

WORKINGS OF JUSTICE

Four different workings of justice—justice on scales, justice in context, justice in transition, and justice in conflict—have been analyzed in the present book to better understand what justice does “as an idea or a practice” (Brunnegger 2019, 4). These workings of justice have been deduced from observations made during my research on changing notions of justice in the transforming political economy of Assam’s tea plantations. The conclusion offers some more general theoretical and practical considerations regarding the workings of justice. First, I explore how the four proposed workings of justice can be applied to analyze situations beyond Assam’s tea plantations, assessing the broader theoretical implications of *justice at work*. Second, drawing from these theoretical insights, I suggest practical conclusions for Assam’s tea plantations.

In chapter 1, I discussed the example of different justice scales within and beyond plantation “enclaves.” Framing justice within plantation enclaves makes it easier to define objects of justice (Indian labor laws) and responsible agents of justice (tea planters). However, this narrower scale of justice runs the risk of improperly inflating the power of some actors while undermining that of others (Nussbaum 2011, xvi). Tea planters have a limited capacity to change the economic situation for Assam tea laborers at large. Upscaling justice beyond plantation enclaves makes a clear definition of objects of justice and responsible agents of justice more difficult but is more likely to address the multiplicity and complicity of regimes of justice at work. Upscaling justice thereby draws attention to structural classism and casteism beyond plantation enclaves when spacial mobility does not lead to upward social mobility for former tea laborers or

their offspring. Upscaling justice also places Assam tea plantations into the global commodity chain of tea and global capitalism and demonstrates that tea planters are under pressure to keep labor costs low to produce tea in a profitable way, to prevent tea production on plantations from completely collapsing, leaving laborers and tea planters jobless. Abstracting from this concrete example, I argue that justice works differently on different scales. Justice regimes are more clearly defined and more likely to be implemented when they operate on a smaller scale than a broader one. However, justice regimes at lower scales risk overlooking more comprehensive justice issues. The way justice functions at different scales can be observed in other contexts. For example, the justice imaginary that people are due to fundamental rights works different on different scales. With the adoption of the Universal Declaration of Human Rights in 1948, fundamental rights were elevated from national constitutions to a universal level, declared as inalienable, and indivisible. However, this universalization makes it difficult to identify clear responsible agents of justice. At the national level, governments and the judiciary serve as the prime agents responsible for guaranteeing fundamental rights for their citizens. In contrast, at the global level, no single government or international human rights court holds direct accountability for ensuring the protection of human rights worldwide. Instead, so-called universal human rights can only be enforced indirectly—through national jurisdictions, regional human rights courts (e.g., European Court of Human Rights), national human rights institutions, additional protocols and complaint mechanisms, or the Universal Periodic Review. The challenge is that on a complex global scale, responsible agents of justice become much harder to identify compared to national jurisdictions. Moreover, the object of justice, such as fundamental human rights, are less clearly defined at the global level than within national legal frameworks. While the question of what exactly counts as a human right is not without controversy at the national level either, the definition of human rights at the international level is even more controversial and unclear. For instance, the status of third-generation human rights, such as the right to development, is widely debated. Questions arise about whether such rights should be recognized as human rights at all and, if so, how they can be effectively implemented. This illustrates how the object of justice in international human rights discourse is more ambiguous compared to more clearly listed fundamental rights found in national constitutions. However, while subjects of justice, responsible agents of justice, and objects of justice are more clearly defined at smaller scales, important justice-related issues may fade from view when limited to the national level. For instance, the right to development, a third-generation human right, addresses global inequalities that are not comprehensively covered by national constitutional rights. Similarly, noncitizens are only to a limited extent recognized as rights holders in national constitutions.

Ultimately, justice imaginaries work differently depending on scale—certain aspects of justice become more prominent, while others recede into the background, depending on the level at which justice is conceptualized and applied.

The second suggested working of justice—justice in context—is closely related to the first, but emphasizes slightly different aspects. I illustrated this by examining why tea laborers decide (not) to rebel, analyzing underlying notions of justice. When tea plantation laborers rebel, whether openly or covertly, they did so to maintain labor relations according to the old-style plantation economy at a time when it was undergoing transformations. Since the 1970s, the political economy of Assam tea has gradually shifted: from a scarcity of labor to a labor surplus, from being the world's largest tea exporter to becoming increasingly disarticulated from the global capitalist economy, from a plantation-dominated sector to the rise of smallholdings, from permanent labor contracts to a casual labor, and from welfare labor laws to a new labor law regime that dismantles those laws characterized by extensive social welfare measures. I have argued that, within this transformed political economy, laborers' efforts to preserve the old-style plantation economy are shifting from a structure-preserving mode to a structure-undermining one. Working modes of justice vary depending on the economic and social structures in which they are situated. When the tea plantation economy is largely regulated by the Plantations Labour Act, adherence to its labor principles maintains existing plantation structures. However, as tea production has evolved toward even more precarious working conditions, such as on smallholdings, labor ideals based on the Plantations Labour Act may no longer work to maintain the given structures because the structures do no longer exist. Placed into a new political economy of tea production, holding onto an old-style plantation economy rather undermines given new structures. Justice imaginaries can work differently depending on the spatiotemporal context. Similarly, for example, advocating for Islamic justice imaginaries in a Muslim-majority country can be structure-preserving, while in a Catholic-majority country, it may be subversive.

Third, I have demonstrated how changing notions of justice impact categories of collective identification, by discussing activist campaigns for tea plantation laborers. Activists officially claim to be changing the objects of justice (from maintaining the tea plantation economy to guaranteeing affirmative action to implementing minimum wages) in order to bring justice closer to tea plantation laborers. Activists assert that the subjects of justice basically remain the same despite their terminological shift from "tea tribes" to Adivasis to labor rights subjects. Moreover, activists suggest that the subjects of justice and the concerned agents of justice who are designated by the same terminology, include the same kind of people. However, I have illustrated the strategic benefit of includ-

ing and excluding different people in seemingly identical categories of collective identification in different situations. While “tea-tribe” activists claim to promote the welfare of all “tea tribes,” they only allow mainly male caste Hindus to have higher leadership positions. While Adivasi activists claim to speak on behalf of all Adivasis, they only allow “real” Adivasis into leadership positions. Therefore, “tea tribes” as subjects of justice are not identical to “tea-tribes” as concerned agents of justice due to flexible situational adaptations of categories of collective identification when seemingly only the objects of justice, not the subjects of justice and concerned agents of justice change. How justice imaginaries are related to categories of collective identification can be discussed beyond the tea plantations in Assam—for example, with reference to the discussions about the integration of more groups under the Scheduled Tribes category in Assam. As mentioned in chapter 4, there is a debate in Assam as to whether more groups in Assam should be recognized as Scheduled Tribes. Scheduled Tribe is an administrative category in the Indian constitution intended to strengthen minority rights of historically discriminated groups. Since Scheduled Tribes in other Indian states are often Adivasis, Scheduled Tribes are sometimes equated with Indigenous people. In Central India, historical marginalization and indigeneity often coincide. In Assam, however, Indigenous people like Thai Ahom are former rulers in Assam, which means that there is a discrepancy between indigenusness and historical marginality. If Thai Ahom were recognized as Scheduled Tribes in Assam, terminologically the category of Scheduled Tribes would remain the same. However, since the constitution of the Scheduled Tribes as subjects of justice would *de facto* change by including historically privileged groups, the imaginary of justice (as what is due to whom) would change significantly, even though it is conceptually negotiated in the same terms. The third working of justice illustrates that categories of collective identification within justice imaginaries are transforming, situationally and flexible adaptable. Changes in the constitution of who is subsumed under a category of collective identification such as subjects of justice may affect objects of justice and vice versa.

Fourth, by looking at the different “bungalow doctrines” at work among tea planters, I have demonstrated that people are placed between multiple regimes of justice that make different, and at times conflicting, claims on the person. When people balance different regimes of justice, they work together or against one another and influence the extent to which regimes of justice are implemented in practice. Instead of seeing tea planters’ affection toward laborers as a “mask of benevolence” in order to force coercive measures onto tea laborers, I have suggested that different regimes of justice pull on tea managers and contradictory demands move tea planters to make compromises within the multiple regimes of justice. For instance, while tea planters agree with basic facilities for tea laborers

as prescribed by the PLA, they do not really support providing facilities beyond a basic level because they are afraid that more facilities would affect the profitability of tea production and eventually jeopardize the continued existence of tea plantations, which is the worst-case scenario not only for them but also for tea laborers because there are neither manager bungalows nor labor lines outside the plantation economy. However, whereas the provision of welfare justice for laborers is limited by the managers' obligations toward the tea companies to make profits, I have argued that managers had a bigger scope of action with regard to changing their classist and casteist attitudes toward the laborers, which support argumentatively the limitation of welfare facilities provided for laborers by planters. People are always positioned between different justice imaginaries that either work together or conflict with one another. I argue that the perspective of positioning (concerned and responsible) agents of justice between conflicting justice imaginaries can help to prevent interpreting capitalist tea planters' imaginaries of justice as one-dimensionally exploitative, interpreting every human emotion of affection as a "mask" to disguise one's own exploitative agenda. A justice in conflict perspective does not suggest advocating or appeasing the capitalist exploitation of tea planters. The perspective rather wants to admit to capitalists that they are multidimensional, as are all actors. The fourth working of justice dimension as justice in conflict thus represents an analytical category for examining multidimensionality, which is granted not only to those who already seem sympathetic anyway.

Practical Conclusions

From these theoretical conclusions on how justice works, I draw some more practical conclusions on "plantation futures" (McKittrick 2013). First, I do not consider the replacement of colonially inherited large-scale tea plantations in Assam with smallholdings as a solution that is beneficial for tea plantation laborers unless (former) tea plantation laborers are enabled to become small growers themselves. I found that smallholders in Assam were more likely to be local Assamese people than (former) tea plantation laborers. While it may be seen as a positive development for local Assamese people to become small growers, it is the former ruling classes that are profiting from that development rather than historically marginalized tea plantation laborers and their offspring. Second, I suggest that minimum wages in the tea industry in Assam should be only minimal standards and not de facto maximal limitations. This would allow foreign tea purchasers to pay higher cash wages to the laborers from whose plantations they purchase their tea, instead of supporting laborers indirectly through welfare

measures that are supposed to be paid by the Indian state anyway. Third, consumers should be willing to pay more money for a cup of tea if ways are created to channel the added value directly to the tea plantation laborers—for example, through trade agreements that enable higher cash wages to be paid beyond minimum wage agreements.

Creating New Best Among Worse Alternatives

Justice at work is an attempt to explain unlikely alliances between tea plantation workers, trade unionists, and tea planters. This allows to see the multidimensionality of all actors “at work” on Assam tea plantations. It is an attempt to illustrate that since justice works different on different scales, a critique limited to plantation enclaves that addresses tea plantation managers as responsible agents of justice improperly inflates the managers’ odds to act in bringing justice to tea laborers and does not pay sufficient attention to the fact that tea laborers are subject to classist and casteist discrimination outside plantation enclaves. Therefore, spacial mobility does often not lead to social upward mobility. To call for repealing capitalist plantations (which is happening anyway) may create a worse scenario for tea workers. Tea plantations workers’ will to maintain the “old-style” plantation economy together with trade unionists and tea planters works structure-undermining and not structure-maintaining at a time of legal and economic transformations of tea production on plantations in India. Therefore, instead of suggesting to overcome exploitative plantation economies and leave plantation workers confronted with worse alternatives such as working for small growers or being exposed to severe casteism and economic precarity as farmers in rural areas, I hope for more encompassing structural transformations that create a world in which maintaining “old-style” plantation economies is not seen as the best among worse alternatives for tea plantation laborers.

