European science' and 'native art',¹⁷ and while doing so borrowed piecemeal from different architectural styles, particularly Northern Indian Rajput and

¹⁴Khorakiwala (n 5), 147.

¹⁵Khorakiwala (n 5), 66.

¹⁶Khorakiwala (n 5), 67.

¹⁷Thomas R Metcalf, *Forging the Raj: Essays on British India in the Heyday of Empire* (New Delhi, Oxford University Press 2005) 128.

Mughal architectural motifs that remained distinctly out of place in Madras (now Chennai) in Southern India. These architectural elements are the first contact that the viewer has with the court and go a long way in establishing the subject's relation with the law that is practised within. These imposing buildings were created to convey the majesty of law, with their alien architecture, grand scale and exclusionary spaces pressing upon the colonial population the latter's lowly status in the colonial legal hierarchy.

It is inside the court premises, in the engravings and the statues that distinctly Indian and local iconographic features begin to emerge. At the Bombay HC Khorakiwala draws our attention to two particular images: that of the 'monkey judge' and the 'fox lawyer'. Local lore seems to suggest that these were the works of a piqued sculptor, who, denied payment for his work, sought to immortalize the judge as a monkey holding scales in one hand and a sword in the other, with his blindfold askew and covering only one eye. The iconography of these images remains shrouded in mystery. While some argue that they borrow from Aesop's fables, others hold that the fables themselves borrowed from the Indian tales of *Panchatantra*. Khorakiwala uses these images to highlight the tradition of humour and satire that have long been part of Western legal culture,¹⁸ but in doing so, she misses the opportunity to explore what an indigenous Indian iconography of law may look like.

Similarly, she notes that there was opposition from some quarters to the idea of installing statues in the Madras High Court, even when they were statues of Indians, because critics argued that 'the concept of installing statues was Western and one that the native people did not want to identify with'.¹⁹ Yet, the HC does house a number of statues, including one of Sir TM Iyer (1832-95), the first Indian to serve as a judge in the Madras HC. Installed in 1898, the statue curiously depicts Iyer barefoot. As Khorakiwala argues while borrowing from Radhika Singha, the barefoot Indian lawyer / *vakil* was an integral part of the despotic structure of colonial law in which the bare-footedness of the Indian lawyer served to mark their perceived lower status within the courtroom.²⁰ Denied shoes and often denied even seats within the courtroom, the attire and the limited access of the Indian lawyer to the same court as their European counterpart is another example of what Partha Chatterjee has succinctly described as the rule of colonial difference,²¹ i.e. the fact that colonialism was predicated on maintaining the differences between the ruler and the ruled in a myriad of subtle ways. However, it is unclear why Iyer as a judge is depicted barefoot: whether that is a nod to

¹⁸Khorakiwala (n 5), 139–143.

¹⁹Khorakiwala (n 5), 145.

²⁰Khorakiwala (n 5) 190.

²¹Partha Chatterjee, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton, Princeton University Press 1993).

the colonial past or reflective of popular Indian symbolism which a member of the court staff seemed to suggest when they mentioned to the author that the court must be treated as a temple and therefore shoes must be removed before entering the 'holy' space.²² Further exploration of these conflicting symbolisms would have enhanced the offerings of the book.

These examples give us tantalizing glimpses and hints of the possibility of a local and Indian judicial iconography hiding within the court premises. They leave us with the question of whether or not we can come to recognize and decipher an Indian semiotic register of judicial iconography through these images. Or, in the vein of Frantz Fanon²³ and Ashis Nandy²⁴, are we claiming that Western conceptions of law have so truly colonized the Indian mind that there is no unique Indian judicial iconography available any longer?

Disclosure statement

No potential conflict of interest was reported by the author(s).

²²Khorakiwala (n 5), 190.

²³Frantz Fanon, *Black Skins, White Masks*, tr. Charles Lam Markmann (Grove Press, New York, 1967).

²⁴Ashis Nandy, *The Intimate Enemy: Loss and Recovery of Self under Colonialism* (Oxford University Press, New Delhi 1983).