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Tort, theology, and the colonial mind: rethinking the ‘act of god’

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What does it mean to attribute a flood, a landslide, or a gas leak to an “Act of God”? The question appears legally sound, conceptually coherent, and culturally neutral. We question this neutrality. This paper examines the doctrine of “Act of God” not as a universal legal category but as a concept with Christian-European origins that was later secularized and widely adopted, sometimes by colonial transplantation and sometimes by selective legal borrowing. That the doctrine of “Act of God” today appears self-evident, even in societies where neither “God” nor “religion” exist as native categories, is not evidence of universal agreement, but of a significant transformation in how legal systems reason about misfortune. This paper traces how tortious liability and disaster jurisprudence, as they travel across legal cultures, carry with them a theological residue that modern law has neither shed nor acknowledged. That non-European societies today either mimic these categories or resist them by asserting equivalence does not constitute decolonization. The solution, therefore, must begin not with better laws, but with better questions, questions that emerge from within the conceptual worlds of the societies being governed. Methodologically, this is a conceptual-historical and comparative jurisprudence analysis; no empirical data are used.

KEYWORDS

act of god, colonial consciousness, epistemic pluralism, legal universalism, tortious liability

Introduction

Around the world today, legal systems speak in a common tongue when they invoke the phrase “Act of God.” Catastrophic events like floods, earthquakes, cyclonesare often analyzed as beyond reasonable human control and may, in narrow circumstances, excuse liability (Joseph, 2020). At first glance, this appears to be an unproblematic formulation: after all, how could one be held liable for what one did not cause? Yet, a moment’s reflection invites a deeper question: why is such an event called an “Act of God”? Whose god? Whose concept of causation? Whose understanding of nature and responsibility? This paper begins with a modest thesis: the legal doctrine of “Act of God” is not a universal idea that emerges from observing the world; it is, instead, the sedimentation of a particular theological experience that arose in Western Europe. This experience, rooted in Christian ideas about divine omnipotence, was gradually reconfigured, secularized, and codified into law. It is this reconfiguration, rather than any “neutral observation” of natural disasters, and informs what is often treated as a self-evident legal norm (Fraley, 2010; De Roover, 2011). This argument aligns with broader critiques of the presumed universality of modern political and legal categories, including in international relations theory (Keerthiraj and Sekiyama, 2025a).

The familiarity of this term can easily obscure its historical and cultural specificity. The concept of “Act of God” becomes intelligible only within a culture that presupposes certain things: that God is a sovereign will; that nature is His creation; and that causality can, at times, be suspended by divine intervention. These ideas are not cognitive necessities or straightforward empirical inductions; they emerged within specific Christian-theological

histories. When such a doctrine is applied in societies with different conceptual histories, such as India, China, or parts of Africa, it often involves transplantation across distinct moral grammars, frequently under colonial conditions (Balagangadhara, 1994, 2012). This is not an isolated issue. The very categories of "religion," "law," and "God" have been globalized through colonial expansion, producing a conceptual world that demands from other cultures what they never offered: equivalence. Just as the West presumed that every society must have a "religion" akin to Christianity, it presumed that every society could, and should, think of nature in terms of divine causality or legal exemptions. Thus, the export of the "Act of God" doctrine is not just the dissemination of law, it is the global imposition of a way of thinking (De Roover, 2011; Kumar, 2009).

We must, therefore, ask: what happens when a legal system structured around Western theological assumptions is deployed in cultures that think differently? Not merely differently in language, but in the grammar of experience, in how they relate to nature, misfortune, responsibility, and justice. The Indian karmic understanding of causality does not distinguish the natural from the moral in the same way. The Chinese concept of the "Mandate of Heaven" ties cosmic disorder to political failure, not divine wrath. Many African traditions interpret calamity through communal and ancestral frameworks, where misfortune is relational and embedded in ritual causality (Halbfass, 1988; Zhao, 2009; Keerthiraj and Sekiyama, 2023; Mbiti, 1990). To introduce the "Act of God" into these frameworks is not to enrich them but to displace them. The doctrine's alleged universality is nothing more than the cognitive residue of colonialism, a colonial consciousness that continues to shape even the most well-meaning liberal or nationalist discourses today. In this light, law becomes a site of epistemological conquest, not just adjudication.

This article is conceptual-historical and comparative. We reconstruct the genealogy of the Act of God (Roman vis maior, medieval/early-modern theology, common law), and trace receptions/adaptations in selected jurisdictions. Illustrative references to Indic, Chinese, and African frames signal alternative moral grammars; they are not treated as functional legal equivalents. This paper combines conceptual analysis with legal-historical tracing to expose the genealogy of this doctrine. We begin with its roots in Roman law and Christian theology, follow its secular evolution in modern European jurisprudence, and examine its dissemination through colonial legal systems. Through case law across India, the UK, the US, African nations, and East Asian countries, we show how the doctrine was naturalized, contested, or adapted, often with deep dissonance. In these dissonances, one finds the clash not of laws, but of worlds. What, then, would a decolonial jurisprudence look like? Could Indian puranic narratives about cosmic balance and atonement offer an alternative theory of liability? Could African communal practices of compensation and healing reshape tort principles? These are not "cultural supplements" to a Western framework, but alternative conceptions of responsibility rooted in non-Western traditions. Asking such questions is not a call to abandon reason, but to acknowledge that reason itself is not a neutral tool, but a tradition. The stakes are not merely philosophical. When natural disasters are automatically labeled Acts of God, the effect is often to shield states and corporations from accountability, even in situations where negligence or climate inaction aggravated the harm (Kristl, 2010). When such doctrines are alien to the way people experience disaster or injustice, law ceases to function as an instrument of justice and becomes a mechanism of alienation.

Thus, this inquiry is also a plea: let us begin the process of cognitive decolonization, to interrogate the inherited categories of law, not by rejecting them outright, but by uncovering their provenance, their parochialism, and their limits. It is only by doing so that we can begin to imagine legal systems that speak to the lives and experiences of their people, rather than repeating, unknowingly, the assumptions of another civilization.

Theological and legal origins of the 'act of god' doctrine

In this section, we reconstruct how the 'Act of God' doctrine crystallised in English common law, moving from a medieval theological idea to a narrowly framed technical defence in tort. While we foreground theological lineages, contemporary common law typically treats the Act of God as a technical defense for extraordinary natural events that are not reasonably foreseeable or preventable. Treating it only as theology would be an oversimplification (Fraley, 2010). To uncover the roots of the Act of God doctrine, we must first look at how pre-modern European thought understood natural calamities. In medieval Christian theology, catastrophic events were often interpreted as manifestations of divine will, either as tests of faith or as punishment for sin (Russell, 1979; Kristl, 2010). The phrase "Act of God" itself originates from this theological worldview where God was seen as an active governor of nature (Fraley, 2010). For example, in Christian Europe, a lightning strike destroying a house or a plague afflicting a town might be explained by invoking God's providence or wrath. Such explanations were not unique to Europe, many cultures see divine or supernatural agency in disasters, but the crucial point is that in the European-Christian context these interpretations became formalized and eventually entwined with legal thought. The Bible, for instance, recounts floods and famines as acts of God; these narratives shaped a cultural expectation that some disasters were beyond human blame by virtue of being divinely ordained (The Bible, NIV, 2011, Genesis 6–9; Exodus 7–10).

Parallel to theological ideas, there was a legal lineage from ancient Rome. Roman law articulated the concept of vis major (literally "greater force"), which referred to extraordinary events that could not be anticipated or resisted. Roman jurists treated vis major as a defense excusing a party from liability when an obligation (such as delivering goods) was prevented by a force beyond control, like a sudden storm or enemy invasion (Isanov, 2021). This idea acknowledged that there are limits to human foresight and power; no one can be held responsible for the whims of Jupiter, so to speak. The Roman vis major is a clear precursor to the Act of God doctrine. Importantly, while Roman law was not explicitly theistic in this regard, it operated in a cultural context where natural forces were often personified as gods (Buckland and McNair, 1965). Thus, even the Roman law notion of an overwhelming force beyond human control carried an implicit understanding of nature as potentially divine or at least beyond mortal agency.

During the middle ages, ecclesiastical (church) law and emerging common law traditions in Europe further developed these ideas. Canon law, influenced by theological doctrine, might have explicitly used notions of divine intervention in discussions of unforeseen

events (Rennie, 2018). Meanwhile, in England's early common law, one finds references to acts of God especially in the context of bailment and carriage of goods. By the 13th and 14th centuries, English common carriers (such as carters and innkeepers who were responsible for others' goods) were held strictly liable for losses to those goods, with only narrow exceptions, one of which was loss caused by an Act of God (the other classic exception being loss caused by the King's enemies) (Fox et al., 2020). This principle, recorded in cases and commentaries, essentially stated that if goods were destroyed by something like a great storm or flood ("no act of man" involved), the carrier would not be liable.

Lord Mansfield's ruling in Forward v. Pittard (1785) is often cited: he held that a fire that started from a lightning strike (a natural cause) was an Act of God for which the carrier was not liable. Early cases and commentaries thus firmly entrenched the idea that "Act of God" meant, in the words of one judge, "something superhuman, something in opposition to the act of man" – such as "storms, lightning, and tempests" which no human could prevent (Forward v. Pittard, 1785). A famous illustration was Nichols v. Marsland (1876) in England, where an unprecedented heavy rainfall caused artificial lakes owned by the defendant to burst their banks and damage neighboring property. The court held that the rainfall was so exceptional that it constituted an Act of God, absolving the defendant of liability (Nichols v. Marsland, 1876). Such cases set precedents that cemented the doctrine in Anglo-American tort law.

The Enlightenment (17th–18th centuries) brought a gradual shift in thinking about natural disasters. As science and secular philosophy advanced, educated Europeans increasingly viewed floods and earthquakes as natural phenomena with physical causes, rather than direct divine intervention (Dodds, 2015). The law too began to frame the Act of God in more secular terms: not as literally God's act, but as shorthand for any event that is "natural" and beyond human control or foresight. By the 19th century, judges frequently defined an Act of God as any accident produced by natural causes which is so extraordinary that it could not have been foreseen and guarded against. The language of court decisions in England and America from this era tends to emphasize unpredictability and absence of human agency, rather than religious notions (Steinberg, 2003). Notably, the term "Act of God" persisted even as its meaning shifted; it became a metaphorical expression in law, a vestige of a theological past now cloaked in secular rationale (Sherry and Curtis, 2017).

Colonial dissemination and global adoption of the doctrine

From the period of European imperial expansion onward, the doctrine of "Act of God" became part of what might be called the legal luggage of the West, a set of assumptions and categories transported across continents, not through a neutral process of legal diffusion, but by the coercive structures of colonialism. As European powers extended their control over societies in Asia, Africa, and the Americas, they did not merely extend political dominion. They imposed legal epistemologies, ways of thinking about responsibility, causality, and misfortune, that arose from their own historical and theological experiences.

In British-ruled India, for instance, the entire framework of tort law, including its defenses, was implanted wholesale. What is striking is not merely the transplantation of laws but the naturalization of their underlying assumptions. British judges, and later, Indian judges trained in this tradition, adjudicated cases using precedents such as Nichols v. Marsland or Rylands v. Fletcher, citing these as though their categories were universally intelligible and applicable (Trikoz and Gulyaeva, 2023; Kanna, 2020). Here, "Act of God" was no longer a doctrine developed in a particular Christian legal milieu; it was now a presumed part of the "rational" ordering of justice (Singla and Shanthi, 2024). A concept birthed in a culture with a very specific understanding of divine agency came to be treated as an axiomatic truth about nature itself.

The same process unfolded across the colonial world. In Africa, Australia, and the Caribbean, an English-speaking legal class reproduced English common law doctrines as though they were detached from their cultural origins. In civil law jurisdictions governed by French, Spanish, or Portuguese colonial regimes, parallel terms like force majeure or fuerza mayor conveyed similar theological legacies now expressed in the idiom of contractual or delictual exemptions (Tamanaha, 2021; Bogdanova, 2024). These colonial legal codes often codified categories like "natural disasters" or "acts of God" as exceptions to liability, once again, without interrogating what "nature," "disaster," or "God" meant within the traditions being ruled over in much the same way that contemporary regimes of digital sovereignty and AI governance circulate Eurocentric assumptions as if they were globally self-evident (Keerthiraj and Misra, 2025a). By the mid-20th century, one could observe a peculiar phenomenon: legal systems around the world, regardless of their civilizational histories, had come to accept a Christian-secular category as self-evident. The entrenchment through colonial administration and selective legal reception had been completed.

What does it mean when a culturally embedded doctrine travels so far from its home that it begins to appear universal? The answer lies not in the strength of the concept, but in the force of history. The global acceptance of the Act of God doctrine illustrates the colonial entrenchment of cognitive categories. That "no one can be held liable for an Act of God" is now taught as a self-evident truth, so much so that law students across continents learn it without question, as though nature had whispered this rule into every legal tradition on earth. But what we call "legal common sense" is often a form of colonial common sense, a naturalization of categories whose origins are not universal but provincial (Carstairs v. Taylor, 1871; Trikoz and Gulyaeva, 2023). The doctrine's theological genealogy is forgotten, and its colonial imposition erased. The result: a rule devised in 19th-century England now appears in 21st-century construction contracts in Nigeria, shipping agreements in Singapore, and insurance policies in India. Its phrasing, "Act of God or natural calamity," invokes an unquestioned dichotomy between human agency and divine or natural intervention, a dichotomy itself foreign to many non-European ways of thinking (Patel, 2021). Yet, the friction has not entirely disappeared. In some contexts, local courts have struggled to fit indigenous experiences into the imported mold. And occasionally, that mold cracks.

Let us consider the Indian example. Following catastrophic industrial disasters like the Bhopal gas tragedy (1984) and the Oleum gas leak (1986), the Indian Supreme Court departed from its inherited legal tradition. Here our focus is on how Indian courts first imported the English common law doctrine more or less intact and then partially broke with it in the aftermath of Bhopal and the Oleum gas

leak. In M. C. Mehta v. Union of India (1987), the Court declared that enterprises engaged in hazardous activities owe an absolute liability to the public (M. C. Mehta v. Union of India, 1987; Union Carbide Corporation v. Union of India, 1989). It explicitly rejected the idea that liability could be avoided by invoking "an Act of God" or the actions of a third party. This was not merely a legal innovation, it was a cognitive disobedience (Mishra and Ranjan, 2020). In choosing to foreground local realities, poverty, density, institutional fragility, the Court refused the claim to generality that warrants scrutiny. It marked a moment where jurisprudence, however briefly, acknowledged its colonial unconscious and sought to think otherwise. This is not an isolated instance. Other legal systems have begun to confront the fault lines within the "Act of God" narrative. The Bhopal judgment was not about rejecting justice, it was about rejecting a specific tradition's account of what justice looks like in the wake of catastrophe.

In today's world, where climate change renders the boundary between the "natural" and the "human" increasingly porous, the doctrine of Act of God is facing a slow epistemological crisis, most visibly in the domain of climate governance, where appeals to 'natural' disaster often mask entrenched political failures and institutional paralysis (Misra and Keerthiraj, 2025). Consider the aftermath of Hurricane Katrina in the United States (2005). When victims argued that the destruction of New Orleans was not a purely natural event but one enabled by the negligent engineering of levees, the courts were compelled to distinguish between divine wrath and bureaucratic failure (Short, 2021). Similar pressures are building in postcolonial societies (Fechter, 2024). In a Kenyan case from 2021, when a resort owner sued the government after flooding submerged his property, officials replied with the standard refrain: this was an Act of God. But the court was forced to confront a more complex reality, one where climate volatility, environmental mismanagement, and administrative neglect intertwine. "God" here functions less as an explanation and more as a shield, a theological euphemism for legal abdication (Omuko-Jung, 2021). These cases suggest something deeper: the doctrine continues to function, but uneasily, within contexts that strain its coherence. It survives not because it fits, but because it is too deeply embedded to be questioned without also questioning the foundations of the legal systems that inherited it.

What would it mean to build legal systems that draw upon the lived realities and conceptual worlds of their people? That is the question of our time. It is not enough to ask what law should say about disasters. We must also ask: whose knowledge counts when we speak of law?

Beyond the Western paradigm: indigenous epistemologies of misfortune and responsibility

The notion that certain disastrous events are beyond human control is not unique to the West; every culture has grappled with how to explain misfortunes that seem to exceed ordinary causation. However, the interpretations and frameworks for understanding such events vary widely. The universalizing of the Act of God doctrine often glosses over these differences. In this section, we contrast the Act of God framework with a few non-European epistemologies of causation and responsibility: the Indic idea of karma and related concepts of fate, the Chinese principle of the Mandate of Heaven, and African notions of spiritual causality (like witchcraft and ancestor influence). Our aim is to show that while all societies recognize extraordinary misfortunes, they embed them in very different webs of meaning. Imposing the Act of God doctrine as if it were a neutral description can therefore produce misunderstandings or conflict with local conceptions of justice.

In the Indian cultural and religious milieu, perhaps the most foundational concept for explaining misfortune is karma. Karma is the principle of moral causation across time: one's deeds (in this life or even past lives) yield fruits, which can include suffering or fortune (Vijayalekshmi, 2025). When bad things happen to a person, traditional Indian thought might interpret it as the result of that person's own past actions returning to balance the cosmic scales, rather than as a random event or the will of a separate deity or God. For example, the Arthashastra, a classical treatise on governance attributed to Kautilya (c. 300 BCE), 1992 categorizes disasters into "Divine calamities" (daiva-vyasan) such as floods, fires, epidemics, etc., and "Man-made calamities" like war and civil unrest. Interestingly, Kautilya advises kings on how to respond to these daiva-caused events: the ruler must protect the people and even perform rituals and prayers to propitiate the forces involved. One passage instructs: "Whenever such dangers threaten, the King shall protect all those afflicted like a father [protects his children] and shall organize continuous [day and night] prayers with oblations" (Kautilya (c. 300 BCE), 1992). This reflects a worldview where natural disasters are within a moral and ritual universe – not blameless accidents, but signals or trials that require ethical and spiritual action by leaders and communities.

The key contrast to the Act of God doctrine is subtle but significant. In the Indian context, a flood or pandemic might indeed be seen as beyond human control at the moment (hence daivika or fateful), yet it is not conceptually divorced from human behavior or responsibility in the larger sense. It could be linked to collective karma or the failure of rulers to maintain cosmic order (dharma) (Singh and Akshay, 2024; Varghese, 2020). Rather than using such events purely to waive liability, traditional responses called for redress in moral or ritual terms (e.g., charity, ritual ceremonies, public aid). The modern Indian legal system, having inherited the common law Act of God, may treat a monsoon flood that washes away a road as a no-liability natural event, but an average villager affected might simultaneously accept it as prarabdha karma (destined consequence) and also expect the government (the modern "king") to show rajdharma (duty of governance) by helping those harmed. The colonial legal category slices through this integrated understanding, isolating the event as legally irrelevant misfortune.

In the Chinese case, rather than tracking the fine details of doctrinal reception, we contrast the Act of God framework with the older Mandate of Heaven tradition to show a different way of linking disaster and political responsibility. In traditional Chinese political philosophy, natural disasters have long been intertwined with questions of moral and political legitimacy. The concept of the Tianming (Mandate of Heaven) holds that the emperor rules with heavenly approval only as long as he maintains justice and harmony. If rulers become despotic or inept, Heaven withdraws its mandate and signals this through calamities – floods, earthquakes, famines, or social chaos. As a result, such disasters were often interpreted as signs that the incumbent regime had lost Heaven's favor (Bai, 2023). Notably, this view does not see disasters as random acts of nature (or

God) absolving authority; quite the opposite, it increases the onus on authorities (Kim, 2023). A severe drought or earthquake in imperial China could provoke not a "no-fault" attitude but a crisis of legitimacy for the government. Emperors would perform elaborate rites of atonement and benevolence – for example, offering apologies to Heaven, enacting relief measures, or even replacing officials – to demonstrate their attempt to regain balance. The saying that "Overthrow, natural disasters, and famine were taken as a sign that the ruler had lost the Mandate of Heaven" captures this linkage of natural and moral order (Zhao, 2024).

When Western legal notions entered East Asia (through treaties, colonial enclaves, or legal reforms like Japan's Meiji era and China's early 20th-century Republic), they brought the Act of God idea which assumes a clear divide between natural events and human agency (Huang and Li, 2020). The Chinese tradition, however, saw a moral continuum: a flood might be "natural" in cause but moral in implication (a judgment on governance). To illustrate the contrast: under a strict Act of God doctrine, a provincial governor in a modern country can argue a catastrophic flood was beyond human control and thus shrug off legal blame. Under a Mandate of Heaven lens, that governor might be held accountable by public opinion or higher authority for angering Heaven or failing in his duty to prevent suffering. Even today, remnants of this attitude appear in East Asia – for instance, there is public outrage in China if it is perceived that officials mishandled preparations for an earthquake thus, morally culpable for the high casualties (Kim, 2023). The Western legal framework might label the earthquake itself an Act of God, but people's sense of justice seeks a human responsibility link, reflecting an older epistemology.

In the African material, the emphasis is on everyday moral explanations of misfortune, witchcraft, offended ancestors, spiritual imbalance, rather than on formal state law, to highlight yet another configuration of causation and responsibility. Across many African societies (as well as in indigenous cultures elsewhere), there has traditionally been a reluctance to accept purely impersonal explanations for misfortune (Peacey et al., 2024). The classic anthropological study by E. E. Evans-Pritchard on the Azande people highlights that while the Azande fully acknowledge physical causes (like termites causing a granary to collapse), they still ask why a person was standing under the granary at that exact moment – and their answer is witchcraft (Evans-Pritchard, 1937). In other words, for the Azande, and similarly in numerous other communities, every occurrence that causes harm has an agent, even if invisible. If not a human wrongdoer, then perhaps a sorcerer, an offended ancestor, or a deity. This worldview contrasts sharply with the post-Enlightenment European one embedded in the Act of God doctrine (Mlenga, 2020). Whereas the latter effectively says "no one is responsible" (neither man nor God, in secular interpretation) for a catastrophe, an African villager in a traditional setting might say "someone (visible or invisible) must have caused this." (Annus, 2020).

This has concrete implications. Under colonial rule, missionaries and administrators often discouraged or outlawed practices like witch trials, considering them superstition at odds with modern law. But this did not eliminate the ingrained need in local populations to find accountability for misfortune. In some African legal systems today, there is an uneasy coexistence between modern statutes (influenced by European models) and customary beliefs. For example, South African law, being largely based on the common law, recognizes force majeure events in contract or tort; yet South African society contains plural legal consciousness, where indigenous communities might approach misfortune through rituals or customary dispute resolution that involve appeasing spirits or identifying sorcerers (Matthee, 2021; Ubink et al., 2021). The epistemological gap can lead to situations where officials attribute a disaster purely to natural causes, while affected locals perform traditional ceremonies to address what they perceive as spiritual imbalance.

The persistence of colonial consciousness in contemporary discourse

One might reasonably expect that, in the aftermath of political decolonization, societies outside Europe would undertake a thorough critique of the concepts that came to them via colonial rule. Yet a striking and paradoxical insight offered by scholars like S. N. Balagangadhara is that post-colonial societies, whether led by liberal elites or nationalist traditionalists, often remain trapped within the very conceptual frameworks that colonialism installed (Balagangadhara, 1994, 2012). Their critiques of the West, however fervent, frequently reproduce the West's categories, presuppositions, and cognitive structures. The continued acceptance of the "Act of God" doctrine is an example of this phenomenon in action and mirrors how post-truth media landscapes reproduce, rather than escape, the epistemic universals of European modernity (Keerthiraj and Misra, 2025b). In many developing nations, the legal establishment, composed of judges, lawyers, and academics trained in Euro-American legal theory, treats doctrines like the "Act of God" as neutral, rational, and scientific. The discussions are couched in technical terms: the threshold of foreseeability, the limits of liability, the adjustments needed in light of climate change. These debates echo their Western counterparts, not just in content but in form. But the presuppositions that structure these debates, such as the idea that "nature" is an autonomous, external domain that sometimes acts upon human beings and thus relieves them of responsibility, are not questioned. These assumptions are inherited, not investigated.

Even where liberal critiques exist, where attempts are made to update the doctrine, say, by refusing its application to foreseeable risks, the underlying framing is not abandoned. The binary of "natural vs. human causation" is taken as given. That this framing itself arises from a particular European theological and philosophical history is not part of the discourse. Thus, while the debate appears to be about reform, it is in fact a case of fine-tuning a conceptual apparatus whose historical origins remain opaque to those deploying it. On the other side, the nationalist or "revivalist" critique also emerges from a sense that something is amiss, that Western categories cannot fully capture indigenous experience. But their response often falls into a different kind of mimicry. Consider, for instance, the Indian traditionalist who asserts that ancient texts like the Arthashastra already had a concept equivalent to the "Act of God," citing daiva as evidence. Such a claim does not disrupt the Western framework; it validates it by seeking an indigenous precedent. The goal is to say, "we had it too." Thus, rather than rejecting the category, one affirms it, only with different historical credentials.

A religious nationalist might go further, re-theologizing the disaster: "It was caused by divine displeasure," echoing older Christian

theodicies. In this case, Western secularization is reversed, but its theological imagination remains intact (Borgohain and Dodum, 2023). The substitution of names, Jehovah for Shiva, or Christ for Krishna, does not alter the grammar of the explanation. The concept of a personal, morally active deity whose will expresses itself through calamity is retained. What is absent is the articulation of non-theistic frameworks, such as karma or ṛta, on their own terms. Thus, both the secular and the religious responses, though positioned as alternatives, remain within the gravitational pull of Western conceptuality. Neither engages the indigenous traditions as self-standing knowledge systems with their own categories, their own understandings of misfortune, causality, and accountability (McLaren, 2020). Karma, dharma, and cosmic imbalance are mentioned, if at all, as supplements, not as organizing principles for law or public policy.

This results in a pattern of epistemic dependence. Legal education across much of the post-colonial world continues to center figures like Blackstone, Bentham, or Austin, while indigenous jurisprudential reflections are treated as heritage, not knowledge. When disasters occur, the public discourse oscillates between scientific fatalism ("a 500-year flood, unforeseeable") and theological fatalism ("it was God's will"), leaving little conceptual space for frames such as karmic causality ("what collective acts led to this imbalance?") or ancestral perspectives on cosmic disharmony (McLaren, 2020; Borgohain and Dodum, 2023).

If the aim is decolonization, not just politically, but cognitively, then it is not enough to argue within these categories or against them. One must step outside them. This involves rethinking what it means to talk of "disaster," "fault," or "liability" through the languages and life-worlds that colonialism marginalized. Only then can a genuine conversation begin, between traditions that have their own vocabularies, their own conceptual ecologies, and their own ways of making sense of the world and our responsibilities within it.

Decolonizing liability: integrating plural knowledge for future governance

Having now traced the conceptual genealogy and epistemic entrenchment of the "Act of God" doctrine, we arrive at a crucial question: is another jurisprudence possible? Must we continue thinking about disaster, liability, and governance through categories forged in the crucible of European theological history and then exported under colonial conditions? Or can we reimagine legal and policy frameworks by drawing upon the experiential knowledge of the many traditions colonialism silenced, displaced, or co-opted? To be clear, a this approach does not call for a wholesale rejection of Western thought. Nor does it ask us to romanticize tradition or to mystify the past. Rather, it invites us to provincialize the conceptual architecture of European modernity and expand the space of the thinkable, to recognize that the categories of "fault," "nature," and "causation" are not universals but particular achievements of a particular culture.

Take tort law. As it stands, the legal imagination remains caught in a binary: if harm is caused by a person, liability follows; if by nature, the event is classified as an "Act of God," and no one is to blame. But what if this binary is itself a cultural artifact? What if the sharp separation between natural and human causation simply does not exist in other traditions? Across many societies, traditional systems of mutual aid come into play during calamities, not as acts of charity but as expressions of social obligation. These are not systems of assigning blame but of restoring balance. A rethinking of tort law might take inspiration here. Rather than requiring proof of negligence, the law could affirm the duty of the strong to support the vulnerable, an ethic present in Indian notions of dharma, where the ruler (and now, the state) is obliged to uphold welfare, regardless of whether it caused the misfortune (Banik, 2020). India's doctrine of absolute liability, which denies the defense of "Act of God" in cases involving hazardous industry, points in this direction (Tyagi, 2020). It is a legal articulation of an older cultural intuition: that power comes with responsibility, not exemption.

The environment too has been colonized, conceptually, not just materially. Modern law treats it as a neutral stage upon which human actions unfold. But indigenous traditions often do not. Mountains, rivers, and forests are not merely objects; they are participants in moral and spiritual life. In some cases, they are persons. Recent legal innovations that grant rights to rivers in New Zealand, Ecuador, and India are, in this sense, not progressions from tradition but returns to it (Rāwiri, 2022; Thakur, 2024; Pelizzon et al., 2021; Fisher and Parsons, 2020). Here, drought or flood is not a random natural event but a sign of relational imbalance. A river that recedes or overflows may be understood as responding to human failure, not in the sense of physical interference alone, but in terms of ritual, moral, and ethical neglect. Governance, in this framework, cannot be merely technical. It must become ethical again. Rainmaking rituals or thanksgiving ceremonies are not "superstitions" but acts that bind community and cosmos.

Disaster preparedness today often treats local knowledge as noise in a system that privileges meteorological expertise and bureaucratic command. Yet, in many African and Pacific communities, early warning signs come from plants, animals, and elders (Raburu et al., 2024; Yum and Baars, 2025; Phoobane and Masinde, 2023). These are not quaint customs but forms of pattern recognition embedded in centuries of ecological intimacy. A decolonial approach would not subsume these under Western science but place them alongside, as co-legitimate epistemologies. What we call "customary law" today often survives as a vestige, tolerated by formal courts but rarely respected as law. Yet these systems provide alternative vocabularies for understanding harm and restitution. In many of these traditions, causation is less important than consequence; responsibility is less about blame than about restoration. Courts, if they are to be sites of justice and not mere bureaucracies of rule, must allow such outcomes to be recognized. Legal pluralism, then, is not a doctrine, it is a mode of listening. And what it listens for is the moral grammar of the community: its ideas of justice, its rhythms of resolution, and its memory of what went wrong.

Globally too, the rhetoric of "Act of God" is wearing thin. Climate change, pandemics, and ecological collapse cannot be explained as divine whims or natural accidents. They are entangled with decisions, political, economic, and ethical. The emergence of the "Loss and Damage" principle in climate negotiations reflects a shift: from viewing calamities as exonerating events to recognizing them as calls for solidarity and redress. This shift echoes the ethical frameworks of many cultures, where suffering obliges the fortunate, not because they are at fault, but because they are capable. Even Western systems now grope toward this realization. Corporate social responsibility, environmental justice, and reparative frameworks all signal a move

away from blame as the condition for action, toward response as the duty of power. In this sense, the West too may decolonize itself, not by looking away from its traditions, but by learning to see them as provincial, not universal.

Conclusion

The story of the "Act of God" doctrine is not merely a historical footnote in the evolution of legal reasoning. It is emblematic of a much deeper process: the transformation of a culturally specific theological narrative into a juridical commonplace, its universalization achieved not through argument but through empire. From its medieval Christian origins, where divine omnipotence structured the grammar of natural calamity, to its secular iteration in modern tort law, the doctrine has retained its conceptual skeleton while shedding its explicit theology. What remains is not a neutral legal tool, but the echo of a theological worldview that continues to shape how we think about responsibility, causation, and justice. This paper shows that what is often treated as legal common sense is often a product of a very particular cultural trajectory. Concepts such as "God," "nature," and "fault" are not neutral descriptors of reality, but deeply embedded in Western intellectual history. When such concepts are exported and applied to societies shaped by entirely different modes of reasoning, they produce epistemic distortions.

The comparative analysis has brought forth the outlines of other possibilities. In India, the doctrine of karma; in China, the Mandate of Heaven; in many African traditions, misfortune is never without agency etc. are not "alternative superstitions" to be corrected by modernity. They are conceptual frameworks that organize life, ethics, and responsibility in ways that Western law has not accounted for. They are other ways of making sense of the world.

Yet, even in post-colonial societies, responses to this situation often fall short. Existing responses remain caught within the web of colonial consciousness, where even resistance is framed in borrowed terms. True decolonization cannot emerge from within these binaries. To be sure, the Act of God doctrine will not vanish overnight. Courts may continue to use it, out of habit or utility. This analysis has not aimed to dismantle law. It has aimed to open law up, to voices, concepts, and histories that modern jurisprudence has long excluded. Decolonizing the Act of God doctrine is thus not about replacing one explanation with another. It is about allowing multiple worlds to speak, and about listening when they do. It is a call to recover the cognitive plurality that colonialism sought to suppress, and to let this plurality shape the institutions through which we respond to suffering and responsibility in a shared world. This, finally, is the promise of cognitive decolonization: not a retreat into relativism, but a move toward more responsive and context-attentive adjudication, where law becomes attuned to the lived experience of diverse communities, and where our frameworks of causation and care are broadened by the full spectrum of human wisdom.

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References

Annus, A. (2020). The notion of dyadic morality explains the logic of Zande witchcraft. *Relig. Brain Behav.* 11, 165–179. doi: 10.1080/2153599X.2020.1805796

Bai, Y. (2023). Shaking legitimacy: the impact of earthquakes on conflict in historical China. *Econ. J.* 133, 1286–1317. doi: 10.1093/ej/uead004

Balagangadhara, S. N. (1994). The heathen in his blindness…: Asia, the west and the dynamic of religion. New Delhi: Manohar Publishers.

Balagangadhara, S. N. (2012). Reconceptualizing India Studies. New Delhi: Oxford University Press.

Banik, S. (2020). Evolution of state liability in India: a need of a new approach in tort jurisprudence. *J. Asian Law Inst.* 14. doi: 10.5281/zenodo.3829692

Bogdanova, V. V. (2024). Comparison of the concepts of 'force majeure' and 'circumstances of insuperable force' as grounds for exemption from contractual liability. *Al'manah Prava.* 15, 487–493. doi: 10.33663/2524-017x-2024-15-487-493

Borgohain, B., and Dodum, M. (2023). Religious nationalism, Christianisation and institutionalisation of indigenous faiths in contemporary Arunachal Pradesh, India. *South Asia J. South Asian Stud.* 46, 1008–1027. doi: 10.1080/00856401.2023.2223457

Buckland, W. W., and McNair, A. D. (1965). Roman law and common law: A comparison in outline. Cambridge: Cambridge University Press.

Carstairs v. Taylor (1871) LR 6 Ex 217. Available online at: https://www.e-lawresources.co.uk/carstairs-v-taylor-1871 (Accessed 25 May 2025).

De Roover, J. (2011). "Secular law and the realm of false religion" in After secular law. eds. W. F. Sullivan, R. A. Yelle and M. Taussig-Rubbo (Redwood City, CA: Stanford University Press), 43–64.

Dodds, A. (2015). This was no act of God: disaster, causality, and politics. *Renaissance and Reformation*, 6, 44–68. doi: 10.1002/rhc3.12074

Evans-Pritchard, E. E. (1937). Witchcraft, oracles and magic among the Azande. Oxford: Clarendon Press.

Fechter, Z. (2024). (the act of) god's not dead: reforming the act of god defense in the face of anthropogenic climate change. *Texas A&M Law Review.* 11, 689–713. doi: 10.37419/lr.v11.i3.6

Fisher, K., and Parsons, M. (2020). River co-governance and co-management in Aotearoa New Zealand: enabling Māori aspirations through legislation. *Soc. Nat. Resour.* 33, 441–458. doi: 10.1080/08941920.2019.1684178

Forward v. Pittard (1785) 1 T.R. 27. Available online at: https://vlex.co.uk/vid/forward-against-pittard-802108625 (Accessed 12 May 2025).

Fox, D., Munday, R. J. C., Soyer, B., Tettenborn, A. M., and Turner, P. G. (2020). "3. Bailment" in Sealy and Hooley's commercial law (Oxford: Oxford University Press).

Fraley, J. (2010). Re-examining acts of god. *Pace Environmental Law Review* 27, 621–652.

Halbfass, W. (1988). India and Europe: An essay in understanding. Albany: State University of New York Press.

Huang, D. K. C., and Li, N. N. T. (2020). From Fukoku Kyohei to Fu-Guo-Qiang-Bing: a comparative analysis of Imperial China and Japan. *Comparative Legal History* 8, 27–51. doi: 10.1080/2049677X.2020.1768238

Isanov, K. (2021). The legal nature of force majeure. RA. *J. Applied Res.* 7, 2683–2686. doi: 10.47191/rajar/v7i11.11

Joseph, N. (2020). "Coastal flooding by dam mismanagement: investigative post-disaster study on criminal negligence or an act of god" in Handbook of climate change resilience. eds. M. V. K. Sivakumaret al. (Cham: Springer), 235–254.

Kanna, M. (2020). Furthering decolonization: judicial review of colonial criminal law. *Duke Law J.* 70, 411–449.

Kautilya (c. 300 BCE) Arthashastra, trans. and ed. by L.N. Rangarajan (1992). New Delhi: Penguin Books.

Keerthiraj, and Misra, A. (2025a). "Fact, fiction, and fabrication: media, post-truth, and the limits of epistemic universality" in Journalism in the post-truth era: Ethical, political, and social perspectives. ed. E. Ercan (Hershey, PA: IGI Global Scientific Publishing), 27–54.

Keerthiraj, and Misra, A. (2025b). Who owns the future? AI, digital sovereignty, and the politics of knowledge. *AI & Soc.*, 1–13. doi: 10.1007/s00146-025-02641-y

Keerthiraj, and Sekiyama, T. (2023). The rise of China and evolving defense cooperation between India and Japan. *Soc. Sci.* 12:333. doi: 10.3390/socsci12060333

Keerthiraj, and Sekiyama, T. (2025a). Against the universality of categories: India, Japan, and the limits of modern IR theory. *Front. Polit. Sci.* 7:1647854. doi: 10.3389/fpos.2025.1647854

Kim, S. (2023). Disaster, heaven, and political responsibility: Mencius and dong Zhongshu on humane government. *Rev. Polit.* 86, 1–23. doi: 10.1017/s0034670523000542

Kristl, K. (2010). Diminishing the divine: climate change and the act of god defense. *Widener Law Rev.* 15, 325–358.

Kumar, N. (2009). Ritual is not religion. Arc 8, 289–312. doi: 10.26443/arc.v37i.518 (Accessed 2 February 2025).

M. C. Mehta v. Union of India (1987) AIR 1987 SC 965. Supreme Court of India. Available online at: https://indiankanoon.org/doc/1934103/ (Accessed 13 March 2025).

Matthee, J. (2021). Indigenous beliefs and customs, the south African criminal law, and human rights: identifying the issues. *J. Legal Pluralism Unoff. Law* 53, 522–544. doi: 10.1080/07329113.2021.2005353

Mbiti, J. S. (1990). African religions and philosophy. 2nd Edn. Portsmouth, NH: Heinemann.

McLaren, P. (2020). Religious nationalism and the coronavirus pandemic: soul-sucking evangelicals and branch Covidians make America sick again. *Postdigital Sci. Educ.* 2, 700–721. doi: 10.1007/s42438-020-00122-7

Mishra, V., and Ranjan, A. (2020). "Air quality management practices: A sustainable perspective" In *Air pollution and environmental health*, Eds. P. Saxena and A. Srivastava. (pp. 233–253). Springer Nature Singapore. doi: 10.1007/978-981-15-3481-2_10

Misra, A., and Keerthiraj (2025). "Why the world fails to act?: the silent collapse of international climate governance" in Cross-border cooperation in the age of climate change. ed. R. Castanho (IGI Global Scientific Publishing), 427–452.

Mlenga, J. D. (2020). Witchcraft accusations and the Christian Church's response. *On Knowing Humanity Journal*, 4, 99–102. doi: 10.18251/okh.v4i1.77

Nichols v. Marsland (1876). 2 Ex D 1. Available online at: https://ipsaloquitur.com/tort-law/cases/nichols-v-marsland/ (Accessed May 02, 2025).

Omuko-Jung, L. A. (2021). "Climate change litigation in Kenya: possibilities and potentiality" in *Comparative climate change litigation: Beyond the usual suspects*, Eds. F. Sindico and M. M. Mbengue. (pp. 387–408). Springer International Publishing.

Patel, S. (2021). "Colonialism and its knowledges," In *The Palgrave handbook of the history of human sciences*, Ed. D. McCallum. Palgrave Macmillan, Singapore. doi: 10.1007/978-981-15-4106-3_68-1

Peacey, S., Wu, B., Grollemund, R., and Mace, R. (2024). The cultural evolution of witchcraft beliefs. *Evol. Hum. Behav.* 45. doi: 10.1016/j.evolhumbehav.2024.106610

Pelizzon, A., Poelina, A., and Humphries, F. (2021). Yoongoorrookoo: enshrining first law in Australia. *Transnatl. Environ. Law* 10, 279–303. doi: 10.1017/S2047102521000127

Phoobane, M., and Masinde, M. (2023). Investigating the adoption of indigenous knowledge in climate-related early warning systems in South Africa. *Int. J. Disaster Risk Reduct.* 97:103616. doi: 10.1016/j.ijdrr.2023.103616

Raburu, P., Ouma, G., and Ogindo, H. (2024). Indigenous knowledge for climate-related early warning and disaster preparedness in Kenya's lower Nyando Basin. *Clim. Dev.* 16, 132–144. doi: 10.1080/17565529.2024.2303214

Rāwiri, T. (2022). Te Awa Tupua, indigenous law and decolonisation: a Māori perspective. *Int. J. Hum. Rights* 26, 1123–1142. doi: 10.1080/13642987.2022.2063029

Rennie, K. (2018). Medieval Canon Law. *De Gruyter.* doi: 10.1515/9781942401698

Russell, J. B. (1979). Satan: The early Christian tradition. Ithaca, NY: Cornell University Press.

Sherry, J. S., and Curtis, A. (2017). At the intersection of disaster risk and religion: interpretations and responses to the threat of Tsho Rolpa glacial lake. *Environ. Hazards* 16, 314–329. doi: 10.1080/17477891.2017.1298983

Short, J. R. (2021). "Hurricane Katrina, infrastructure deficit and the costs of climate change" in *Stress testing the USA* (pp. 37–86). Palgrave Macmillan, Cham. doi: 10.1007/978-3-030-65999-8_3

Singh, A., and Akshay, G. (2024). The chronicle of the Indian criminal justice system. *Int. J. Law Soci. Sci.* 10, 16–27. doi: 10.60143/ijls.v10.i1.2024.101

Singla, A., and Shanthi, K. (2024). Absolute liability: merits and demerits – a critical analysis. *Int. J. Res. Applied Sci. Eng. Technol.* 12, 725–730. doi: 10.22214/ijraset.2024.58915

Steinberg, T. (2003). Acts of God: The unnatural history of natural disaster in America. Oxford University Press.

Tamanaha, B. Z. (2021). "Postcolonial legal pluralism," In *Legal pluralism explained: History, theory, consequences*. (pp. 55–96). Oxford University Press. doi: 10.1093/oso/9780190861551.003.0003

Thakur, R. (2024). Why nature deserves a seat at the table: a case study on the legal personhood of rivers in India. *Indian J. Environ. Law* 8, 67–85. doi: 10.5281/zenodo.10634619

The Bible, NIV (2011). Holy Bible: New international version. Colorado Springs, CO: Biblica.

Trikoz, E. N., and Gulyaeva, E. E. (2023). The communicative function of legal transplants in mixed legal systems. *Kutafin Law Rev.* 10, 515–543. doi: 10.17803/2713-0533.2023.2.25.515-543

Tyagi, V. (2020). Reiterating the principle of absolute liability in light of the Vizag gas leak. *Indian J. Environ. Law* 5, 112–127. doi: 10.5281/zenodo.3829686

Ubink, J., Claassens, A., and Jonker, A. (2021). An exploration of legal pluralism, power and custom in South Africa. *J. Legal Pluralism Unoff. Law* 53, 498–521. doi: 10.1080/07329113.2021.2013547

Union Carbide Corporation v. Union of India (1989) 2 SCC 540. Supreme Court of India. Available online at: https://indiankanoon.org/doc/1344892/ (Accessed 14 April 2025).

Varghese, M. A. (2020). "Karma and dharma as the foundation of Indian moral philosophy," in *Religions and philosophies in India*. Springer. doi: 10.1007/978-981-15-9263-8_35

Vijayalekshmi, R. (2025). Conceptual similarity about the word 'Daiva' and 'karma' and its ethical impact in Hindu society. *World J. Adv. Res. Rev.* 25, 1092–1096. doi: 10.30574/wjarr.2025.25.1.0152

Yum, A., and Baars, H. (2025). Reshaping disaster experiences: lessons from Samoan women and indigenous climate knowledge. *Int. J. Disaster Resil. Built Environ.* 16, 58–72. doi: 10.1108/IJDRBE-10-2024-0092

Zhao, D. (2009). The mandate of heaven and performance legitimation in historical and contemporary China. *Am. Behav. Sci.* 53, 416–433. doi: 10.1177/0002764209338800

Zhao, G. (2024). To explore the influence of Zhou's "Destiny of heaven" thought on the development of Chinese history. *J. Educ. Human. Soci. Sci.* 31. doi: 10.54097/7v5gfs85