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THE STATE OF KNOWLEDGE AND KNOWLEDGES OF THE STATE IN PAKISTAN

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And

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This thesis is being submitted in complete fulfillment of the requirements for the degree of Doctor of Philosophy at the University of Melbourne.

DECLARATION

I, Sadaf Aziz, hereby declare that the thesis "State of Knowledge and Knowledges of the State" is an original work undertaken by me in fulfillment of the requirements for the PhD. Law at Melbourne University. Due acknowledgement has been made in the text to all other material used. The thesis is fewer than 100,000 words.

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Chapter 1: Introduction

The subject matter of this thesis is the Pakistani state in the early years of its founding. A broad ranging study of the conditions and discourses that organized the offices of the state, offices inherited and or formally authorized by an outgoing colonial power, has mostly been absent across studies that have found a great deal of other matter to investigate in reference to the Pakistani state and nation. In fact, as attention is often directed at a state that operates above and below the law, as well as through it in a manner that elides the imposition of limits on its powers, this lacuna is significant.

The lack of effectiveness of law and constitutionalism to guide the operations of power has been explained or highlighted as flowing from the repeated *coup d'etats* and takeover of government by military regimes, as well as the continuing tussle between Islamist and secular forces in defining the operations of the state. It is true that Pakistan has been governed by military rulers for at least half its existence, and that the ties of legal obligation are shaken when the foundations for a legitimate law are subject to repeated challenges from those who would resituate it within the terrain of Islamic truth and guidance. And yet both of these are insufficient as explanation for what are more permanent features of the state's operations in Pakistan. As I have argued in a separate project, the ardent study of an emergency jurisprudence generated to justify *coup d'etats* and constitutional abrogation remains somewhat oblivious to the deeper operations of administrative and executive powers.[1] These structures have in fact, formed the understructure of state power through all these regime changes. Similarly, the shifting place accorded to Islamic guidance and normativity, although often responsive to pressures generated in a popular public sphere, may only have gained greater ascendance in the service of a deepening of administrative rule.

[1] Sadaf Aziz, The Constitution of Pakistan: A Contextual Analysis (Hart Publishing, 2017).

This thesis thereby side-steps the temptation to read the history of the Pakistani state by privileging such sites of contest. Instead, it focuses more directly upon the events of founding, with reference to other significant sites of inheritance or disruption to the configuration of a governmental order at this time. It does this by a greater focus on the relations between techniques of government forged under colonialism, through an attentiveness to the operations of the All India Muslim League and by a more specific apprehension of the decisions being undertaken by administrative and executive office holders at the time of Partition.

In this, I am pursuing the intuition that the demonstrably authoritarian character of the Pakistani state owes its shape and operations to the organization of administrative government at the time of its founding. I seek to uncover the shape the administrative state takes from its founding, by incorporating a view of its historical structure oriented around a series of questions. These include; what is the inheritance of the Pakistani state at the time of founding in terms of existing administrative capacities? What alterations to the structure of state power are discernable at the time of founding? What are the means available to members of the high executive in order to carry on practices of government? And how does configuration of sovereignty, on the plane of recognition and incorporation into an international system of nation-states, impact the system of rule being forged by the early Pakistani state?

I. The Argument

I argue that whilst constitutionalism and a broader legality are amenably studied as sites for the conditioning and mediation of ongoing conflict amongst governmental actors and between them and a putative citizenry, the balance of powers that was settled in favour of the administrative offices of government in the founding acts of the Pakistani state is repeated throughout Pakistan's history to present.

Understanding the quality of interaction between branches of government, or between the state and its citizenry requires a casting back to an even earlier epoch. In the earliest moments of Pakistan's founding, representative government was chimerical at best and administrative office holders and members of the high executive acted with considerable latitude in a context of crisis and against ever present fears of national disintegration. In this thesis I argue from the premise that the

actualization of governmental order simultaneous to the formal announcement of founding is a central aspect of post-colonial state formation. Furthermore, the priority of sovereignty and the challenges posed to its specific articulation make visible the logics and techniques to mark a dominant site of power in the new state. While it is tempting to see the primacy accorded to these institutions merely as a hangover of colonial rule, by which the processes and hence the possibilities of popular sovereignty are denatured, it is my argument that more complicated operations were at play at this moment.

To develop this argument, I have taken four sites at which definite and deliberate choices were made to give shape to the administrative state. These are:

A: the appropriation of colonial governmental forms and technologies;

B: the promotion of aspirations related to a dominant Muslim nationalism and the quelling of other ideological programs;

C: the alignment of territory and population to enable a concurrence between them in relation to identity and ideology;

D: the management of Pakistan's relations with other states to bolster the powers of certain offices and officeholders.

These sites enter into fields of operations by which early office holders engineer a novel governmental order. This is evidenced by a record of their deliberations on a range of issues. There has been some scholarly attention paid to other sites of an expanding administrative state dated to this period, including importantly the burgeoning of a bureaucracy to settle persons and property claims owing to the mass migrations of partition.[2] However, these four sites and concerns have been chosen because I am drawing broader conclusions about the instantiation of state power in this thesis than simply that the bureaucracy and the formal administrative branch of government became the site of effective power. Rather, the notion of an administrative state as it is deployed here refers to a determinate mix of

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[2] That the early independent South Asian states were thought to be constituted in large measure by the measures undertaken in migrant resettlement is reflected in several academic studies. See, Ralph Baibanti, 'Public Bureaucracy and Judiciary in Pakistan' in Joseph La Palombara (ed), *Bureaucracy and Political Development (SPD-2)* (Princeton University, 1967), 360–440; Ilyas Chattha, 'Competitions for Resources: Partition's Evacuee Property and the Sustenance of Corruption in Pakistan' (2012) 46(5) *Modern Asian Studies* 1182; Haimanti Roy, *Partitioned Lives: Migrants, Refugees and Citizens in India and Pakistan, 1947—65* (Delhi, Oxford University Press, 2013).

technique and conduct that purports to advance, project and protect the interests of a state against its population or any other configuration of interests.

In telling this story, it is important to attend to the ways in which the dominant discourses of statehood and governance gained their authorizations in the ideological program of Muslim Nationalism, and in the material practices of state-formation at the time of Partition.[3] I therefore, rely on a Foucaultian framework for understanding power and knowledge and its refractions through a settling of claims in the civic sphere and the investments of allowable agency that follow thereafter. The framework is drawn from inspirations that encompass the lifespan of Foucault's work, in which the practices of discourse formation, the transitions in governmental practice and the collapse of processes of subjectification with the emergence of a unitary juridico-legal notion of sovereignty, all share space. This allows for an identification of phenomena and rationalities that have thus far escaped scrutiny in the study of the Pakistani state. At the same time, the historical material suggests a necessary critique of some of the assumptions that are built into Foucault's corpus of thought on power/knowledge. Thus, the qualifications that have been expressed by post-colonial theorists are equally important to building the methodological grounds of this thesis. Particularly, skepticism that there are necessary transitions, particularly of sovereign to disciplinary governance to be charted, or that societies and nations can be studied as discrete entities without accounting for relations of determination by foreign powers thereby also permeate this project.[4]

As particular sites, the four identified above are inter-related and are woven through accounts that emphasize practices of government in relation to the establishment of the state as an entity separate from nation, in the elaboration of a paradigmatic sense of internal security and in the practices of border-marking for the emergent state. Colonial technologies of rule are emblematically described as being borne out of systems of knowledge configured by relations of domination and

[3]For broad studies of the growth and dynamics of Muslim Nationalism in South Asia Ayesha Jalal, *Partisans of Allah* (Harvard University Press, 2008); Farzana Shaikh, *Community and Consensus in Islam: Muslim Representation in Colonial India, 1860-1947* (Cambridge University Press, 1989); Semanti Ghosh, *Different Nationalisms: Bengal, 1905-1947* (Oxford University Press, 2016).

[4] As study aides for Foucaults work on governmental rationalities see Barry Smart, Foucault, *Marxism and Critique* (Taylor & Francis Group, 2010); Michael Dillon and Andrew W Neal (eds), *Foucault on Politics, Security and War* (Palgrave Macmillan, 2008); Andrew Barry, Nicholas Rose and Thomas Osborne (eds), *Foucault And Political Reason: Liberalism, Neo-Liberalism and The Rationalities of Government* (Taylor & Francis Group, 2013).

subjection. The program of Muslim Nationalism that gained influence in a period of colonial decline was both informed by systems of classification by which the native subjects were understood but also in processes of rule that created distinct fields of activity in which native subjects came to apprehend themselves. That systems of knowledge production and ideological transmission at times could not contain these fields of activity is reflected in the forging of new classificatory regimes for the rulers and ideological horizons for the ruled. This in turn suggests a surfeit of freed up potentialities at the time of Partition, an aspect of that time that is little accounted for in nationalist histories that see only the realization of independence from colonial rule as the singular goal of anti-colonial movements.

Thus, territory, ideology and population are uncomfortably arrayed at the time of Partition for those who assume the levers of 'legitimate' power. Such powers were held by members of an assembly but more importantly, at the forefront was a small coterie of persons including Mohammad Ali Jinnah, who had represented demands for adequate representation of the subcontinent's Muslims and thereby defined the contours of a dominant strain of Muslim nationalism leading to Partition. The translation from nation to state led in turn to a repurposing of some of the technological means that the colonial state had employed in governing a diverse and divided population – seeking unity not through law but through the inclusion of a particularly configured subject.[5] This essential power to determine inclusion was further operationalized in relation to internal security, and by seeking to solidify Pakistan's borders.

That Partition was unanticipated or unplanned for is trite knowledge for those who acquainted with the history of negotiation that somehow, in the final instance, yielded the fragmentation of India and the new state of Pakistan only months before the partition was undertaken.

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[5] Such a conceptualization necessarily looks at features that fall below the criteria for defining juridical sovereign control in the inter-state system. Conventional understandings have been subject to questioning and revision in a range of works that see the constructedness of sovereignty through law and political process but also the increasing subjectedness to deterritorialized sovereignty with the advance of globalization. See Atul Mishra, 'Theorising State Sovereignty in South Asia' (2008) 43(40) *Economic and Political Weekly* 65; John Agnew, 'Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics' (2005) 95(2) *Annals of the Association of American Geographers* 437; Julie Evans, Ann Genovese, Alexander Reilly, and Patrick Wolfe (eds), *Sovereignty: Frontiers of Possibility* (University of Hawaii Press, 2012).

The exclusions that were marked in the founding moment were applied more readily as Pakistan emerged within a state system plagued by the hostility of neighbouring states and with cold-war spheres of influence dividing up the globe. [6] The processes of navigating this terrain shored up the capacities and powers of certain actors as allowable and others as lacking; as under colonial rule legitimacy was not tested on the grounds of lawfulness. While many technological means were forged under colonial rule, the appropriation of these into independence is conditioned nonetheless by the spatial and temporal scheme of post-colonial Pakistani statehood. These points of incorporation as well as the recourse to force and domination that is made available at this particular juncture is where we can start to evidence the conduct of administrative government in Pakistan.

These founding exceptionalisms have been replicated and recreated throughout Pakistan's history and in many ways, it is the evidence of their multiplication and acceptance that informs the central motivation of this thesis. In their daily occurrence, they are either sanctioned by laws decreeing that certain populations will live in an exceptional state or they reflect a conduct that poses an insurmountable challenge to those who would oppose them armed with fundamental rights, judicial review and the institutionalization of liberal rule of law principles coded in successive constitutional instruments since 1956. Enforced disappearance, torture, extra-judicial killings are practiced by holders of state power with alarming regularity and not only against people residing in the parcelized 'tribal areas' of the country. The progressive solution sought by many is to draw the relation between legal right and its enforcement closer. That impunity for such acts, as well as for acts of surveillance and other infractions against persons are related to the foundational character of state-making in Pakistan is what this thesis undertakes to show.

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6 For the geopolitical dimensions of this see Iftikhar H Malik, 'Understanding Pakistan: Geopolitical Legacies and Perspectives on Violence' in *Pashtun Identity and Geopolitics in Southwest Asia: Pakistan and Afghanistan since 9/11* (Anthem Press, 2016) 67-82; Sandip Kumar Mishra, 'The Colonial Origins of Territorial Disputes in South Asia' (2016) 3(1) *The Journal of Territorial and Maritime Studies* 5; Madhurendra Kumar, 'American Strategy in South Asia From Cold War to Post-Cold War' (2006) 67(3) *The Indian Journal of Political Science* 605.

II. The Sources and Method:

The larger part of this thesis is focused on the early years after 1947 and situates a record of cabinet and executive documents from this time in a broader history of local and global events. It is an exploratory work, seeking to illuminate, through previously unexcavated histories of early state functioning, the confluence of events and the fashioning of techniques for expressing state power during that time.

My original line of enquiry in undertaking this thesis was to trace the relationship between information and rule to provide a situated account of the current reliance upon advanced digital and computational technologies in the service of intensified executive power. Beginning with accounts of the colonial government's innovation of the census in India, the transformations of technological means till the present also suggested the need to investigate the early Pakistani state. Aware already of a number of political histories written about this time I was familiar with the range of analysis to describe the movement from colonial to post-colonialism as either a profound rupture or merely a controlled transition. Nonetheless, the primary orientation of my research, to map the contours of governmentality and biopolitics in the present, presented a vantage for reading the record of the early state's functioning in a quite limited fashion. It was with the simple task of seeing how and in which ways the early governing institutions determined the relative utility or use of the census and related mechanisms that I visited the national documentation centre in Islamabad.

Several files that I found in that repository, particularly those concerned with defining a citizenship regime or mechanisms for resettlement of refugees did indeed betray a preoccupation with measuring and managing the emerging national sphere of population and economy. This further suggested that the transitions to more diffuse governmental technologies enacted under colonialism were being assimilated by the new state. However, looking through many files in addition to these opened the prospect of revising the teleological assumptions by which I had approached this part of the research. This shift in focus from looking at the calculative rationalities and technologies being employed to the broader rationalities that informed official action influenced a further and broader reorientation to establishing how and by what mechanisms power was in fact being concentrated in the highest offices of government. What was immediately apparent from the files was that the Prime

Minister, his Ministers and high bureaucratic officers were operating on a somewhat exalted plane, not yet reigned in by the operation of a representative political sphere and yet, already constituted not only as office bearers but as soothsayers of the ideological program that had given rise to Pakistan.

This effected a shift in focus from seeing the colonial era not only as that where statecraft had first gained some kind of definitive form but also in which the operations and techniques of governmental order were being reworked in multiple sites. It was therefor from the vantage now of the early post-colonial state, one being assembled afresh to fulfill the conditionality's accompanying the conferral of state sovereignty as well as the manifest promises of Muslim Nationalism that a more precise history of the colonial era could be assembled. For this, I relied extensively upon a rich body of historical scholarship that looks at science and technology, demography, governance, law and liberalism as they impacted the colonizing mission, much of it written self-consciously as a history of encounter between the European and non-European world.

The rest of the thesis is organized topically to understand some of the continuing consequences of how power was being organized in the earliest years of Pakistan's formation; the ill founded promise of popular sovereignty, the erosions of autonomous social organizing, the preoccupations with internal and state security and some others. However, an unwillingness to see inexorable tendencies as founded only in colonialism or in the organization of social forces at the time of Partition dictated a diversity of methodological tools to unpack the events by reference to additional historically proximate influences. These influences are apparent in the speeches and correspondence of rulers at the time but required a further interrogation of additional historical sources to uncover. They are oftentimes global insofar as the period looked at was one in which ideological ferment was being translated into political programs cutting through imperial heartlands and colonized societies. The programs are themselves replete with imaginings of past and present that challenge not only the legitimating dogmas of imperial power but also, in their slow emergence within existing social formations, the nature of nationalist aspiration that was given shape.

Importantly though, the case studies are not intended to indicate a strict causality to explain why certain operations of the Pakistani state remain seemingly stable through time. For instance, while both leftist political forces and Pakhtoon

nationalisms continue to be policed and 'banned' for much of Pakistan's subsequent history, it is not the assertion that the treatment of such groups and persons is a simple replication of what is described in chapters 3 and 4 of this thesis. While historical traces are not altogether irrelevant, the shifting terrain of ideological construction, of global receptivity for state action and the temporal order hinged to the circumstances of national birth itself suggests simultaneously the contingent nature of these 'case studies' of the state's early operations.

However, it is the way in which powers are organized and technique aligned with certain objects that suggests continuities up till the present. The originary acts by which a social sphere is constructed, along with the power to intervene on the apprehension of threat, recreates the normative ground of state power and the authorizations for marking exceptions. Altogether, the sources that I relied upon to excavate the particular record of historical events included a vast array of official governmental sources. This included speeches, minutes of governmental meetings and also the exchange of memos and correspondence . It traverses a vast field of governmental activity including economic and defense planning, foreign affairs, legislative drafting and relations with provinces. In addition, the presence of documents pertaining to private individuals, including intelligence files shared between governmental departments shows how coercive operations upon persons and groupings complemented the innovation and emergence of more diffuse governmental means.

III. The Chapters

Chapter 2: Changing Orders of Knowledge: Power and Informational Form

Honing in on the offices of the state necessitates a historical engagement with how, under colonial rule, they were in fact organized. This in turn draws in a closer account of the shifts in sovereign authority and governmental practices between pre-colonial governmental forms and the early outposts of the East India Company in the subcontinent. Thus the first substantive chapter shifts between descriptions of formal regimes of law and regulation as well as the understructure of available information about the population and territory that colonial government maintained and managed

towards enacting control. Altogether there is an implicit mapping of the chapter into periods of early, high and late colonialism to account for the inter-relation of knowledge, data and colonial power in each.

A considerable contribution of critical scholarship on South Asia has been to redirect attention away from the formal aspects of governmental control to illustrate how colonialism also enacted broad-ranging transformations in a more deeply penetrative way to reframe subjectivities. Thus, the state, either through its practices or simply in elaboration of its position of dominance, whether by acts of physical separation or on the basis of ascription and classification reconfigured identities and this in turn reoriented spheres of collective action and activity. Categories that establish an arithmetic of dominance, in terms of cultivating compliance or suppressing dissent are particularly important to the study that this thesis undertakes; the forging of different regimes of law, sometimes in the service of enabling more diffuse governmental operations and at others in pursuit of a more singular repressive control can also be mapped by reference to the knowledge that the colonists were compiling.

The initial history of encounter between the East India Company and an existing governmental configuration in India was not of seeking to supplant it by the former. When in fact it proved profitable to expand beyond existence as a purely commercial enterprise to a governmental one, the transition was managed both by force and exaction as well as by adaptation of available governmental forms. For officials in Company employment, managing tensions between the demands of a home government, which posed considerable challenges to Company ambitions and the need to quell conflict and secure collaboration in India necessitated that they demonstrate a more uniform form of rule. The compilation of informational matrices about the population was fed in the earliest cases by the imperative to enable land revenue collection, military recruitment, and other extractive endeavors. These institutionalizations became amongst the constituent features of state building at that time. This included the appropriation of modes of policing and surveillance that had been integral to Mughal rule and administration. However, differences in apprehension and orientation to such knowledge, given the remoteness of sovereign control and differing objectives of rule, operationalized modes of classification and ascription that introduced categorical differences in an existing population that had

not previously been marked with such fixity. In later developments, as a more confident posture to governance is being developed and as control is made more unitary through the direct assumption of rule by the British crown, the nature of informational management is also thereby transformed.

In this terrain it is possible to see the consolidations of governmental control in particular offices of the colonial state. This happened in the context however of an expanding enterprise of rule by a more equal law, the measure of such equality being both its greater jurisdictional expanse but also its systematization in codes and formal enactment. Building upon this, more interventionist schemes for managing Indian affairs and lives were also rolled out. This required a yet more incisive and scrutinizing gaze to be directed towards Indian habits and lives. Enumerative practices such as the conduct of a census were matched with a more elaborate anthropology of subject populations. Given that sovereign control had been given a greater singularity, the resources for advancing imperial interests also drew in practitioners of diverse disciplines and the place of the colonial administrator was bolstered by of virtue their capacity to give effect to policy as well as to serve as a vital link in expanding imperial knowledge and know-how. While a greater diversity of critical views had attended the early growth of colonial rule in the sub-continent, this gave way to more harmonious operations towards retaining and justifying the empire.

This period is also marked by a growth of autonomous associations amongst Indians and a demand to share in some aspects of governing by them. The practices of government seen as integral to the maintenance of state power had, amongst their effects, the development of communication technologies including a print media which increasingly provided space for the ventilation of grievance against the government. Additionally, these features of an early national public sphere allowed interests to be defined in communitarian terms thus suggesting the divides and fissures that would carry through in anti-imperial nationalism. Altogether, a coincidence of development in data and communication technologies marked major shifts and changes in the nature of colonial rule.

Late colonial rule awakened a sense of peril for the colonial power about its ability to hold on to its prized possessions in India. Britain's position as a declining global power as well as the challenges mounted against it in India led to reconsolidations dependent upon the employment of more fractured governmental

techniques. The containment of a rising nationalism led the state to concede and manage representative governmental institutions at the same time as it engineered a range of laws that were increasingly repressive. An accelerated recourse to intelligence gathering and surveillance was centered on the figure of the subversive or terrorist. The preoccupation with defeating the more violent strains of an anti-imperial nationalism established a form of government that laid bare its own lawlessness.

A little told story is of the colonial state's late acquisition of many of the territories that became a part of current day Pakistan. Included in them were areas where the population was deemed incapable of control by the normal operations of a colonial law. In areas such as those situated around the principality of Kalat and the tribal areas of the North West Frontier, an entirely novel form of government was engineered, one promoted as suited to the traditional tribal temperament of its inhabitants but which was in fact structured by the militaristic object of control and containment. This matrix of governmental rule is important for understanding the tensions unleashed at Partition and centred on the person of Bacha Khan, further dealt with in chapter 4.

Chapter 3: From Nation to State: The Founding Exception

The first chapter provides a long history of information and rule ending with the Partition of the subcontinent into India and Pakistan. The focus on processes whereby colonial conquest and expansion developed techniques and offices for rule through the collection and processing of information was integral to that account. It seemed thereby to indicate the culmination of government through the management of people, through which nationalism and nation building gained purchase in relation to government, population and information. This next chapter is centered on the claims and promises made by two leaders of the struggle for independence, Jawaharlal Nehru and Muhammad Ali Jinnah as the spokespersons for a new order on the eve of partition. It offers a reflection on the different inheritances of each state, inheritances conditioned by specific movements that were organized towards independence. Attending to this allows us to parse the biopolitical and governmental significations in Nehru's and then Jinnah's speeches to draw attention to what was imagined anew as well as what was carried forth from colonial rule to render a particular post-colonial

state entity.

Carrying on an enquiry into the founding moment of the Pakistani state requires a shift of focus to indicate how this thesis differs from other available accounts on this subject. A brief overview of literature about the Pakistani state establishes that little space is given to understanding the detailed events of Partition and thereby the many sites of rupture and reconsolidation for identities, ideologies and state practices that have lasting impact are also ignored. Rushing past these events allows for conclusions to be drawn about the Pakistani state that either measure its operations against a standard of modernization or suggest that structures of domination and control in the post-colonial state have remained unchanged from colonial rule. Altogether such views fail to appreciate the mutuality of seemingly diverse social fields, relations that are more apparent when singular events are subject to a deeper scrutiny. The cursory survey of existing literature thereby indicates the need for incorporation of other frameworks of analysis that are more attentive to the mutual imbrications of state and subject and that are more attentive to how systems of thought and meaning are reorganized in relation to material practices. Thus, this chapter introduces the primary uses that will be made of the categories of governmentality and biopower as well as notes the necessary caution against relying too heavily on a framework that was developed to describe configurations of power and rule in Western Europe.

This is the first of the three chapters that looks at the events and significations that are marked at Partition. While a primary concern with understanding the transitions from nationalism into the founding of a state order organizes this chapter, the following two look through the acts and discourses that define internal security and sovereignty within the international system to illustrate the multiplicity of operations by which the Pakistani state was being realized in these years. Throughout, detailed attention is directed towards the ideological assumptions of the forms of nationalist thought exemplified by the Muslim League.

This chapter draws into a comparison the founding speeches of Nehru and Jinnah at the moment that India and Pakistan were given expression as sovereign states. The comparison between the two is not organized in reference to the ideological projections that have come to cloud our view of each, Nehru for his espousal of secular democracy and Jinnah for his weddedness to a seemingly

exclusionary religious nationalism. Rather, the intent is to understand the discrete inheritance that both bound and authorized each in this act of founding.

Between them, the continuity of law and the grounds of constitutionalism are more readily apparent and closer to the surface for Nehru in the speech that he delivers. The Indian National Congress, given its longer engagement with representative government over colonial rule had already assumed some of the characteristic features of organization and management that it would more easily convert into a juridico-legal order for the new state. Jinnah, in spite of his impeccable credentials as a constitutional negotiator and legal practitioner is far more encumbered than Nehru by the sense of crisis that a wholly new territorial order has created. The recourse in this moment of founding is to situate himself as architect and law-giver in the new state, even as aspirations for popular sovereignty are indicated. This particular expression of the paradox of founding hastens into view both the available technologies for maintaining order in the new state and the quick displacement of the political yearnings of nationalism in favor of the certainties of statehood.

A key difference that can be charted from that point forward is that the governmentalisation of dissensus that became the operative form of Indian political development in the early years after partition has been a somewhat deferred if not a completely elided aspect of Pakistani originary formation. State and society are enjoined in this moment and shortly thereafter through the operations of a sovereign exception.

As noted earlier, the repeat recourse to exceptionalism typifies state authority in Pakistan and is a central concern of this thesis. Whereas extra-legal exceptionalism is usually identified with the acts of the military and therefor the abrogation of the first constitution in 1956 is represented as the point of departure from an institutionalized legal order, the thesis argues that much about the structure and normative quality of Pakistan's juridico-legal order can be better understood by looking back to an earlier date. In a context of uncertain borders and as yet unmappable population, in the first year of Pakistan's founding Jinnah engaged in acts of sovereign decision-making that were centrally important for the establishment of a national unity and the forging of a polity capable of being governed.

This is consequential for this thesis in two ways. Firstly, it indicates, through

the initial act of constituting the civil sphere, the form of life that was deemed as worthy of recognition and inclusion in the state. Given the unequal and patchy incorporation of the regions that eventually came to constitute Pakistan within the governmental forms that regulated colonial economy and society, there was no readily available mechanism to engineer an incorporation of these entities and populations into the new state. As the administrative structure of the Pakistani state gains greater definition, the exclusionary operations of the central core of government manifest, to a greater extent, in the life that is to be preserved and dignified with recognition in the new state. These operations are discussed in the following two chapters of the thesis by reference to the ways in which the category of subversion is used to enact exclusions, thereby illustrating the righteous subject of law who can be governed.

This second point of significance in looking more closely within the space of this founding exceptionalism is to pinpoint the schisms between sovereign and society in the articulations and premises of Muslim Nationalism. While the knowledge order of colonial rule and the mechanics of representative government were both central to the birth and growth of Muslim Nationalism as a popular political program, its uneven and shaky advance is revealed in the act of founding. Relying on compatible but slightly diverging views on the aspirational structure of the form of nationalism that gave rise to the Pakistani state, a range of unresolved tensions between the lived realities of Muslim lives in the subcontinent and Jinnah's harkening for a universal order that can be mapped onto the state are revealed.

Chapter 4: State Security: Subverting the Knowledge Order

It is a barely remembered fact that communists were actively incorporated into the Pakistan movement. In a manner that suggests the openness of a time in which "plans, prognosis and utopias" were being imagined not only in a national but on an international plane, the communists found points of filiation with the Muslim League, and for a time the League also showed a receptivity to the use and inclusion of communists. This little remembered period of active cooperation establishes the grounds for highlighting the immediacy of a change that occurs from shortly after Partition onwards. To understand the turning means interrogating, in the last part of this chapter, the containment of a future that was not being defined or authorized by

reference to the object of fortifying state power in the present. The mechanism that the administrative state seized was of engaging a discourse of state security.

Where chapter three looks extensively at the inaugural moment of the Pakistani state, bringing to the fore the complexities that are woven through the particular conditions and circumstances of its birth, this chapter undertakes a more detailed study of the ideological apparatus that was carried through the operations of the Muslim League. Recent critical scholarship has sought to understand this form of nationalism by reference to the interests that were being advanced as well as the modes by which it sought to represent the Muslims of the subcontinent. These works note a marked ahistoricism and lack of responsiveness to the diversity of Muslim lives in the subcontinent in the League's central program.

However, at a time when ideologies were being worked out on the ground against considerable flux and crisis, the Pakistan movement spearheaded by the ML was able to draw in a diverse array of other actors. This included communists who saw, in a Muslim state, a means of addressing the problematic of the nationality question – a specific concern of international Marxists seeking to articulate a program of emancipation for colonized people when oppression was not only articulated through class but also through the subjugation of 'nations'.

This chapter investigates how the Muslim League leadership, in tandem with the administrative managers of the state, forged a discourse of internal security leading to the excision of the communist 'threat' shortly after Partition. The available means of rule included surveillance and intelligence gathering mechanisms as well as the categorical deployments of 'subversive' that had recently been used by the colonial state to stem nationalist activities. The employment of such technologies placed the central managers of the state in a position whereby the claims of representative actors and social groups could be deflected in the service of maintaining social cohesion.

It is here that the historical and deracinated inheritance of the Muslim League gains preeminence in laying the groundwork for a constitutional settlement. Importantly, the redefinition of a temporal order to accord with an acceptable constitutional scheme is worked through in this period. Material forces that included the solidification of borders, the forging of foreign policy and other domains of legitimate state practice provide clues about why the multiple temporalities of

communist ideology and critique were cast as a threat sufficient to lead to their excision from the social body. Furthermore, the identification of the communist threat provides a template for measuring threat in other bodies that had been herded into the Pakistani state at Partition – the quick move from apprehending and detaining individual communists to describing Hindus in East Pakistan as subversives exemplifies this.

Chapter 5: Frontiers, Borders and Bacha Khan

Under the conditions of British colonial rule, the knowledge order that gained expression in an ethnographic state was simply not operationalized in the North West Frontier areas of British India. What happened in place was the marking of internal boundaries, between settled and tribal areas, subjecting thereby the people who resided here to containment through the separation into discrete groups. It is widely felt that the Pakistani state retained both the settled and tribal areas distinction, and enforced the exceptional laws here from its conception due to cultural chauvinism as well as simple expediency. I believe however that a constellation of features in fact accounts for the micro and macro decisions that laid a framework of maintaining the frontier space as somewhat exceptional from this point forward. This chapter looks at the state's interactions with Khan Abdul Ghaffar Khan, a Pakhtoon nationalist, to interrogate how modular constructions of borders and border imaginaries were in fact challenged by Khan.

This chapter demonstrates the various forms of unease that permeated the relationship between borders and sovereignty in the early Pakistani state. While conventional political science and international law pivot the making of firm borders into a necessary condition for the realization of sovereignty, the extent to which porosity, contingency and ideological contestation render borders fuzzy and sovereignty indeterminate, is demonstrated by reference to the incorporation of the North West Frontier areas into Pakistan at Partition. That this became a site whereby the early state deployed several strategies to firm up its claim to sovereign control and order is reflected in a choice to employ colonial techniques of rule in these areas. In doing so though, what is demonstrated about the functionaries and officers of the Pakistani state is the extent to which they are beset by the forces visited upon post-colonial states broadly.

In the early post-independence years, the uncertainty of borders with both India and Afghanistan quickened the imperative to firm up control in its frontier, which abutted both these states. The frontier region had long prior to Partition been of somewhat indeterminate status in a continuum that extended to indirect and imperial control over Afghanistan. A particular configuration of frontier governmentality by some accounts had configured this territory into "manageable units", ascribed its population the character of being 'tribal' and thereby ungovernable and had exacted a heavy toll for any actual rebellion or even presumed impertinence.

This territory's inclusion into Pakistan presented both the possibility, and a set of problems to confound the institutions of state. A historical legacy of a soft border with Afghanistan and the immediate urgency of defining a hard border with India in the context of seeking sovereign equality in the world system impelled military objectives to gain pre-eminence within a very short period however. In this territory, the merger of the language and discourse of internal security combined with the expanse of powers that could be seized to ensure its sovereign status and recognition in the domain of international relations. For the population of this area then, the terms of their incorporation into the Pakistani state suggested continuing peril and abjection.

A brief exchange between the Prime Ministers of India and Pakistan focused on the treatment of a figure of sub-continental importance during the anti-colonial movement serves as a touchstone for further elucidating the forms of sovereign order that were being elaborated and negotiated in these early years. Speaking to the internment of Khan Abdul Ghaffar Khan, J. Nehru writes to his counterpart Liaquat Ali Khan to enquire about the Pakistani state's 'cruel' treatment of this luminary of the anti-colonial struggle. Both the letter and the response indicate the ongoing conflict but also a mutuality of being confounded by the changed relations by which they are situated across a heavily contested and militarized border.

Between them, the figure of Bacha Khan emerges resolutely challenging the order of the borders that were drawn not only by the British but also by Indians and now Pakistanis. Faced to choose sides between them, he and others from within the movement that he founded expressed a preference to live in the everydayness of lives unmarked by the violence of borders.

IV. Thesis:

This thesis is an attempt to build an understanding of the Pakistani state which identifies, in its earliest moments of founding, a range of consolidations that have affected the working of state power to the present. Working from primary material has allowed the building of a narrative about these consolidations and allows for a parsing between different elements of Pakistan's inheritances from colonial rule, the nature of politics in the early state, and the range of pressures and opportunities experienced within the broader global state system. It is simultaneously a story about the manner in which a broader populace, included within a state beset by problems and crisis have had to shoulder this crisis - by abandoning identities and horizons of aspiration that they carried into Pakistan at this founding.

Chapter 2: Changing Orders of Knowledge: Power and Informational Form

I. Introduction

This chapter advances chronologically from discussing pre-colonial regimes of government to the end of British colonialism in the Indian subcontinent. Coming to an appreciation of the operations of power and the conduct of government in the early Pakistani state entails reflecting on the organization of domains of information, policing, and other spheres of governmental conduct within earlier regimes of power and rule. This chapter therefore moves between descriptions of formal regimes of power and the available informational forms that sustained them. It focusses particularly on the legal and regulatory innovations of the colonial state and relates these to the collection and management of information about its native subjects. It charts the way a distinct colonial knowledge order influenced the nature of rule. The chapters which follow indicate the ways in which such configurations are recalibrated in light of the profound rupture of Independence and Partition and yet continue to shape the practices of governing in the early Pakistani state.

An attention to Mughal history, as well as the British colonial encounter and then intensification of British rule in the subcontinent, suggests that the slow and haphazard processes of state building are best understood by drawing in domains of information management. Particularly as practices of imperial control and domination are realized in particular knowledge/power configurations, processes of centralization and intensification of governmental control are necessarily reflective of particular alignments of information and data with official purposes.

Against an earlier historiography that preferred to study precolonial governmental forms in the subcontinent as emblematic of the features of oriental despotism,[1] much effort has more recently been spent on highlighting the

[1] Shireen Moosvi, 'Tax and Price Relationship in a Regime of Asiatic Despotism: A Theoretical Exercise' (2009) 37(5/6) *Social Scientist* 38. In this article Shireen Moosvi discusses the reception of the travelogue compiled by the Frenchman. Bernier. By presenting the Mughal state in the manner of an absolutist European one, he was drawing attention to the threat posed by the further centralizations being augured in by Louis XIV in France. Additionally, his work formed the primary matter on which later efforts such as Marx's discussion of the Asiatic Mode of Production were based.

achievements of Mughal government in the practices of state-building.[2] Far more variegated studies of the sophisticated administrative structure of Mughal rulers have become available.[3] Such evidence has allowed for comparison with emergent states in Europe, which little resembled the nation-states of more recent times. Where states existed at all, they were porous or segmented in one of two senses. Charles Tilly suggests that early European states either consisted of small units and their immediate hinterlands in the nature of city-states, or were governance units comprising many segments that were internally differentiated. For Tilly and others who look at the long history of state development in Europe, the speeding up towards the development of nation-states as we know them today required precipitating conditions.

The movement towards a more unitary statehood required that a centre emerge to arrogate and "internalize both armed forces and fiscal mechanisms"[4] and thereby unsettle the somewhat independent role of tax farmers, military contractors and other middlemen. The near perpetual warfare in Europe of the seventeenth century is identified as a key turning towards the establishment of a "unified and hierarchically integrated bureaucracy."[5] Warfare and competition "made techniques of governmental control and resource extraction ever more effective and efficient,"[6] according to such accounts.

This is a somewhat different view of European state formation from those that centre on economic development. In such alternate accounts, the emphasis varies about the degree that either mercantilism or industrialization exerts pressure in processes of unifying territories into larger units with a common governance apparatus. Ernest Gellner and others offer explanations of how processes of industrialization and accompanying forces of urbanization loosen up more local customary bonds so as to produce the nations that are necessary for nation-state formation.[7] In such accounts there is a collapse of forces: a quickening of organization and a rise in claims attendant upon the concentration of production and

[2] Irfan Habib, 'Classifying pre□colonial India' (1985) 12(2-3*) Journal of Peasant Studies* 44.
[3] Chetan Singh, 'Centre and Periphery in the Mughal State: The Case of Seventeenth-Century Panjab. (1988) 22(2) *Modern Asian Studies* 299. *See also*, Jon E Wilson, 'Early Colonial India Beyond Empire' (2007) 50(4) *Historical Journal* 951.
[4] Charles Tilly, 'Cities and states in Europe, 1000–1800' (1989) 18(5) *Theory and Society* 563, 566.
[5] Andreas Wimmer, *Waves of War: Nationalism, State Formation, and Ethnic Exclusion in the Modern World* (Cambridge University Press, 2012) 76.
[6] Andreas Wimmer and Yuval Feinstein, 'The Rise of the Nation-State across the World, 1816 to 2001' (2010) 75(5) *American Sociological Review* 764, 768.
[7] Ernest Geller, 'Nationalism' (1981) 10(6) *Theory and Society* 753.

rising urbanization, the creation of reading publics, the sharing in conceptual horizons and the articulation of inequality all more readily apparent in such newfound terrains.

While this chapter does not seek to identify a framework for theorising state-making or to identify causal factors, it does certainly look through the various techniques by which state-ness is articulated in order to discover and describe the relationship between the establishment of government and the control of information and data. There are continuities in this relationship to be mapped from the pre-colonial to colonial, as well as from there to the post-colonial. While distinct configurations of government were operationalized during colonial rule, it is often under-appreciated that there are distinct continuities between the pre-colonial and the colonial that not only survived the violence of imperial rule but were useful to its maintenance.

In this chapter/thesis, I have self-consciously retained an adherence to some of the evidence gathered by the proponents of an early modern school of thought about Indian colonialism. This is a school which works within the tradition of seeing the British in India as one amongst several groups competing for power in a terrain where the rules of eighteenth century Indian political economy were operating.[8] Without risking too much dissonance, this is not to deny altogether that colonialism in the subcontinent marked "the most dramatic and violent rupture and re-ordering of property and political subjectivity in human history."[9] The reconciliation, however, is in setting aside the position that there are fundamental irreconcilabilities in the colonial and Indian episteme. That there were perceived irreconcilabilities is amply shown up in the admixture of regulation, law and repression that attended the expansion of company power, and in the nature of direct colonial governance that was implanted.

In this chapter I sketch the relationship between rule and informational practices touching upon the periods prior to colonial rule but concentrate heavily on the period of time encompassing Company Raj to formal colonial rule. In a way, inclusive of the East India Company's advances in the sub-continent, there is a further division into early, high and late colonial practices that is being charted. In reference

[8] William R Pinch, 'Same Difference in India and Europe' (1999) 38(3*) History and Theory* 389.
[9] Christian Lund, 'Rule and Rupture: State Formation through the Production of Property and Citizenship' (2016) 47(6) *Development and Change* 1191, 1203.

to each, the chapter moves between a detailed sketch of governance forms and the forms of information and the mutual relation between these domains. The description of governmental forms is inclusive of the offices being devised, laws being implanted and the divisions of jurisdiction within them. The informational orders draw upon the modes for ascertaining the population, the technologies of transmitting information and the systems and rationalities by which information is being read.

II. Precolonial Modes of Rule and Information Practice

a. The Mughals

While the Mughals were 'foreign' to Indian soil and claimed the right to rule by conquest, they also appropriated the vestiges of a consolidated Indo-Islamic culture and mode of statecraft that could be dated to the Delhi Sultanate of the twelfth century. The Sultanate, as a general rule, upheld the supremacy of Sharia while affording broad exemptions for non-Muslim subjects, who "paid a poll tax in exchange for the right to preserve their own religion tribunals and administer their own personal law."[10] The Sultanate was also notable for its own internal syncretism, consisting by turns of rulers drawn from the Persianate aristocracy and 'slaves' of Turkic origin.

The succession of the Delhi sultans ended in a pivotal battle with Zaheeruddin Babar in 1526, establishing thereafter the foundations of Mughal rule. It was Babar's grandson, Akbar, who ensured the Mughals' greatest geographic expansion through a set of military conquests extending to territory that was almost equal to that governed later by the British, and now comprising the independent states of Pakistan, India and Bangladesh. They also oversaw trade that made India a major node, not just in the commerce of goods moving towards Europe, but also in a vast Indian Ocean trading zone that included the other major Muslim empires of the time, the Ottomans and Safavids.[11]

Contrary to the myths of inherent degeneracy that were contrived in Europe and gained circulation there to describe Mughal decline as European interest in the

[10] Lauren Benton, *Law and colonial cultures: Legal regimes in world history, 1400-1900* (Cambridge University Press, 2002) 107.
[11] Sugata Bose and Ayesha Jalal, *Modern South Asia: History, Culture, Political Economy* (Routledge, 3rd ed, 2011).

region grew, it is important to recognise that as a governmental entity it had some of the features thought consonant with the more evolved and benevolent of the European states.[12] It possessed a rationally organised administrative structure, a formal and independent justice system and also a mode of managing a religiously plural population that, at least at higher levels of a class-divided system, was quite inclusive.

In fact, the administrative structure of Mughal rule allowed in many ways for the incorporation of alternate poles of authority other than the Emperor alone.[13] As a system of rule oriented to securing smooth functioning through changes at the top, a permanent administrative structure comprising several intermediary and interdependent functionaries was also introduced throughout the Mughal domain. High patronage positions were regularly granted in large numbers to members of the Hindu and minority Shia communities.[14]

While certain forms of law were administered that derived from Sharia-based principles, in particular the criminal law, the administration of civic life was left to be done through plural and religiously-founded practice. Imperial edicts lent uniformity to the system, although it is also agreed that the Mughal Empire did not display the legislative centralisation that some theorists consider by definition to be central to the operations of state.[15]

The vast territorial possessions of the Mughals imparted a connectedness to the far reaches of the subcontinent that was unprecedented. Thus, along with the ever-present need to manage land revenue and its extraction, a central concern of the Mughals was to ensure the collaboration of Hindus and other indigenous religionists of the subcontinent within the scheme of Muslim rule. This also propelled curiosity about the governed subjects.[16]

Various hierarchically organized cadres of information gatherers and recorders were established during the Mughal era. It has been noted Christopher Bayly in

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[12] Noel Malcolm, *Useful Enemies: Islam and the Ottoman Empire in European Political Thought, 1450-1750* (Oxford University Press, 2019).
[13] Singh, *'Centre and Periphery in the Mughal State'* (n 3) 303.
[14] Iqtidar Alam Khan, 'Tracing Sources of Principles of Mughal Governance: A Critique of Recent Historiography' (2009) 37(5/6) *Social Scientist* 45.
[15] Athar Ali, 'Towards an Interpretation of the Mughal Empire' (1978) (1) *Journal of the Royal Asiatic Society of Great Britain and Ireland* 48.
[16] *See generally* Bose and Jalal, *Modern South Asia* (n11). *See also*, Abul Fazl, *Ain-I-Akbari*, tr HS Jarrett (Royal Asiatic Society, 1891) 41-44. Available online: https://archive.org/stream/ainiakbarivolum00mubgoog#page/n64/mode/2up. [Accessed 25/11/14]. describing the employment of various levels of intelligence by the Mughal court.

particular that the forms of information sought could be organized along three different registers: the "spiritual, the empirical and the moral/geneological."[17] Thus, vedic and sufi masters were enjoined in the processes of recording things of significance, which often touched upon the supernatural. The empirical was overwhelmingly concerned with the processes of revenue and taxation collection. Systems of land mapping and of regulating tenure in specific localities were instituted on the basis of local understanding of social structures, that were then policed for their delivery of revenue to the centre. Genealogical tables of familial origins, inter-marriages and filial connection allowed the ruling family to ascertain loyalty and to keep account of enemies.[18] Traversing a concern with all the above domains, the system of village watch and ward included police officers and night-watchmen who collectively policed settlements for moral transgressions, the record of which was conveyed to the court.[19]

During much of the eighteenth century, the Mughal Empire was repeatedly assailed by local contenders to power, making apparent certain tensions and revealing an inability ultimately to manage the sub-continent's disparate populace through a given complex of power, administration and information.[20] In these sites of tension, Europeans found opportunities to benefit by lending military might to those who would award them economic concessions in exchange for the titular right to rule.[21] In such a manner, the East India Company was a great beneficiary, having extended its domain through the creation of tribute-paying potentates, systems of rule that were inherently unstable and would result within years in the Company's direct annexation of further parts of the subcontinent. By 1764, the Company had been granted the right to collect land revenue in Bengal by the Mughal Emperor.

Altogether, the displacement of Mughal rule was staged over a long period. In fact, the Mughal Emperor would be retained on a salary by the Company officials until being finally and formally dethroned by the British Crown in 1858. The mechanisms of diffuse control had generated elaborate systems and techniques for its maintenance. This included a far-reaching and elaborate postal service. Altogether

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[17] Christopher Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780–1870* (Cambridge University Press, 1996) 11-13.
[18] Ibid.
[19] Ibid.
[20] Jon E Wilson, 'Early Colonial India Beyond Empire' (2007) 50(4) *Historical Journal* 951.
[21] Ibid. *See also* Sadaf Aziz, *Constitution of Pakistan: A Contextual Analysis* (Hart Publishing, 2017).

though, the drawing together of information and rule was still more diffuse and less instrumental to Mughal rule than would prove to be the case for the British.

b. The Company (and the British State)

The mercantile nature of the East India Company's early activities in India was transformed through grants to collect land revenue, in the creation of fortifications for the protection of its physical assets, and in the warfare and plunder it executed towards such ends. In these transformations, the Company also expanded its sphere of governmental activity, by turns claiming legitimacy to do so or endeavouring to disguise the sovereign authority it was exercising, depending on which proved more convenient in the circumstances.[22] All the while, the activity of the Company in India was repeatedly subject to challenges by competing commercial entities in the UK to its putatively 'exclusive rights', a concern mediated at times by the desire of the British Parliament to exact loans and tax revenue when settler colonies in North America grew more restive, and other European powers attempted to establish competing outposts in the subcontinent.[23]

Successive King's Charters were the mechanism by which the Company was able to implant zones of governmental activity in broad administrative units called Presidencies. The early charters recognized a governor responsible for laying out the law in the form of company regulations through each of these Presidencies. Jurisdictionally, the Presidencies[24] were further divided into presidency towns and the *mofussil*. The mofussil was considered to be the administrative hinterland constituted by village communities and comprising agrarian relations. Where King's Courts and Company Courts administered a mostly uniform law in presidency towns, the systems of law in the *mofussil* were more locally varied consisting of an admixture of "Hindu and Muslim personal law, Islamic criminal law, and Company Regulations." In this jurisdictional muddle, it was quite regularly the case that many forms of criminality were simply outside any formal system of justice or redress. This included the acts of

[22] Eric Stokes, *The English Utilitarians and India* (New Delhi, Oxford University Press, 1990).
[23] M Mukherjee, *India in the Shadow of Empire: A Legal and Political History 1774-1950* (New Delhi, Oxford University Press, 2010).
[24] VD Kulshreshtha, *Landmarks in Indian Legal History and Constitutional History* (Lucknow, Eastern Book, 1968).

criminality that were carried out by a relatively small population of European settlers, especially plantation owners.[25]

Instances of native rebellion, often borne out of such lawless encounters, as well as company indebtedness attracted a keen public eye to the Company's workings back in Britain, and led Parliament to pass acts to regulate the Company itself. In 1774, this resulted in the establishment of the office of a Governor General, of a supreme court at Bengal and the establishment of a council of governmental appointees to advise the Governor General. The first Governor General, Warren Hastings, established the apparatus for a permanent civil service as well as a standing army that would be inclusive of large numbers of Indians. Hastings himself would be later impeached and tried in parliament on the charges of corruption, bribery, high crime and misdemeanours.[26]

Land was the primary basis of wealth in this early colonial configuration and land revenue management tended to dictate systems of rule across the Presidencies.[27] The last of the King's Charters to the Company was issued in 1833 and it radically altered the legislative and administrative landscape, thereby creating a period of rule which was determinedly no longer Company rule but also not yet fully classifiable as the direct rule. An all-India Legislative Council was created, with general and wide powers of law-making which supplanted the independent legislative powers of the three Presidencies. Additionally, the town and *mofussil* distinction was done away with.[28] These and other alterations gave rise to questioning of the form and administration of law for all of British India. To this end, successive law reform commissions made up of prominent British lawyers tried to arrive at a system of laws that would accommodate British interests as well as streamline systems of justice.

The proceedings of the law reform commissions show a recurrent grappling with the question of codification, and with issues of making and enforcing uniform laws between local and English subjects in the sub-continent. Codification itself seemed to imply the equalization of laws for all, even though it carried grander claims

[25] E Kolsky, 'Codification of Colonial Difference: Criminal Procedure of British India' (2005) 23(3) *Law and History Review* 641.
[26] M Mukherjee, 'Justice, War, and the Imperium: India and Britain in Edmund Burke's Prosecutorial Speeches in the Impeachment Trial of Warren Hastings' (2005) 23(3) *Law and History Review* 589, 602.
[27] DA Washbrook, 'Law State and Agrarian Society in Colonial India' (1981) 15(3) *Modern Asian Studies* 649, 650.
[28] Ibid. *See also* Sadaf Aziz, *Constitution of Pakistan: A Contextual Analysis* (Hart Publishing, 2017).

about a structure of enlightened and benevolent governance. During this period, the Company acted in limited ways upon counsel of the more reform-minded of its advisors. It prohibited the Hindu practice of widow immolation or sati in 1829 and in 1832 it stopped the application of 'Mohammadan criminal law' as a rule to all persons.[29]

In this period, a strict demarcation of public and private regulation was also enacted through the establishment of a plural law. It was the assumption that religious communities were internally coherent in their desire to "rigidly and ritualistically follow their own law in all matters of social custom, religious duty, and commercial transaction."[30] In reality, however, it required great effort to forge this coherence within such communities. The mode of doing so tended in the direction of codifying religiously mandated law so as to render it applicable through a hierarchical court system that relied upon precedential reasoning. What ensued was the selective compilation of religious sources in order to forge both Anglo-Hindu and Anglo-Mohammadan law.[31]

The regions of India that would later become Pakistan were amongst the last to be joined into Company rule. The logic of the Company's conquest of Sindh, Punjab, and the areas now known as Khyber-Pakhtunkhwa[32] and Balochistan can be traced to attempts to secure the 'natural borders' of the subcontinent all the way to Kabul and beyond. Embroiled in the imperial Great Game against Russia, the British crown that oversaw the Company's affairs feared the loss of wealth that India generated if, after the Russian advance into vast areas of Central Asia, they were to move into India.[33] In quick succession, Balochistan in 1839, Sindh in 1843 and Punjab in 1849 were conquered by the Company's forces. The British East India forces faced crippling defeat in their further advances towards current day Afghanistan in several endeavours, though.

The territories acquired were administered in ways which reflected the violence of conquest, as well as British notions about the temperament of each

[29] Kulshreshtha, *Landmarks in Indian Legal History* (n 24).
[30] SA Kugle, 'Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia' (2001) 35(2) *Modern Asian Studies* 257, 270.
[31] Ibid.
[32] Known as the North-West Frontier Province from 1947-2010.
[33] NS Sarila, *The Shadow of the Great Game: The Untold Story of India's Partition* (New Delhi, HarperCollins, 2006).

region's populace. Balochistan had become integral to Company interests when its cavalries were forced to cross Baloch territory en route to what became the first Afghan War.[34] They entered into a treaty with Khan of Kalat, who ruled over much of current day Balochistan, and started a relationship that would be carried on in the period of direct colonialism, paying him tribute for the next century. Dismayed that the Khan was unable to secure them safe passage through what was in fact a tribal confederacy, the British engaged in palace intrigue rather than incorporate Balochistan into their larger bureaucratic and administrative enterprise.[35] The territory of Sindh was annexed to the Bombay Presidency but left, in the manner of a *mofussil*, to be managed in customary fashion. Land was allowed to be held in perpetuity by existing landholders and tribal chiefs in exchange for revenue extraction.[36]

The conquest of the Punjab by the East India Company began with an attempt to exert influence on the child regent, successor to the long-standing Emperor Ranjit Singh.[37] Competing regional claims on power enabled the British to enter the fray and to annex a region seen as pivotal to their security concerns. While sporadic resistance against British rule emerged early on, there was also a quick reduction in dissent owing to the British willingness to win the loyalty of the populace of this relatively wealthy region, including by way of investing in building canal networks to aid agricultural production.[38]

In 1849 the company also annexed what was described as the 'Frontier' and brought it within the administrative sway of the Punjab province. Revenue extraction happened through an array of systems that transformed the local structure in the subsequent decades. This region north of the Indus River had been paying tribute both to Sikh and Kabul Kingdoms, and the Company faced continuing resistance to its assertion of sovereign control there. As fighters, the Pakhtoon were subsequently added by the colonial government to the list of "martial races", those considered

[34] JH Syed, 'The British Advent in Balochistan' (2007) 28(2) *Pakistan Journal of History and Culture* 53, 58.
[35] M Axmann, *Back to the Future: The Khanate of Kalat and the Genesis of Baluch Nationalism, 1915-1955* (Oxford University Press, 2012).
[36] Ibid.
[37] I Talbot, *Punjab and the Raj: 1849-1947* (New Delhi, Manohar, 1988).
[38] Imran Ali, 'Malign Growth Agricultural Colonization and the Roots of Backwardness in the Punjab' (1987) 114 *Past & Present* 110.

valiant enough to be enlisted in the imperial army.[39] However, the implacability of conflict around the 'savage border' fed an array of assumptions about the Pakhtoon that led to their outright exclusion from the governmental scheme or alternately, to periodic attempts at pacification by force.[40]

Importantly, given the wide-scale alterations that were being undertaken by the Company in India and in the circumstances that it's governmental role in India was being scrutinized and slowly being appropriated by the British Parliament, the relation to information about the territories and populations being governed also underwent transformation. While its operations were almost wholly dictated by the need to engage in extractive enterprise, it was not immediately in its interests to do away with the middle-men who smoothed the processes integral to the Company's ability to secure resources and local collaboration. Nonetheless, the greater control of the British Parliament in this period entailed that its operations were subject to certain measures of legitimacy.

c. Pre-colonial Company Information practices

In the transition to Company rule during the eighteenth century many of the particular mechanisms of gathering and storing information contrived by the Mughals were themselves co-opted by the British. As Christopher Bayly argues, while "such empirical surveillance of society could be intensive, it was directed to specific rather than general aims".[41] Such general aims included gaining power and securing access to resources. The succeeding disjuncture in the practices through which 'information' was collated, tabulated and marked can be explained by reference to these changing objectives.

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[39] Pradeep Barua, 'Inventing Race: The British and India's Martial Races' (1995) 58(1) *The Historian* 107, 108. Although the Martial Race designation was devised after the events of 1857, there was a longer history of ethnography that the author traces to the first years of the 19'th century between northern and southern India. For example, one of the Crown's envoys to Afghanistan described the Afghans as resembling Europeans in their "intelligence, habits, and appearance" as well as their "gay and familiar tone over their wine."

[40] *See* Chapter 4 for extensive discussion.

[41] Bayly, *Empire and Information* (n17) 22. "The date collected were stored in the records of the village accountant, maintained by the Kanungo, and checked by state officials. Sea customs houses minutely registered the movement of ships. By contrast, in levying land transit taxes, the state dealt with great merchants or headmen of communities of traders, and the rulers' commercial information was of a grosser type."

According to Bayly, the general informational grid that the Company devised was accompanied by the growth of institutions and the reliance upon statistics as features of the evolving colonial state. The empirical information gathered was contiguous with what was being collected by the Mughal court and was therefore simply redeployed in line with the particular strategic objectives. Others, however, see a more thorough-going break between the epistemic universes that Indians and Europeans occupied. The task of governance and its precariousness for a still-more-foreign conquering force, entailed the rewriting of Indian history through conceptual categories altogether unknown to those who were being conquered. [42] Given that law of a more or less 'general character' was incrementally being brought in as a legitimating feature of European rule, reified notions of 'colonial difference' informed the making of such laws.[43] From this perspective, the institutions and statistics of British governance existed at the intersection of two competing sets of theories. The first were generated and debated in the UK on the best way to rule and the second were growing up in reference 'historical, ethnological and biologic' assumptions that could increasingly be gleaned through 'research' undertaken in the very processes of colonial administration in India.[44]

Post-colonial scholarship on British Imperial rule in India has been crucial for questioning the received tendency to divide the population according to racialized and religious criteria.[45] The colonial knowledge order, though regionally specific, was very much defined by the transitions towards centralization in the years leading to direct control. Even where continuities from a previous information regime existed, the very real displacements entailed by the shifting sovereignty required enlisting existing cadres of religious clergy, village headmen and revenue collectors in a

[42] Gyan Prakash, *'The body politic in colonial India' in Timothy Mitchell (ed), Questions of Modernity* (University of Minnesota Press: Minneapolis, 2000); Arjun Appadurai, 'Number in the Colonial Imagination' in Carol A Breckenridge and Peter van der Veer (ed*), Orientalism and the Postcolonial Predicament: Perspectives on South Asia* (Philadelphia: University of Pennsylvania Press, 1993) 314-39. *See also*, Bernard Cohn, 'The Census, Social Structure and Objectification in South Asia' in, *An Anthropologist Among the Historians and Other Essays* (Oxford University Press, 1987)

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

[44] *See also* Mark Brown, 'Ethnology and Colonial Administration in Nineteenth-Century British India: The Question of Native Crime and Criminality' (2003) 36(2) *British Journal for the History of Science* 201.

[45]*See generally* Bernard S Cohn, *Colonialism and its Forms of Knowledge: The British in India* (Princeton University Press, 1996). *See also*, Nicholas Dirks, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton University Press, 2011).

manner which demoted them in rank to being paid informants for the Company.[46] The hierarchical ordering of castes and clans facilitated indirect rule by establishing networks of collaboration that aided in the disguise of growing Company power.[47] Simultaneous but still dispersed systems of enumeration were being set in place which measured resources for revenue generation and capture, as well as organizing the 'character' and capacities of the population using group-based measures of caste, religion and ethnicity.

In the decades leading to the last of the Company's Charter's in 1833, tables of enumeration were assembled across the three Presidencies under varied sets of criteria to meet specific needs.[48] These influenced both the divergent patterns of land tenure fashioned across them as well as the different legal regimes for settling private disputes. As a predominantly commercial entity, the Company ultimately did not venture too far in the direction of social reform, but rather sought certainty of rule in territories within its possession. However, it sought to do this in the first instance by formalization of property rights and bringing all social groups within a relation of domination and subordination to the Company. To this end, the Company sponsored extensive study oriented to understanding the nature of rules and laws that had governed communities till then. In addition, the 'essential character' of segments of the population were indicated to outline their relative usefulness, or threat, to colonial administration.[49] While the forging of a more elaborate anthropology centred on caste would flourish later from the administrative offices of colonial rule, early on there was a propensity to confer the designation of specific clans and families as being rulers in specific localities, thereby to be conferred *zamindari*/*jagirdari* (land-owner, revenue collector) status.[50] Also, a preference for recruitment to the Indian army from

[46] *See* Bayly, *Empire and Information* (n 17) 56-96.
[47] *See* Thomas R Metcalf, *The Aftermath of Revolt India, 1857-1870* (Princeton University Press, 1965) 113. Importantly Thomas Metcalfe points out that this was also just an enlightenment habit.
[48] Sumit Guha, 'The Politics of Identity and Enumeration in India c. 1600–1990' (2003) 45(1) *Comparative Studies in Society and History* 148.
[49] Despina Iliopoulou, 'The Uncertainty of Private Property: Indigenous versus Colonial Law in the Restructuring of Social Relations in British India' (2001) 26(1) *Dialectical Anthropology* 65. Iliopoloulou provides a far more nuanced argument suggesting that it was less a system of classification but that domination was built into the practice of interpreting religious and customary law to make it conduce to such domination. *See also*, Gopāla Śarana and Dharni P Sinha, 'Status of Social-Cultural Anthropology in India' (1976) 5 *Annual Review of Anthropology* 209.
[50] Oliver Godsmark and William Gould, 'Clientelism, Community and Collaboration: Loyalism in Nineteenth-Century Colonial India' in Allan Blackstock and Frank O'Gorman (eds), *Loyalism and the Formation of the British World, 1775-1914* (Woodbridge: Boydell Press, 2014). There is a literature

amongst higher caste subjects was the impetus for solidifying the lines of distinction between castes. Other groups – often spuriously on the basis of their nomadic or non-sedentary patterns of living – were classed as criminal tribes and placed under surveillance and their movements restricted and confined.[51] This more precise mechanism of simultaneously including and expelling groups from legal cover was another technology that has had a long life in the subcontinent.

The maintenance of law and order was prior to the rendering of justice even as alternate currents of opinion militated for 'improvement' of natives. This called for an amelioration of harms flowing from traditional social structures in India as well in the intensified extraction of labour surplus by the British.[52]

III. Direct Colonial Rule and the palimpsest of Information practices

a. Aggregating Rule

Intensifications of rule were met with rebellion. There is a broad consensus that the 1857 uprisings were multi-class in composition and leadership, and aimed at diverse ends.[53] Perhaps the most widely known of the precipitating causes was the flouting of religious sentiment of both Hindu and Muslim cavalries in the British Indian army. While some of the uprisings suggest a rising self-knowledge on the part of the peasants about oppression under the conditions of colonial extraction, such singular explanations fail to explain how inequality was rendered as oppression for those who rebelled.[54] As famously argued by Ranajit Guha, the tendency in tertiary

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about the native interventions in the compilation of such data. As such, Godsmark and Gould write: "Likewise, histories, artefacts and texts collected by British administrators in order to justify new land settlements were often mediated, reinterpreted or concealed by indigenous assistants tasked with their gathering and collation. And it was often local Brahman agents who denied access and sought to suppress the articulation of 'little' traditions that diverged from their own interpretations." This is a similar line of argument taken by Indrani Chatterjee, 'Testing the Local against the Colonial Archive' (1997) 44 *History Workshop Journal* 215.

[51] Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Delhi, Oxford University Press, 1998). Mark Brown, 'Crime, Governance and The Company Raj: The Discovery of Thuggee' (2002) 42(1) *The British Journal of Criminology* 77. *See also* Tom Lloyd, *'Thuggee and the Margins of the State in Early Nineteenth-Century Colonial India'* (2007) University of Edinburgh. Available online: http://www.csas.ed.ac.uk/mutiny/confpapers/Lloyd-Paper.pdf. Accessed on 14/11/14.

[52] Rajnarayan Chandavarkar, *Imperial Power and Popular Politics: Class, Resistance and the State in India, 1850-1950* (Cambridge University Press, 1998).

[53] J. P. Tewari, 'A class analysis of the prominent rebels of 1857 in Meerut district' (1970) 32 *Proceedings of the Indian History* Congress 69–72.

[54] Peter Robb, *A History of India* (Palgrave Macmillan: London, 2011). Robb suggests that the mere idea of foreignness would not necessarily be so incendiary given a long history of prior conquests by foreign conquerors.

histories of this time to join disparate rebellions to a nationalist cause are both anachronistic as well as misplaced for other reasons.[55] Nonetheless, the events of many months beginning in May 1857 led to the direct assumption of colonial rule by the British government and the end of the Company's administration there. Much of the failure of the Company's ability to anticipate the events of 1857 was ascribed to its insufficient ability to collect information and read the mood of Indian society.[56]

The British Parliament's hesitant attempts to control Company activity in India gave way to a whole-scale alteration of the governmental structure after 1857. At least on the face of it, by transferring sovereign control to the Queen in Parliament and extending the relations of subjecthood to all Indians, the transitions in the structure of government seemed responsive to Indian discontent with British rule to date. By proclamation of Queen Victoria, the Government of India Act of 1858[57] effectively established that no extension of existing territory would be undertaken, no interference in religious matters would be made, no distinctions of caste or creed would be maintained in admission to service, ancient rights and customs of India would be respected and that the "administration of the Government would be for the benefit of all the subjects."[58] The Act also included a prohibition against the future use of revenue raised in India towards British military adventures abroad, and a guarantee that all treaties entered into by the Company would be considered binding upon her Majesty.

While the high-sounding salutary principles would be flouted time and again over the next 89 years, an altogether new system of governance was engineered in this transition. The Act of 1858 contained formulas for a federal division of powers between existing and newer provinces and for the division between executive and legislative powers. It also adapted and reformed a civil service that had been established under Company rule. In quick succession a set of acts to establish a uniform system for a higher judiciary,[59] a uniform policing apparatus[60] and others conducive to homogenising the functions of governance would also be passed.

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[55] Ranajit Guha, 'The Prose of Counter-Insurgency', in Ranajit Guha and Gayatri Chakravorty Spivak (eds), *Selected Subaltern Studies* (Oxford University Press, 1988) 45-86.
[56] *See* Bayly, *Empire and Information* (n 17). *Also* Andrew Muldoon, (later in this chapter)
[57] *The Government of India Act 1858.*
[58] *See* Kulshreshtha, *Landmarks in Indian Legal History* (n 24) 346.
[59] *High Courts Act of 1861.*
[60] *Police Act 1861.*

Perhaps the most noteworthy thing about the 1858 Act was that it provided for a single and identifiable locus of sovereign authority in the Crown. However, below her majesty, to be proclaimed Empress of India in 1877, there would be some elbowing for space between the Secretary of State for India, the Indian Legislative Council and the Governor General as the institutions at the apex of the governmental order.[61] The least empowered of the organizations in this structure was the All India Legislative Council, and even though the British Parliament exercised some oversight, the apparatus of government was one of heavy executive centralization. Altogether, it was a tricky balance between dispersed and concentrated nodes of power. The Secretary of State "had an absolute authority and a Council which had been denied the right of initiation," thereby resting a great deal of discretionary powers in a single office.[62] The Act of 1858 had also granted wide-ranging powers to the Governor General and made it compulsory to secure his assent for every enactment passed by the legislative Council. The rather anomalous feature of executive ordinances was also first introduced under the 1858 Act, empowering the Governor General to unilaterally proclaim law for all of British India. An ordinance would stand for six months during which period the legislative council could affirm the matter or the ordinance would lapse. This executive legislative power has carried over into the constitution of India as well as in each of Pakistan's Constitutions since Independence, providing but one indication that some inheritances were deemed worthy of continuation.[63]

Shortly after, by way of the Indian Councils Act of 1861,[64] the office of Governor General came to be associated with a council which would include at the minimum, a number of members with extended service in India, and also allow for its discretionary enlargement to include Indians. Although this power was quite circumscribed and nominated members were drawn from amongst large Muslim and Hindu landowners, this was the first inclusion of Indians into the legislative function.

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[61] Donovan Williams, 'The Council of India and the Relationship between the Home and Supreme Governments, 1858-1870' (1966) 81(31) *English Historical Review* 56.
[62] Donovan Williams, 'The Council of India and the Relationship between the Home and Supreme Governments, 1858-1870.' (1966) 81(318) *The English Historical Review* 56, 59
[63] Sadaf Aziz, *The Constitution of Pakistan: A Contextual Analysis* (Hart Publishing, 2017). *See Discussion* of Article 98, Const. of Pak 1973 under Presidential Ordinances section in Executive Chapter.
[64] *Indian Councils Act of 1861.*

The codified laws that had been suggested by law commissions that had been constituted by the company government were resurrected in the early years of transition, and the Codes of Civil and Criminal Procedure were enacted in 1858 and 1861, respectively.[65] In addition, the Indian Penal Code was also passed into law, thus ensuring a mixed civil and common law system for the subcontinent.[66] However, simultaneously with these movements towards the creation of uniformity and the equal application of an equal law, there were glaring exceptions created. For instance, in line with a long history of resistance by Europeans against being tried in native courts or even by native judges administering the common law, an amendment to the code of criminal procedure barred British born subjects from being tried by Indian judges in 1871. These Codes were also replete with the forging of crimes and misdemeanours aimed at redressing some particular habit or custom of the natives, as understood by the British.[67]

Additionally, the rationalization and systematization of the law that was undertaken by the Government of India did not preclude the recognition and sanctification of customary practices. As a result, quite syncretic and pluralistic forms of law gained official recognition. Through enactments such as the Punjab Regulation Act of 1872, valid custom was to be the basis of making awards in cases touching upon property transfer, succession, inheritance, and the like. Valid custom was upheld where it was 'reasonable, continuous, not against public policy or equity, justice and good conscience.'[68] Whereas in the compilation of personal law, which continued to be governed through religious codes, a strong preference had been shown for the testimony of a certain class of religious scholars, in the case of customary laws, the status of putative religious elders was sanctified.[69] Notions of traditional vocations as being determined by reference to ethnicity or caste were also affirmed.[70]

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[65] *Codes of Civil Procedure 1858; The Criminal Procedure Code 1861*
[66] *Indian Penal Code 1860* (Legislative Council of India).
[67] David Skuy, 'Macaulay and the Indian Penal Code of 1862: The Myth of the Inherent Superiority and Modernity of the English Legal System Compared to India's Legal System in the Nineteenth Century' (1998) 32(3) *Modern Asian Studies* 513. Skuy notes that the Criminal Code made it a "a criminal offence deliberately to wound the religious feelings of any person by uttering any word, making any gesture, or placing any object in the sight of a person". (p. 538)
[68] *Contract Act*, 1872, Art.88. (Now Repealed)
[69] This reflected a propensity to find a clergy where neither of the major religious traditions of the subcontinent had an equivalent to the clerics of the Christian tradition.
[70] *See Punjab Land Alienation Act of 1901*.

Thus, colonial practices of ascriptively classifying populations, cultures and traditions have had a long life in embedding social hierarchies that are now resistant to change.

Utilitarian intellectuals and thinkers had long argued that the "true function of government was simply the administration of justice" and had counselled legal reform for India on the grounds of a "rational, systematic science of legislation, based upon universal conceptions."[71] While their views on codification had been adopted, the grounds for arguing an 'enlightened' transformation of the population through education had become less tenable.[72] The idea that the 1857 Rebellion had been fostered by discontent about the disruptions to 'traditional' life had gained currency, and colonial policy makers would play a dual game of incorporation and deference to tradition to maintain their control.[73] In the recruitment and appointment of Indians into the various governmental services a dualism was at play. While Indians were gradually allowed entry into the covenanted civil services and could serve as judges and magistrates, there were certain racial disabilities. For instance, as noted by Elizabeth Kolsky, "The amended Code of Criminal Procedure, Act X of 1872" had the effect of "barring Indian judges and magistrates from trying European British-born subjects in the *mofussil*."[74]

A further racial disqualification was formalized in reference to the position of the district magistrate/collector in whom was vested the powers of magistrate, administrator and revenue collector after 1858. In a telling explanation about the all-important district administration, one high-ranking colonial officer explained: "[t]he District Officer is the unit of the whole civil system of administration. He is the official to whom, in the first instance, the Government looks for information as to all which may be going on… This post must be held by the English official."[75] This office indicated a salient difference between the modes of government thought necessary for India in contrast to what had been forged for white settler colonies such

[71] Kartik Kalvan Raman, 'Utilitarianism and the Criminal Law in Colonial India: A Study of the Practical Limits of Utilitarian Jurisprudence.' (1994) 28(4) *Modern Asian Studies* 739, 752
[72] Ibid.
[73] *See* Bayly, *Empire and Information* (n 17).
[74] Kolsky, 'Codification of Colonial Difference' (n 25) 679.
[75] Metcalf, The Aftermath of Revolt India, 1857-1870 (n 47) 281. See also Chandavarkar, Imperial Power and Popular Politics (n 52). Rajnarayan Chandavarkar, 'Customs of governance: Colonialism and Democracy in Twentieth Century India' (2007) 41(3) *Modern Asian Studies* 441.

as Canada, Australia and New Zealand, where the collapse of so many powers into a single office was unthinkable.[76]

These and many other features of colonial rule in India displayed to its subjects the operations of a fundamental rule of colonial difference. Just below the platitudinous benevolence of colonial government, the operation of assumptions about the civilizational and racial superiority of the colonizers particularly impacted those groups in India who had fostered hopes of being incorporated into governance.[77] Thus, at first moderate and then increasingly more radical sets of demands and challenges to colonial rule were framed against the operations of the rule of difference.

As nationalist sentiment came to be organized amongst native groups, a flourishing of autonomous associationalism was also underway.[78] However, against this heady mix and confluence in an evolving "Indian public," the colonial government's bureaucratic apparatus intensified its the drive towards the maintenance of control.[79]

b. Aggregative Rule and Colonial Information Gathering

The state institution most emblematic of the authoritarianism of the colonial state was the Home Department (HD). This institution alone almost wholly accounted for the accrual of information instrumental to the British Indian government's limited ends, and it retains its centrality in the postcolonial state, later reframed as the Interior Department and then Ministry. Its operations and oversight encompassed the following domains: "internal politics, law and justice, jails, police, education, hospitals, public health, municipalities and local boards, ecclesiastical matters, the administration of the Arms Acts, and a number of other subjects." In addition, the Home Department controlled Local Governments and to some extent Provincial Governments, as well as exercising general control over the Indian Civil Service".[80]

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[76] D Bandyopadhyay, 'Is the Institution of District Magistrate Still Necessary?' (2006) 41(47) *Economic and Political Weekly* 4851.
[77] Chatterjee, *The Nation and Its Fragments* (n 43).
[78] Anil Seal, 'Imperialism and Nationalism in India' (1973) 7(3) *Modern Asian Studies* 321.
[79] Amir Ali, 'Evolution of Public Sphere in India' (2001) 36(26) *Economic and Political Weekly* 2419.
[80] 'Chapter I. The Government of India' in *The Imperial Gazetteer of India The Indian Empire* (Administrative) (Bengal Secretariat Book Depot: Calcutta, 1907) Available through the South Asia Archive at: http://www.southasiaarchive.com/Content/sarf.100009/212135/002. *See also*, William W Hunter, *The Indian Empire: Its People, History, and Products* (Forgotten Books, 2017) 126.

The Home Department was established in 1843 "as a result of the reorganization of the East India Company's rule" in which a separate secretariat of 'supreme government' was established from the Government of Bengal.[81] An overburdened organization from the start, the Home Department encompassed all sorts of functions that were not a part of the Finance, Military and Foreign Affairs Departments. Its catch-all nature would become more streamlined through an exercise of further differentiation of administrative functions such as in the cleaving of certain areas of governance to make the autonomous Department of Agriculture in 1871.[82] Tellingly however, an influential lobby continued to speak for the expansive powers of the HD to stem the power of the provinces. Several nodes for information collection were under the jurisdiction of the HD, and their confluence reveals certain modes of the interplay of authority and governance which were to become patterns for the remainder of British rule.

Firstly, the Crown established, through the Indian Civil Service, districts for governance. Aimed at eroding provincial governmental control at a juncture in the late 19th century when these were taking on a more representative character, such a parcelling of territory and populations was important for tying rule and information into a tighter relationship. The office of the district administrator who was judge, bailiff and bureaucrat in one, was responsible to the high command of the British Home Ministry rather than to this intermediate level of government.[83] Importantly, for each of these districts, gazetteers were compiled to aid the "processing of local knowledge as a means of exercising control."[84] The gazetteers were quasi-scientific artefacts insofar as they employed a "systematic and consciously scientific ordering of information" that would ultimately serve the "needs of colonial bureaucrats, foreign observers and investors."[85] While a "positivist logic" was displayed, insofar as each volume began from a description of "physical foundations… represented by its geology, meteorology, botany and zoology, through a survey of its human inhabitants" most of such description was undertaken by non-scientists and inevitably

[81] *See* Rajni Goyal and Ramesh Kumar Arora, *Indian Public Administration: Institutions and Issues* (New Age International: New Delhi, 1995) 160.
[82] "Agriculture" *Friend of India and the Statesman* July 15, 1879 pp.612-13
[83] Jawhar Sircar, 'Ruling the District' (1988) 15(2) *India International Centre Quarterly* 71.
[84] Imran Ali, 'The Sinews of Governance: Bureaucracy, Narrative, and Power under Colonialism and Independence' (2006) 45(4) *Pakistan Development Review* 1255, 1257.
[85] David Arnold, *Science Technology and Medicine in Colonial India* (Cambridge University Press, 2000) 130.

displayed a "scrutinising externality that made India and its inhabitants minutely subject to the imperial gaze."[86]

Members of the colonial administrative class, by reason of their proximity to native society were accorded the status of experts in circuits of information gathering that were helping in the endeavour to forge grand theorizing in the metropole. While "European writers in the metropolis… assisted colonial administrator-scholars in making sense of their data," the administrators, themselves with aspirations to being more than "mere bureaucrats," were cited as significant authorities in the areas they administered by those who were spinning civilization theories.[87] Such theories were given added credence because they provided fodder for social evolutionist theories and scientific racism prevalent in Europe at the time, which in turn sped up the pace of informational exchange. Mark Brown notes, "it is in the unique relationships and in the transmission of ideas between a relatively small intellectual elite in America and Europe, and in the colonial administrations in Africa, the Middle East and Asia at this time that we may find the origins of the modern conception of race."[88] However, race was a category that had only limited value in India where the "the concept of race was introduced to differentiate between the natives of Indian origin and those coming from the west or European countries" whereas it was 'primordial' identities of religion and caste which were used to classify natives.[89]

The growth and sharing of knowledge was informed by fields of administration, including importantly, policing. As noted by Nicholas Dirks, "Criminality under colonialism was about both classification and control; thus criminal castes occasioned some of the first ethnological monographs, and thus anthropology collaborated with policing to provide a scientific means to measure".[90] However, that objects of rule were aimed at control rather than the general good, was

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[86] *See* David Arnold, *Science Technology and Medicine in Colonial India* (Cambridge University Press, 2000) 131.
[87] Mark Brown, 'Ethnology and colonial administration in Nineteenth-Century British India: The Question of Native Crime and Criminality' (2003) 36(2) *British Journal for the History of Science* 201, 205.
[88] Ibid 204. M Stephens, *'White without soap: philanthropy, caste and exclusion in colonial Victoria, 1835-1888: a political economy of race'* (PhD thesis, The University of Melbourne, 2003). This work is an indicative example of finding the origins of race theory in other sites of European colonial encounter. P-52
[89] RB Bhagat, 'Caste Census: Looking Back, Looking Forward' (2007) 42(21) *Economic and Political Weekly* 1902, 1903.
[90] Nicholas Dirks, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton University Press, 2011) 188.

experienced in the social sphere by Indians. What was particularly interesting about the police, as noted by Rajnarayan Chandavarkar, was how "little they were interested in crime."[91] Not crime but disorder was their object of policing, and for infractions against person and property, the police tended to devolve authority to the offices of the district administration as well as to powerful native figures in a locality. In furtherance of the need to coordinate the functions of the police throughout the subcontinent, the Central Intelligence Bureau (CIB) was contrived. The object of the CIB was the more general concern with maintaining control rather than dispensing order.

The CIB was established in 1887 to act as 'inter-provincial liason' for all provincial Criminal Investigation Departments. It was anticipated at the outset that the 'Department deals more or less with the political affairs"[92] in the maintenance of internal and external security. Operating within the "Political" branch of the Home Department, its instantiation reflected a perception of threat about the sustainability of the colonial enterprise, and its existence further draws attention to the fact that colonial subjects were now also imbued, in this transition to individualised surveillance, with capacities for organisation and sedition.[93] The Intelligence bureau was formed two years after the founding of the Indian National Congress (INC) and the integration of the police and the CIB reflected an orientation towards the quelling of disorder. Disorder was anything that broadly disturbed the logic of British governance.[94]

The INC, although only making 'moderate nationalist demands' against the colonial government in its early years of operation, nonetheless disturbed the workings of the colonial government in many ways.[95] Whilst certain accommodations followed, such as the 1892 Indian Councils Act which allowed for

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[91] Rajnarayan Chandavarkar, 'Customs of governance: Colonialism and Democracy in Twentieth Century India' (2007) 41(3) *Modern Asian Studies* 441, 450.
[92] SS Huq, *'Evolution of Police in India' in Calcutta Police Journal* (PK Chatterjee, 1940) vol I, 176-180. Available through the South Asia Archive at: http://www.southasiaarchive.com/Content/sarf.120294/229573/013.
[93] *See* Guha, 'The Politics of Identity and Enumeration in India' (n 48).
[94] Sumanta Banerjee, 'India's Home Front' (2004) 39(40) *Economic and Political Weekly* 4404-4406.
[95] INC demands included: "expanding the powers of the Provincial and Central Councils and introducing elected members into them, holding the civil service examination in India as well as England, separating the judicial and executive functions," as well as decreasing the financial burden placed on India through the Salt tax and home charges; *see* Hamid Khan, *Constitutional and Political History of Pakistan* (Oxford University Press: Karachi, 2001).

some indirect representation of Indians into provincial governing councils, the tendency was to withstand such demands as far as was feasible. The primary problematic identified in the self-organisation of Indians into such associations is that it tested the thesis that the subcontinent was best administered by the British, with nobles and members of the native aristocracy as the Crown's allies.[96] The particular work of surveillance that they undertook collectively and the uses to which it was put will be detailed a bit further along in this chapter.

What is displayed in the practice of colonial governance is that aggregative administrative goals were more central to state-building than a liberal order in which individuals would be spokespersons of their own interests. This helps to explain the consolidations of an over-heavy bureaucratic order, one aptly reflected in the practice within Imperial Gazetteers to describe these departments and offices at the apex of the naturalised totem of existing Indian phenomena to be studied. While certain accommodations, noted above, were being offered to recalcitrant locals, the imperative to exercise control was reflected in the stationing of a greater number of British military personnel in India. This coincided with heightened intra-imperial competition for territorial control, widely known as the Great Game, being played out in the North West, whereas an early parcelisation of the buffer regions was undertaken in the form of a frontier governmentality (discussed extensively in chapter four).

More complete bio-political and disciplinary forms of governance were being innovated in India from this point forward. In the context of crime and criminality, the move from anthropology to anthropometry and finally to fingerprinting has been elaborated by Nicholas Dirks. In the context of increasing urbanization, and the fact that cities were less than habitable, the realms of medical sciences, sanitation and hygiene were relied upon to control disease. Royal Commissions were established to direct efforts to gather information about native lives, so that offending practices, those which gave rise to disease, could be corrected.[97] As a consequence, a discourse on the life practices of Indians was birthed. At the aggregate level, colonial officials cited 'excessive' population growth as a problem that spawned a range of other

[96] *See* Metcalf, *The Aftermath of Revolt India,* 1857-1870 (n 47).
[97] Kavita Misra. 'Productivity of Crises: Disease, Scientific Knowledge and State in India.' (2000) 35(43/44) *Economic and Political Weekly* 3885, 3886

economic and developmental failures in the native sphere. As Samantha Iyers and others have pointed out, the occurrence of famines on a widespread scale in the late 19th century was often the consequence of an "increasingly rigid adherence among may officials to the policy of laissez-faire."[98] Simultaneously, as Malthusianism was being discredited elsewhere, in official colonial circles the idea that these famines were operating as a positive check on the Indian population was widely affirmed. This in turn engendered resentment and a searching appraisal amongst Indians themselves, of the patterns of colonial policy and intervention that were giving rise to these catastrophic events.

A strain of nationalist thought developed at this time that perceived and identified a 'drain' on Indian resources at the confluence of colonial agrarian policies and the deepening susceptibility of Indian producers to the vagaries of the world market.[99] It is this which would feed the *swaraj* and *swadeshi* elements of nationalist thought until the formal end of colonialism.[100] Integral to both the policy and to the critique was a notion that something akin to a 'national economy' – with integrated circuits of exchange and susceptible to control and manipulation – was now in operation, and was being apprehended by Indians even as it had earlier directed the efforts of the British.

As a further extension and elaboration of the relationship between information gathering and the creation of subjectivities it is noteworthy that demography in its seemingly most benign guise, that of census-taking, fed into the creation of a political field. This would help to create the fault-lines and fractures that would mark the making of new nations in the subcontinent.[101] Undertaken for the first time on an

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[98]Samantha Iyer, 'Colonial Population and the Idea of Development' (2013) 55(1) *Comparative Studies in Society and History* 65.

[99] *See* ibid. *See also,* Andrew Sartori, 'The Categorical Logic of a Colonial Nationalism: Swadeshi Bengal 1904-1908' (2003) 23(1-2) *Comparative Studies of South Asia, Africa and the Middle East* 271.

[100] Important to note that while swaraj was given pan-Indian effect through the efforts of Gandhi and the INC, more regional and in cases Islamist idioms were also employed to offer a critique of imperial economic relation. In Eastern Bengal this was argued in terms of the rights of rural tenants and peasantry in the platform of the Praja Party; in Punjab the Khaksars also emerged and most famously in the NWFP, the 'Red Shirts' or the Khudai Khidmitgar (servants of God) were the nationalist embodiment of such a critique.

[101] I have not here elaborated on the ways in which the census is considered the predominant ascriptive technology for the development of the modern state form. the following works all usefully describe the mechanics and effects of early census exercises: Ian Hacking, *The Taming of Chance* (Cambridge University Press: New York, 1990). Norbert Peabody, 'Cents, Sense, Census: Human Inventories in Late Precolonial and Early Colonial India' (2001) 43(4) *Comparative Studies in Society and History* 819. *See also*, Bernard Cohn, *'The Census, Social Structure and Objectification in South Asia' in, An*

India-wide level in 1871, the census and its subsequent decennial execution provided a range of organizational features for a colonial, and then national political sphere. Religious identification as a marker of the populace fed processes of identity formation in an expanded public sphere of heightened informational flows. The demand for representative government to counter the monopolizations of power by an administrative state coincided with the demand for representation by groups in terms of the ways they had been catalogued. A colonial category of enumeration and rule was thus turned into a political category.[102] Integral to the growth of a Muslim nationalism that would ripen into the demand for a separate homeland, was the notion of Muslim decline following the end of Mughal rule, propelled by statistical evidence to support it and a half-century of limited representative government and mediated access to power. The 'enumerative habit' that was deployed by the British state took shape as the collation of information about educational attainment and professional representation. These statistical and demographic categories cut across the ties of local communities in ways that allowed certain elites at a national level to claim to be able to represent groups that had in fact only recently been discursively generated through such denotative practices.[103] The concession of group representation for Muslims given by the British was also an attempt to moderate the temper of this new political sphere. The demand had arisen primarily from an alliance of important Muslim landholders who had founded the Muslim League in 1906. The British saw them as capable of being appeased by the retention of customary rights that they had long exercised, and therefore not a threat to British control over the subcontinent.[104]

In this context, Sumit Guha writes that the early anti-colonial nationalists had internalized the notion of majority rule through the protocols of assembly voting. This then "logically extended the idea of majority predominance in adversarial

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Anthropologist Among the Historians and Other Essays (Oxford University Press, 1987) 224-54. Arjun Appadurai, 'Number in the Colonial Imagination' in Carol A. Breckenridge and Peter van der Veer (ed), *Orientalism and the Postcolonial Predicament: Perspectives on South Asia,* (University of Pennsylvania Press, 1993)

[102] David Gilmartin, 'Partition, Pakistan, and South Asian History: In Search of a Narrative' (1998) 57(4) *Journal of Asian Studies* 1068. Francis Robinson, 'The British Empire and Muslim Identity in South Asia' (1998) 8 *Transactions of the Royal Historical Society* 271.

[103] Francis Robinson, 'The British Empire and Muslim Identity in South Asia' (1998) 8 *Transactions of the Royal Historical Society* 271

[104] Farzana Sheikh, *Community and Consensus in Islam: Muslim Representation in Colonial India, 1860-1947* (Cambridge: Cambridge University Press, 1989).

situations to the larger political arena."[105] The spokespersons of the Muslim League in particular, as aristocrats and landlords of Muslim origin, would quickly take up this challenge to propound the cause of separate electorates and other electoral formulae to forestall the powers of a majority Hindu populace. Muslim nationalism, far from being born of a primordial identity and organic striving amongst the populace of the subcontinent, was born very much at the intersection of liberal strivings for governmental representation, and the generation of information integral to policies of bureaucratic governmental administration.

The information generated through surveillance about the increasingly contested and differentiated political realm of India was deployed by the British in the service of fostering religiously organized political groupings. This was later reflected more concretely in the practices of the state. Perceiving political threat as emanating most profoundly from an INC that was cast as aberrant in its representation of a distinctly modernist constituency, the 'urban rabble', the Intelligence Bureau and its overseers were repeatedly accused of fomenting the enterprise of communalism.[106] Thus, as political parties and personages became the legitimate targets of state surveillance, the official use made of intelligence files was often to fracture the unity of the nationalist demand by the INC by patronage of the far right Hindu parties as well as the Muslim League itself.[107]

In coming to that, it is also important to see the ways in which information gathering under the auspices of the Home Department during the period of formal colonialism existed within a nexus of power and knowledge which was more diffuse and multidimensional than simply fortifying the colonial state. In a context where the vernacular press was being muzzled, other informational forms, centrally controlled, were having an impact in other ways. The telegraph is an example of one such form.

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[105] *See* Guha, 'The Politics of Identity and Enumeration in India' (n 48) 160.

[106] It is held by National India that the Home Department was aware that the Reforms were imminent and that it sought to counter them by creating division between the two largest communities in India. The position of the unofficial Englishmen was summed up in the statement: " If Hindus and 'Muslims-united, where should we be?" in M.H. Mookherji, *The Communal Award and Indian Nationalism* (University of Calcutta, 1939) 202.

[107] Sanjoy Bhattacharya, 'The All India Hindu Mahasabha and the End of British Rule in India, 1939–47' (1999) 27(7-8) *Social Scientist* 48. Also, an increasingly popular argument being espoused by certain historians about the British interest in the creation of Pakistan, as a buffer and satellite state relies similarly upon evidence gathered through Home Department communiqués. *See* Narendra Singh Sarilla, *In the Shadow of the Great Game; The Untold Story of India's Partition* (Harper Collins: Delhi, 2005) and Ishtiaq Ahmad, 'Splitting India IV' *Friday Times Lahore* (online, 11 October 2013) < https://www.thefridaytimes.com/splitting-india-iv/>

The telegraph was an earlier invention, but was initially prohibitively expensive, and not used by Indians. However, in the early years of the 20th century, the government reduced the telegraph rates, and inadvertently enabled the development in parts of "locally informed and internally articulated nationalism."[108] In characteristic fashion, the colonial state simultaneously used the communiques of nationalists to build up its knowledge of potentially insurrectionary forces. Nonetheless, the telegraphic mode enabled a constellation of actors, including those situated in Europe and in other foreign jurisdictions, to exercise greater influence on the workings of the growing nationalist movement. This again, in the context of greater socialist internationalization, threw the state into heightened surveillance mode – a development that is further charted in chapter four.

The administrative history of the Home Department and its place in the structure of the colonial state enables one to draw certain inferences about that era as well as about how to proceed in a further analysis about the role of information and knowledge in state formation. In the further development of the colonial enterprise, the initial attempts to institute or display "indirect rule" jostled with the imperatives of maintaining a moral right to rule. The formal transitions in rule after 1857 militated towards centralised governance and in that centralisation, different technologies of information gathering and deployment were made available for statecraft. The gazetteers and surveys of local and district level societies worked to feed an imagery about the localised and unshifting characters of Indians needing paternalistic oversight. This was fortified by a scientific race theory that was in large part the outgrowth of the perceptual biases of colonial administrators, and decidedly more cultural and social than scientific.

In the period following the assumption of direct rule by the British, processes of information gathering grew more diverse. It is also apparent that while the expanse of the state's control increased by the marking of domains of governability through an appreciation of the information it was collecting, this was also impacting the Indian subjects' knowledge of themselves and their political volition. Such data was

[108] DK Lahiri Choudhury. 'The Sinews of Panic and the Nerves of Empire: The Imagined State's Entanglement with Information Panic, India, c. 1880-1912' (2004) 38(4) *Modern Asian Studies* 965, 976. *See also* Daniel Headrick, 'A Double-Edged Sword: Communication and Imperial Control in Colonial India' (2010) 35(1(131)) *Historical Social Research* 51.

harnessed by discrete populations who started to speak for themselves and imagine a future absent British rule.

IV. The Move towards Partition

The principle of direct elections for provincial assemblies was set in train with the Morley-Minto reforms of 1909, incorporated in the Government of India Act of the same year. The reforms provided for a limited and extremely class-bound suffrage, however. Those entitled to vote were hereditary chiefs, had a significant property holding, were fellows of universities or had been conferred decorations or rewards by the colonial government. However, each of these in isolation was not sufficient and "the only interest that received general recognition was the large landholder" for the purposes of exercising suffrage.[109] Additionally, these reforms introduced the innovation of separate seats and electorates for Muslims for the first time in all provincial councils and in the Imperial council.

This set the course for greater bargaining over an agreeable constitutional structure amongst the British and Indian nationalist forces.[110] However, the relationship between these forces was growing increasingly fraught, and the colonial government decided that it needed to harden its stance against native protest more broadly. As the First World War began, the Defence of India (Criminal Law Amendment Act) 1915 was passed by the British Parliament to ensure that there would be no aid to the enemy from within its own subject population. However, the net was cast wide. Local governments were empowered to legislate specific offences in aid of the broader goals of the Act, and all levels of government could engage in preventative detention. This allowed for the wide scale apprehending and punishment of nationalist sympathizers in this era. As the end of the Great War drew near, the Rowlatt Commission upped the ante against dissent by recommending that capital punishment should be allowed against those who were guilty of having fomented public dissent.

In the following year the Anarchic and Revolutionary Crimes Act of 1919 was passed for the whole of British India, authorizing the assumption of emergency

[109] (Payson J. Treat, 'The New Indian Councils.' (1915) 5(3) *The Journal of Race Development* 285.
[110] Khan, *Constitutional and Political History of Pakistan* (n 95)

powers by provincial governments. It supplemented the ordinary criminal law, mostly by allowing procedural laxity, for example lowering the normal evidentiary standards for crimes deemed anarchic or revolutionary. Secret trials were authorized and an overheavy deference accorded to governmental prosecutorial powers. It was under this act that the emergency powers of the Punjab government were assumed by the Governor and then handed to General Dyer, who, on April 13, commanded an operation that involved his troops firing into an unarmed crowd within Jallianwala Bagh in Amritsar. The government had received notification through its spies of a public meeting to take place there, which coincided with the Sikh festival of Vaisakhi. General Dyer, wanting to 'spread fear' amongst radicals and would-be nationalists, used a cavalry of soldiers to block all entrances and fire until ammunition was nearly exhausted. Accounts of the numbers of dead have varied but by the INC's own enquiry, they reach around 1000. By turns celebrated and condemned in the UK itself, the monstrosity of the event typified for the Indians their rightlessness in de jure and de facto colonial legality.

In moving between rule and information, this chapter has presented a narrative that mostly occludes the use of force and violence in colonial rule. However, as even the Jallianwala Bagh incident illustrates, the cover of a pervasive legality was no guarantee against the use of force. The violence of this incident took place in the condition of a legally authorized emergency and a local martial law and thereby indicates the complex web in which the recourse to violence was embedded in the Colony. As described above, the apparatus of the police was oriented toward the maintenance of order, rather than the detection and prosecution of criminal behaviour. This enabled violence to persist in the Indian polity. And yet it would seem that this act of General Dyer, albeit conducted by the military and not by the police, was necessitated by a break-down that met a threshold level of risk to the necessary order. For Nasser Hussain, who has paid particular attention to the relations between emergency and legality within the colonial enterprise, it is necessary to distinguish "issues of force and order from issues of authority."[111] In situations such as the

[111]Nasser Hussain, *The jurisprudence of emergency: Colonialism and the rule of law* (University of Michigan Press, 2019) 119.

Amritsar massacre, the exercise of violence was of a specific form and by it was intended "the reconstitution for the general authority of the state".[112]

For Ranabir Samaddar, the risk to the authority of the state lay in the figure of the terrorist. Samaddar is determinedly challenging the narrative of Indian anti-colonial nationalism that sees Indian nationalism as unfolding within the same topography of influences and subjectivities that characterized other nationalist revolutions. Effectively, in his argument, the project of colonialism does not follow a course of diffusing liberal values. Instead he sees "evidence of a mixture of terrorism, non-violent mass movements and organized armed mass movements" as defining the character of anti-colonial politics.[113] The figure of the terrorist, first emerging in the aftermath of the first Partition of Bengal by colonial administrators in 1905, was one that haunted the colonial state thereafter, because in his program of militant nationalism the terrorist displayed an understanding that "the violent colonial state understood only the language of terror," as it had itself established its claims to sovereign control on the basis of terror and conquest.

This argument is resonant with Hussain's argument that the 'general authority' of the colonial state has to be refounded through violence. He makes further claims about the anxieties that were awakened not only in the face of acts of violent challenge but even acts of civil disobedience, of countering the law with political intent. Recounting the words of colonial administrators who had suggested that for "India in its present state of development (whatever may be the case in other countries) the unsettling effect of the advice to the public in general to break selected laws was likely to lead to a situation which might involve the overthrow of all law and order".[114] Every law had to be obeyed because every law was to be seen as a "personal and direct manifestation of the sovereign.[115]

If a line of legal authorization was drawn, it was between the legal subject and the colonial legislature and from there to the sovereign, not between men and women in the colonies. If there were more diffuse operations conducted through non-legal techniques, it was not because the government only had to operate to regulate forces

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[112]Ibid 123.
[113] Ranabir Samaddar, *The Materiality of Politics: Volume 2: Subject Positions in Politics* (Anthem Press, 2007). *See also* Sunny Kumar, ''Terrorism' or the Illegitimacy of Politics in Colonial India' (2016) 44(3/4) *Social Scientist* 41.
[114] Nasser Hussain, *The Jurisprudence of Emergency* (n 111), 123
[115] Ibid.

in society. Rather, it was because there were forces that pre-dated colonial society that did not require regulatory intervention, such as in the 'truer' India of self-regulating village communities.[116] That the colonial administrators perceived the threat to these social forms as coming most acutely from the activities of nationalists rather than from their own extractions is something that is well-documented.[117] In my argument, it flows once again from a colonial knowledge order that apprehended India in group-based classifications.

But once again, what imperilled the colonial enterprise in this period of accelerating change was the individual who demonstrated adherence to a cause. The colonial government's strategy of countering such adherence was to accept the principle of responsible government, so that amongst those who were militating against their subjection, a separation could be marked between those seeking 'democracy, rights, constitutionalism' and those who had articulated their claims from the grounds of an 'identity'.[118] Ironically however, the colonial knowledge order had ascribed identities as a necessary filter for the mapping of the population. Therefore, identities had proliferated and were the guarantee for the British colonial government's control of India. That a growing constitutionalism and an expanded surveillance structure grew up together in this period is explained by way of colonial sovereignty's momentary rebirth and resignification. Whereas earlier, "intelligence was for the king, for the benefit of his counsel, for selected objects and targets, and its role was tactical," intelligence from this point forward became strategic and "called for analysis and recommendations on political goals."[119]

Thinking with Samaddar to this point allows us to chart a course into the final discussion in this chapter, and then through the subsequent chapters in ways which make apparent the relationship between the form of rule and the informational practices at play. This means being attentive to the following: Firstly, that the That the object of laws in this period aim of making new laws came to be defined more by the objective of controlling speech and quelling dissent on the political plane than of organizing social relations. This was a consequence of the perceived failure of

[116] Thomas R Metcalf, *Ideologies of the Raj* (Cambridge University Press, 1997) vol 4.
[117] Shahid Amin, *Event, Metaphor, Memory: Chauri Chaura, 1922-1992* (University of California Press, 1995).
[118] Ranabir Samaddar, *The Materiality of Politics* (Anthem Press, 2007) 78
[119] Ibid. 70.

seeking to exercise control by recourse to knowing the 'general' features of Indian society. Relatedy, interventions in the newly forged political sphere needed to be tactically oriented to ensure fragmentation and disorder amongst forces arrayed against colonial rule. Consequentially, that the emergence of the modern political subject in India occurred at the interstices of these developments so that such subjects were beset by the threat of a growing number of laws penalizing infractions against public order and sedition.

The tactical deployment of surveillance demonstrably aided the enforcement of a greater number of public-order laws in the inter-war period in India. This in many ways aided or created the terrain for the exercise of an exceptionalism that could become recurrent and yet not fully challenge the salience and legitimacy of (state) law. Just as was the case during the 1857 rebellion, the ultimate failure of the colonial power to contain the challenge of anti-imperial nationalism has thus again been viewed as a failure of intelligence and surveillance to know the sentiments of Indians.[120] From another perspective, it was the failure of the ascriptive exercise.

V. Muslim Nationalism as *Political* programme:

This final part of the chapter is focused on the years leading up to Partition and on the role that Mohammed Ali Jinnah and the Muslim League played in the negotiation for a constitutional settlement in the interests of the subcontinent's Muslims. That this was a terrain formed by colonial governmental practices has already been established. Here we pursue the idea that the processes of rule, as aided by the colonial knowledge order, had created the terrain for the interpolation of a political subjectivity that was oriented to gaining representation. The more particular operations of ideological diffusion are taken up in Chapters 3 and 4, in which the ideological apparatus and the historical construction of Muslim nationalism is subject to greater scrutiny by reference to the founding of the Pakistani state. The last part of this chapter focuses more narrowly on the unravelling of colonial rule in its last few decades. When we channel the previous chronology through this straitened focus we can develop an appreciation of the manner in which Pakistan and India emerged as two separate states with the events of decolonization.

[120] Andrew Muldoon, 'Politics, Intelligence and Elections in Late Colonial India: Congress and the Raj in 1937' (2009) 20(2) *Journal of the Canadian Historical Association* 160.

Jinnah turned from being a prominent and powerful proponent of the Congress Party, to being the representative voice of Muslims. This was a process marked by some notable events and developments. One point of departure was in opposing the Congress support for the 'particularist' Khilafat movement. Objecting especially to non-cooperation with the elected councils of the time, Jinnah considered the Khilafat movement to be capable of exciting the 'irrational' religious sentiments of the masses. Having distanced himself from nationalist politics for some time after that point, Jinnah rejoined the fray of negotiations between nationalist groups and the colonial government in 1934. As a much sought-after recruit to the Muslim League he opposed Congress's absolutist preference for a unified electorate. By this time, the British were playing upon the disaffection between Congress and a Jinnah-led Muslim League, and their own interests were ultimately reflected in the nature of the 1935 Government of India Act.

The 1935 Act, in addition to defining the basis of the autonomy of the Provinces, had also granted one third of total representation to Muslims at the centre. Ayesha Jalal has suggested that an inherent logic of autonomy for "friends and collaborators" at the provincial level, and "control at the top" informed the framing of the Act for the British.[121] Andrew Muldoon suggests that the nature of the 1935 Act reflected ideas held by British elites about India and the "ways in which these understandings shaped, and were shaped by, methods and institutions for acquiring information in the colonial state." Citing the mixture of "colonial cultural assumptions, a sclerotic intelligence apparatus, and a dynamic Indian political environment," he suggests that the Act was engineered to "seriously hamper any further nationalist unity by attracting Indians worn out by Gandhian-style protests and eager for political office and patronage."[122]

The operations of the Act tested such (British) hopes. In the elections held in the same year, Congress achieved unprecedented success at the polls, creating governments in 6 out of the 11 provinces of British India and becoming the single largest party in three others. Not only were Congress's agitational politics given a boost, but the party also defeated the Muslim League across all provinces. Separate

[121] Ayesha Jalal, *A Sole Spokesperson: Jinnah, the Muslim League and the Demand for Pakistan* (Cambridge University Press, 1985)
[122] Ibid. Muldoon, 'Politics, Intelligence and Elections' (n 120) 164.

electorates had not in fact established a ready-made constituency for the Muslim League. Instead, vigorous mass-contact campaigns with Muslims and the support of the Ulema (Islamic clerics) for Congress, as well as the support of certain Islamist parties had ensured these Congress victories.[123] However, as the culturally exclusionary and chauvinistic policies in Congress dominated provinces began to be played out – including the banning of cow slaughter and the assumption of *bande matram* as the official anthem of these provinces – Muslim discontent was fomented and made available for channelling to league support.

For historians of South Asia, particularly those with a formalist, legalistic bent[124], the crux of Partition history is located in the years when Jinnah was articulating the demands of a Muslim community. What happened in the years between 1938 and 1947 were a rapid succession of constitutionalist overtures, conferences and talks that are interpreted in quite differing ways by historians of Partition[125]. The famous 'Lahore Resolution' passed by the Muslim League in 1940 is increasingly taken to be the hinge upon which the revisionist perspective on the growth of Muslim nationalism under the leadership of the Muslim League diverges greatly from the orthodox perspective.[126] According to the orthodox perspective, Jinnah is viewed as being fully committed to the realization of a separate state. The revisionists, on the other hand, see the creation of Pakistan as a failure to achieve the seemingly less extreme but ultimately unrealizable goal of a federation with equal representation between Muslims and Hindus. The revisionists, thus, see Jinnah in the unenviable light of holding fast to a demand for minority rights against the frightening intransigence of Congress leaders in their adherence to singular conceptions of liberal electoral rules. In the conventionalist view then, the Lahore resolution is celebrated for being the initial articulation of a demand for such a state, whereas the revisionists cite the many contradictions within the resolution's design as evidence that it was a mere bargaining chip.

The Lahore Resolution of the AIML famously propounded the idea that Muslims form a distinct nation, emanating from a distinct civilization and that the

[123] Ibid. Muldoon, 'Politics, Intelligence and Elections' (n 120).
[124] A Roy, 'The High Politics of India's Partition: The Revisionist Perspective' (1990) 24(2) *Modern Asian Studies* 385.
[125] Ibid.
[126] Ibid.

issue of their being lumped into a territory as a numerical minority must be dealt with on the principle of self-determination, thereby rendering it an international rather than national issue. In addition, it called for the marking out of territory in which Muslims formed a contiguous majority, particularly in the North West and South East. The former of course contained the provinces of NWFP, Sindh, Balochistan and Punjab, and the latter, Bangladesh. This notion of matching faith-denominated populations to political sovereignty introduced the idea of splitting provinces on the same lines, given that Muslims formed a slim majority of the largest provinces, Bengal and Punjab, and that with some patchy exceptions, their concentrations were in the eastern and western regions of these respective territories.

The mass support that the League was able to build was itself unequally distributed around the subcontinent even as it gained inexorably in speed in the years just prior to partition. While the League was a pan-Indian organization, its outward extensions were quite loosely integrated into the strong centre controlled by Jinnah. The tension was sometimes opportune, as illustrated by the case of Bengal, and sometimes challenging, as in the case of Punjab, where the dominant local political notables wanted to effect national policy in their own image.

The Muslim majority province of Bengal became a representative field for the many tensions that inhered in the definitions of Muslim statehood. An extreme fragmentation of the population of Bengal's eastern wing existed in that the Hindus were landowners and members of the professional classes and the Muslims were mostly peasants and/or landless labourers. The League itself was considerably more radical here than elsewhere as it was forced to compete for support. Because of this, it produced within its ranks leaders of great populist appeal.[127] While Jinnah's tendency was periodically to reign in the populism of the local league's distributionary sloganeering, the strength of the League in Bengal can be attributed to its more inclusionary agenda, an element not readily found in other provincial Leagues or in its central committees. It has been argued, against the grain of conventional wisdom, that Jinnah may in fact have shared some of the same desire to cut down *zamindars* and large landholders from their positions of political

[127] *See generally*, Tariq Omar Ali 'Peasant Populism: Electoral Politics and the Rural Mohammadan'. In *A Local History of Global Capital: Jute and Peasant Life in the Bengal Delta* (Princeton Univeristy Press, 2018) 137; Abul Hashim, *The Creed of Islam* (Dhaka: Umar Bros, 1950).

predominance, and some evidence exists in speeches that Jinnah seems to articulate a socialist agenda. Nonetheless, these were rarely publicized.[128]

Amongst the changes taking place that augured well for Indian demands for self-governance, the brewing of tensions in Europe and Great Britain's involvement in the Second World War were of considerable importance. As against Gandhi's initial but principled stance on the basis of his pacifism against helping the British army's recruitment drive amongst Indians, Jinnah promised Viceroy Linlithgow his ardent support in rallying Muslims for the same. This, along with other factors curried favour with the British for the Muslim League and correspondingly Jinnah's stature as the preeminent representative voice of Muslims in India was given a boost. The Congress Party lost much ground during wartime, as the Quit India Movement initiated by Gandhi in 1942 resulted in high-handed suppression by the Government of India and much of the party's high command languished in jail until 1945. In the intervening years, a succession of proposals for a limited dominion government and self-rule were presented by the British, laying on the table for the first time, the possibility of secession for Muslim majority areas from a common union at the elapse of a decade.

It was against the swirling currents of alternate proposals, and with the failure of the Simla conference in 1945, that the hard-ball stance of the Muslim League gained certain ground. In December of that year, elections were held and Jinnah campaigned hard for League victories in these elections so as to give the lasting impression that the demand for Pakistan enjoyed broad-based support. It was in these elections that the League, in its disorganized local units, sought and secured support by drawing on the allegiance of the faithful for the defence of Islam. Although the defections of rural notables from the Unionist party to the League ensured a wide-ranging syncretism for the Islam that its candidates could be seen to be professing, there was nonetheless a simple binary presented that a vote against the League was a vote to live in Kufristan. This marked a stark departure from previous elections and campaigns in which the issue of Muslim representation was tied to the material rather than moral uplift of that community. On a limited franchise then, the League took

[128] Ian Talbot, 'Planning for Pakistan, the Planning Committee of the All-India Muslim League' (1994) 28(4) *Modern Asian Studies* 875, 881.

over power in Sindh and Bengal, and for all intents and purposes, it seemed as though Congress had conceded the Muslim vote long ago.[129]

The transfers of power to the ministries meant that the far territories of the country were once again being ruled through representative government. Whilst Congress and the League were still at war over what would be the dispensations post-independence, the widening political participation on the ground was palpable. Some of this was of a menacing nature, with young men joining voluntarily in militias and a general heightening of communal antipathy being evidenced all around. The last year of British rule in India saw the outbreak of communal violence in large pockets of territory, eastern Bengal and numerous districts of Punjab amongst them.

In broad outlines, what emerges as a vision of a Pakistan that Jinnah would have wanted was a sovereign Muslim territory united with a corresponding Hindu majority unit, in a weak federal structure with limited controls vested at the centre.

He did not anticipate or welcome the division of existing provinces. Rather, the protections he sought for Muslim minorities was through "an adjustment of votes and of territorial division which would give a Hindu-Muslim balance".[130] This was an 'equipoise' that was ultimately unavailable. The final round of British-mediated peace talks rendered the Cabinet Mission plan and a semblance of what Jinnah could have hoped for possible. Yet Congress, although initially also supportive under the Presidency of Maulana Azad, then turned its back on the possibility of a weak federal centre and the grouping of provinces into broad zones where a greater degree of power would be vested. In response to this failure, Jinnah called for a day of direct action in which Muslims would, in his imagination, protest peacefully for a recognition of their rights. What happened instead when many thousands gathered in Calcutta to hear the speech of the Bengal Leaguer, Nazimuddin, was the fomenting of hatred and the start of a spiral of violence that would spread to neighbouring Assam from Bengal and leave over 4000 dead in the course of a few days.

While communal violence had already broken out, particularly after the results of the 1946 election had indicated the greater likelihood of borders being redrawn, the overwhelming scale of partition violence was relatively unanticipated. Among the

[129] Yasmin Khan, *The Great Partition: The Making of India and Pakistan* (Yale University Press, 2007) 37.
[130] Markus Daechsel, *The Politics of Self-Expression* (London: Routledge, 2006)

conditions harkening to the coming violence was that a range of communally organized gangs had accumulated arms and were engaged in incendiary speech and acts against rival groups. Whereas the principle of self-determination had been invoked by the Muslim leaders to bolster their claims for representation and protection as a minority within the larger Indian polity, the same people were not willing to entertain minority Sikhs in a majority Muslim Punjab as having the same. As a result, Sikh anxieties were particularly heightened and migrations from one half of Punjab to the other were the site of the greatest violence. In anticipation of living as non-citizens in the places of their current domicile, Hindus and Sikhs crossed over to India and Muslims crossed into Pakistan, leaving property and resources, often in their families for generations, on the other side of the border.

Starting prior to the actual date of Partition, the need for a policing apparatus to monitor population flows was anticipated, but the policy forged was quickly rendered useless. A still unified command requisitioned a number of units to form the Punjab Boundary Force to aid in the maintenance of peace throughout the transition which was being planned. However, the high command of the Muslim League and Congress were imploring their own constituencies to stay where they were, and were later to admit that there was no "policy with regard to exchange of population."[131] A concern that cut across much of the population was that the "the precise nature of the boundary between the two new states was not determined until the very last minute, and so people in the divided provinces of Punjab and Bengal did not know until the fact whether their village was part of Pakistan or India.[132] There is no understating the aggravated uncertainty that people were forced to endure, especially in the face of a secretive executive act predicated upon measures that were not necessarily only majoritarian in the assignment of territory between the two sovereign countries.

[131] Omar Khalidi, 'From Torrent to Trickle: Indian Muslim Migration to Pakistan, 1947-97' (1998) 37(3) *Islamic Studies* 339, 339-340.
[132] Saadia Toor, *The state of Islam: Culture and Cold War Politics in Pakistan* (Pluto Press: London, 2011) 15.

Chapter 3: From Nation to State

I. Introduction

The previous chapter tied together a long history of information and rule ending with the Partition of the subcontinent into India and Pakistan. The focus on processes of the collection and processing of information developed for the purposes of colonial conquest, rule and expansion was integral to that account. It built up an account to the practice of government through the management of people, or the founding of a governmental state. The previous chapter also provided an account in which nationalism and nation building gained purchase in relation to government, population and information. Carrying on an enquiry into the founding moment of the Pakistani state requires a shift of focus to indicate how this thesis differs from other available accounts, but also to makes clear the kinds of use that will be made of broader insights about governmentality, biopower and sovereign rule in post-colonial states.

The first section after this introduction to the chapter describes some of the dominant themes in writing about the Pakistani state. It is not an exhaustive account of the literature by any means but illustrates that the dominant perspectives have been informed by either liberal or Marxist assumptions about historical method. While the liberal views tend to assess success or failure of state building against evidence of the extent to which power has been channeled and controlled through constitutional means, the Marxists see definite lineages of an over-developed colonial state in the shape that the Pakistani state came to take. Neither slows the pace of analysis to pay too much attention to what happened in the earliest years of Pakistan's formation. The accounts of these bodies of literature and their assumptions also allows me to elaborate on the insights of a literature about governmental forms that is grounded in Foucault's work on the transitions between systems of governance. That literature has informed as well as been contested by post-colonial theorists who train a narrower gaze on how state power is being formed, channeled or challenged at particular sites. This discussion also indicates that while Foucault's work on governmentality is instructive and suggests lacunae in current accounts of the Pakistani state, a still more qualified account of how sovereign power was founded

and transmitted needs to be developed. That the particular configuration of power and knowledge that was developed to aid sovereign consolidation in the colonial period was marked through with exceptions, had a direct impact on how the state and nation were renegotiated at the earliest moments of founding in both India in Pakistan. Thus, in this chapter, it is in the nature of a founding exceptionalism that Foucault's insights into biopolitics have the greatest explanatory value in understanding the Pakistani state.

In this chapter then, the focus is directed to the inaugural speeches of the leaders of India and Pakistan respectively, Jawaharlal Nehru and M.A. Jinnah. The two speeches are in sharp contrast with each other in their stories of origin, the nature of the past that was invoked and the continuity or rupture that was expressed in the moment of founding. While Jinnah is certainly the one who celebrates the originality of the striving for Pakistan as a fortuitous breach in a history that had been otherwise muddied by an unceasing war amongst nations in the sub-continent, the speeches indicate that both are confounded by a familiar 'paradox of founding' in marking the grounds for a new sovereign order. The degree to which each positions himself in reference to the event, as either the conduit for greater forces that have been unleashed or as a volitional autonomous lawgiver, underlies the paradoxical origins of modern sovereignty that strives for expression of a collective will, but which at founding is as yet ungrounded in an apparatus by which such a will can be fulfilled. To this point, both speeches and inaugural events can be categorised via reference to other transformative and revolutionary landmarks of history analysed in some of the primary works of western political philosophy. Underlining the importance of a transition from colonialism allows for a more particular focus to be directed at the underlying structure of governmental control that was being redeployed in the two emergent countries.

What is more telling about the orders that were being founded is the degree to which the anticipation of Independence and Partition conditioned this inheritance. Thus, the preparatory work of establishing an interim government and a constitutional settlement by Congress elites provided a ground in which subject, unitary power and law could be brought together in a coherent vision of sovereign order. It is not contested that either India or Pakistan were lacking in terms of continuing cleavages in the social and political sphere, nor is it asserted that the emergence of a legal

regime that sought to governmentalize social conflict resulted in pacification without continuing recourse force in the case of India. Rather, that the cohering vision of sovereignty was tied the transition to self-rule in a fashion that incorporated a greater share of the life processes of the subjects of India than those who were brought within the Pakistani state is what is argued here.

The final section of Chapter 2 recounted the operations of the Muslim League under Jinnah in seeking to represent and gain recognition for Muslims as a political community, efforts that were subject to challenge by other Muslim organizations and parties through the period culminating in Partition. The blanketing of difference that had been managed through elite political bartering and negotiation was somewhat undone with Partition. In this unsettled terrain where there was no easy congruence between territory and sovereign control, recourse was made to the invoking an ideal state form as standing above the particular interests of its citizens.

Both in Jinnah's centrality as the first and therefor supreme lawgiver in the new state, as well as in his statements and operations in the earliest days of Pakistan's existence, many of the paradigmatic tensions of modern statehood are revealed. Emblematically, Jinnah's position at this moment reflects Carl Schmitt's view of sovereign power as operating to secure and stabilise "the existential-normal dimension of the life of the community".[1] By seizing the plenary powers vacated by the colonial state, but doing so with the distinct difference of starting the enterprise of state building without seeking the cover of an immemorial past, Jinnah forged a notional relationship between subjects and power that had definite replication and replay in the early years and onwards.

The emergent nature of the normative order that is birthed is more fully interrogated by drawing upon theorists for whom Foucault's identification of biopower as the technology of modern government is reframed as central to the definition of a sovereign order. Importantly, for Giorgio Agamben, the operation of biopower can be located in the inclusion of a 'bare life' at the moment of sovereignty's formation, one that is thereafter held in suspension when the state invokes an exception. Thus, the juridical order and its apparatus of governing which confers the rights and capacities of citizenship is always also subject to negation.

[1] Gian Giacomo Fusco, 'Normalising Sovereignty: Reflections of Schmitt's Notions of Exception, Decision and Normality' (2017) 26(1) *Griffith Law Review* 128, 129.

Without accepting the reification of two such zones, a fixity undone in any case with an appreciation of the history of colonial rule in the subcontinent and elsewhere, this chapter draws upon the idea of an 'inclusive-exclusion' to mark the founding of sovereign order, so as to make visible the nature of life that was being apprehended by those assuming the mantle of state power.

The particular identification of which life processes were to gain inclusion and recognition in the normal operations of a coming law are articulated in a period of great flux. Again, not only the unequal laws that had attended colonial rule but also the unsettled nature of borders and the deeply troubled relationship of Muslim nationalism with its others were all experienced as challenges that imperilled the founding of sovereign order itself. Tellingly, the founders of the state read into available discourses to find a place of alignment, between the strivings for state power and a Muslim nationalism of modular and compliant subjectivities.

The following two chapters are indicative of the complicated terrain in which this is further played out. The accounts are intended to parse the operations which by certain forms of life, replete with their own apprehensions of a past and future come to be subject to both the regulatory and coercive mechanisms of state power. Again, while not aiming to identify certain agents as personifications of bare life or certain zones as purely exceptional, these narratives complicate the picture of the early solidification of state power in Pakistan.

II. Studying the State:

As I have stated in the introduction, this thesis differs from other accounts not in how it describes the distribution of relative power or legitimacy amongst state actors, whether that be army/bureaucracy or parliament, but in understanding how state power itself came into being through acts of articulating its foundational relation to the population that it would govern. This, however, necessitates an account of how dominant descriptions of the Pakistani state and its operations efface such moments of origin and their significations.

For liberal historians and commentators on the state, the achievement of independence from colonial rule by a self-identified nation of people marked a

definitive break through the conferral of sovereign status to that state.[2] While this may seem like a simplification and caricature, it is worthwhile paying attention to some texts that reveal such assumptions.

While they may vary amongst themselves in how far they attribute the growth of a Muslim nationalist consciousness to elite groups or masses, liberal works nonetheless take the existence of a nationalist sentiment as the explanatory basis for the realization of Pakistan. For Khalid Bin Sayeed, this sentiment persists from the time of an initial encounter between Muslims and Hindus in the subcontinent. He indicates that it grew more marked with a colonialism whereby Hindu groups were more assimilable in the initial stages to the changes wrought in educational and cultural systems. Whilst exonerating the British from any pernicious designs, he points to systems of divide and rule as a consequential effect of the failure to bring about any level of conciliation between the Muslims and the Hindus, especially after a period following the 1857 uprisings in which the Muslims were marginalized from official offices and employment.

Sayeed and others assume that the succeeding history of this state has been made by the free actions of individuals, primarily in the exercise of framing and operationalizing a constitutional accord amongst themselves. In looking more pointedly at the early state configuration, Sayeed finds the scene over-run with strong men, in fact, there were "too many of them and they were too strong for each other."[3] For Sayeed, this revealed the lack of binding affinity amongst them to any broad principles and the reduction of the political sphere to a Hobbesian state of nature. He sees Jinnah as having however ameliorated some of the negative tendencies of the time through his exercise of charismatic authority, but that this was insufficient grounds for formalizing agreement amongst the players.

Power, in such accounts, is legitimate where exercised by lawfully mandated institutions of the state, or subject to curtailment by other internal actors within the

[2] This is obviously a simplification and caricature. In reality, most of the dominant narratives involve some admixture of assuming that there was either a naturalness to Muslim nationalism or that its forging was reflective of an elite's ability to garner support on the basis of legitimate and shared grievances. For example, Hamid Khan, *Constitutional History of Pakistan* (Oxford University Press, 2004) and Farzana Shaikh, *Community and Consensus in Islam: Muslim Representation in Colonial India, 1860-1947* (Cambridge University Press, 1989) do the former whereas Ayesha Jalal, *A Sole Spokesman* (Cambridge University Press, 1986) does the latter.

[3] Khalid Bin Sayeed, 'Collapse of Parliamentary Democracy in Pakistan' (1959) 13(4) *Middle East Journal* 389, 389. *See also*, Khalid B. Sayeed, *The political system of Pakistan*, (Oxford University Press, 1967)

state, similarly authorized by higher level norms to check deviation. These are rarely, however, affirmative or victorious accounts, and the inability to reach political and legal equilibrium is cast as a failure to free the nation of certain sorts of path dependence such as in the endemic reappearance of military rule.[4] Sayeed locates the slide to authoritarianism in the inability, in an early fractious landscape, for the political party apparatus, particularly of the Muslim League, to become truly responsive to its rank and file membership. In addition, he and others see the incompletion of the project of federalism as accounting for this.

Not only written from a distance, it is this tone of lament that characterizes a vast array of political science literature that was being written even as Pakistan was in its early years of formation. Assiduously charting the pre-conditions of democratic development in other parts of the world, it is the inability to provide hospitable terrain for the necessary features of democracy that are used to assess the Pakistani state's prospects. In many ways then, this kind of literature takes into account the incomplete project of nation-making and find affinities with a modernization thesis that owes much to accounts specific to European state development. [5] While some may reference the disruptions of colonialism, the continuity of institutional forms and logics is less investigated.

Marxists, in contrast, see definite continuities from colonial rule to the present and relate the consolidations of power in institutional forms, including specific iterations of constitutionalism, to their functional use for oligarchic power holders. These oligarchic actors were themselves the collaborationist classes under colonialism and achieving Independence was significant for levelling their position of disadvantage vis a vis the metropole, but was inconsequential in addressing the deeper structuring of power within the state.[6] For such historians, formal constitutional

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[4] Ayesha Jalal, The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence (Cambridge University Press, 1990) 373. See also, Hasan Askari Rizvi, The Military and Politics in Pakistan, 1947-86 (Progressive Publishers: Lahore, 3rd ed, 1986).

[5] Early literature that assessed Pakistan's prospects for survival vis a vis the political modernization theory that was associated with D.W. Rustow and Samuel Huntington. For example, see Myron Weiner, 'The Politics of South Asia' in, Gabriel A Almond and James S Coleman (eds) The Politics of Developing Areas (Princeton University press, 1960) 153; see also Lawrence Ziring, Pakistan: An Enigma of Political Development (Dawson, 1980).

[6] *See* Hamza Alavi, 'The State in Post-Colonial Societies: Pakistan and Bangladesh' (1972) 74(1) *New Left Review* 59. *'State and Class under Peripheral Capitalism'* in Hamza Alavi and Teodor Shanin (eds), Introduction to the Sociology of Developing Societies (Basingstoke: Macmillan, 1982). *Also,* Aasim Sajjad Akhtar, *The Politics of Common Sense: State, Society and Culture in Pakistan*

divisions of powers are either mere ruse or sufficiently plastic as to be remade in line with the imperatives of control that these 'classes' would continue to exercise. Militarism appears often as a central aspect of Pakistani state formation, and development is explained by way of the social sectoral basis of military recruitment or alternately in terms of the corporate interests that this institution has increasingly fostered.[7]

A primary exponent of the class basis of Pakistan's formation has been Hamza Alavi, who contends that the movement for Pakistan had been led by the salary-dependent class of Muslim government servants, whom he dubbed the 'salariat'. The Hindu and Muslim salariats competed for jobs and power in pre-partition India. Having experienced a diminution in its share of state jobs, this newly emergent salariat saw that it stood to gain most from the creation of a new state. Thereafter, though, the competition articulated itself in reference to ethnic belonging, bringing greater numbers into the game and thereby defining a primary fracture in the nation, that of rampant ethnic factionalism. The dominance of the military is accounted for by way of a thesis about the over-developed colonial state, which, lacking the means of achieving hegemony otherwise, engaged in coercive control and bolstered the power of the army, a characteristic that survived and was in fact refortified in the post-colonial state.

This specific thesis is contested by others who see the insufficiency of the early army apparatus in the face of neighbouring hostility as the cause for the build-up of a martial economy. It is this which becomes the factor which disrupts the equilibrium in further national development or consolidation. In addition, those who agree with the perspective of the over-developed state, "a coercive apparatus directly inherited from the Raj",[8] revise Alavi's thesis periodically to account for greater flux in its operations. More so, Sajjad finds the inattention to the mechanisms whereby the state has maintained its dominance over the lower orders to be a major oversight in Alavi's account.[9]

(Cambridge University Press, 2018). Taimur Rahman, *The Class Structure of Pakistan* (Oxford University Press, 2012). Tariq Ali, 'The Colour Khaki' (2003) 19 *New Left Review* 2.

[7] *See* Ayesha Siddiqa, *Military Inc: Inside Pakistan's Military Economy* (Pluto: London, 2007).

[8] *See* Aasim Sajjad Akhtar, *The Politics of Common Sense: State, Society and Culture in Pakistan* (Cambridge University Press, 2018) 32.

[9] Ibid.

On the whole, this thesis skims over concerns of class and a coincidence of interests between social groups in relation to the state. It seeks to decentre the state by way of looking at its operations in greater detail. That the difference is marked by an appreciation of work undertaken on the colonial state itself was demonstrated in the last chapter. The critical scholarship that was the basis of relating knowledge and rule as colonial technologies of rule redirect attention away from the formal aspects of governmental control to illustrate how colonialism also enacted broad-ranging transformations in a more deeply penetrative way to reframe subjectivities. Thus, the state, either through its practices or simply in elaboration of its position of dominance, was able to reconfigure identities and through that reorient spheres of collective action and activity. Categories that establish an arithmetic of dominance, in terms of cultivating compliance or suppressing dissent, are particularly important to the study that this thesis undertakes, and their impact can be seen in the reorganization of social spheres in which citizen/subjects are further interpolated.

The formation of further questions to interrogate the interests or forms of domination organized within the revolutionary movement and by the exercise of self-determination by a people, is helped by a restatement of Foucault's typology of governmental forms available in the modern age. Situating the analysis that follows in conversation with Foucault allows us to parse the rationalities that were explored in the first chapter between forms of governance and forms of order and information, so that their lineages can be traced to where and at what point they are appropriated into the newly emergent state. While the first chapter indicated the many disciplinary configurations that were evident in the operations of colonial government regimes, the specific carry-over of discrete knowledge orders has not been subject to a study that looks at the recalibrations of revolution, independence, or state formation.

Underlying Foucault's work on statehood and sovereignty is the premise that a historical displacement of a form of power wedded to and emanating from corporeal authority has been enacted by a set of disciplinary practices that employ "Political economy as knowledge and apparatuses of security as technical means" to "constitute governmentality as the dominant mode of power since the 18th century."[10] Governmentality thereby severs the notion that "power and ideas are separate"

[10] Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977□78*, ed Michel Senellart, tr Graham Burchell (Palgrave Macmillan: London, 2007) 102.

phenomena by signifying the importance of governing mentality by ideological diffusion.[11] The formation of subjects through means other than repression or punishment is amongst the modes by which governmentality is identified. Although the extent to which Foucault hinged the transition from sovereign to governmental control on the expulsion of law remains contested, it is nonetheless the case that regulatory mechanisms other than the juridical and legal are charged with the maintenance of governmental control.[12]

The work of governmentality is concerned with "the conduct of conduct", that is, "with the myriad ways in which human conduct is directed by calculated means."[13] This control and the channelling of a subject of political rule at the level of the individual and in the making of populations (through biological reproduction) within national boundaries demonstrates the operations of governmentality. Integral to this view of governmentality are two harmonious operations, the biopolitical and the disciplinary.[14]

When life itself becomes an object of political calculation, Foucault suggests that politics has become biopolitics. For Foucault this is a distinctively modern operation and stems from the diffusion of techniques that enable the harnessing of the productive powers of a population. Thus, the regulation of the species life of a population has been accomplished through the operation of normalizing mechanisms upon the population and their inclusion within the life of the nation. In contrast, and looked at in more detail in reference to the relationship of biopolitical life and the operations of a sovereign exception as relayed by Giorgio Agamben later in this chapter, latter day revision of Foucault's notions of biopolitics suggest its centrality to all expressions of sovereign order and governmental control, even the pre-modern.[15] Disciplinary operations are those directed at the "individual's body and its behaviour,

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[11] J Franěk, 'Arendt and Foucault on Power, Resistance, and Critique' (2014) 6(3) *Acta Politologica* 294.
[12] *See* Matt Craven, 'On Foucault and Wolff or from Law to Political Economy' (2007) 25(3) Leiden Journal of International Law 627. *Also,* Ben Golder and Peter Fitzpatrick, *Foucault's Law* (Routledge-Cavendish, 1st ed, 2009).
[13] James Ferguson and Akhil Gupta, 'Spatializing States: Toward an Ethnography of Neoliberal Governmentality' (2002) 29(4) *American Ethnologist* 981, 989.
[14] Chapter 2 indicates in many ways the long history of incorporation of disciplinary technologies through colonial rule. *See particularly* section II b.
[15] Stephen J Collier, 'Topologies of Power—Foucault's Analysis of Political Government beyond Governmentality' (2009) 26(6) *Theory Culture & Society* 78, 79.

by defining behaviour as normal or deviant."[16] However, that biopower and disciplinarity are co-related is necessarily a feature of their acting together to render a compliant citizenry. [17]

Given the considerable historical differences between the political processes that gave rise to sovereign states and the relative intensifications of capitalist development between Europe and the rest of the word, it is not surprising that Foucault's work attracts the criticism that it overlooks these differences.[18] Thus, his work is often charged with positing that all of history unfolds "within some of the universal themes of the European Enlightenment" albeit with some attentiveness to how such themes are inherently unstable. Without fully affirming the veracity of such critique, it is nonetheless useful and instructive to consider possible methodological blind spots in Foucaults work.[19]

Firstly, particularly through the work of post-colonial theorists, he is castigated for maintaining a silence about the ways in which imperialism and colonialism fed into the founding of Western sovereignty and statehood.[20] What theorists who critically interrogate the self-valorizing claims of modernity cite as a corrective to Foucault is that many of the disciplinary practices of European governmentality were in fact forged in blood and violence within the colony and the plantation economy. Modes of policing, of defining citizenship and its recognition, of relating law to territoriality, were techniques of colonial control then transplanted

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[16] Tom Frost, 'Agamben's Sovereign Legalization of Foucault' (2010) 30(3) *Oxford Journal of Legal Studies* 545.

[17] George Pavlich, 'Political Logic, Colonial Law and the 'Land of the Long White Cloud'' (1998) 9(2) *Law and Critique* 175. *See also*, Stephen J Collier, 'Topologies of Power—Foucault's Analysis of Political Government beyond Governmentality' (2009) 26(6) *Theory, Culture & Society* 78, 79.

[18] *See* Nivideta Menon, *'Foucault and Indian Scholarship'* (2009) French Cultural Centre, Delhi available online at: http://www.academia.edu/8293934/FOUCAULT_AND_INDIAN_SCHOLARSHIP_History_Governmentality_Modernity. Accessed on: 12/12/14. *See also* Dipesh Chakrabarty, *Provincializing Europe*, (Princeton University Press, 2000)

[19] Janet Afary and Kevin B Anderson, *Foucault and the Iranian Revolution*: *Gender and the Seductions of Islamism* (University of Chicago Press, 2005). In this book, the authors suggest that Foucault establishes a meta narrative by marking a stark divide between the pre-modern and modern and also thereafter classifies Eastern societies as exemplifying states of being related to the pre-modern. For a contrastive view see, Marnia Lazreg, 'Foucault's Negative Anthropology' in, *Foucault's Orient: The Conundrum of Cultural Difference, From Tunisia to Japan* (Berghahn Books, 1st ed, 2017) 97–121

[20] Gayatri Chakravorty Spivak *'Subaltern Studies: Deconstructing Historiography'* in in Ranajit Guha and GC Spivak (eds), *Selected Subaltern Studies* (Oxford University Press, 1988) 3-35.

back to the 'homeland.'[21] To remain blind to these systems of transmission requires a problematic restriction of the practices of governmentality to Europe, thereby maintaining the view that Europe is the site of modernity as a whole.

A second major critique is levelled at the broad schematization of transitions inherent in modernity's advance, so that the disciplinary is said to displace the sovereign as an expression of modernity, without accounting for the ways in which these two modes often interpenetrate. For post-colonial critics, however, it remains important to point out that the imperial exercise of power in the colony maintained for itself the "right to kill without rule" and also to maintain this prerogative under the rubric of a rationalization that was in parts a territorialization of power through the 'production of boundaries, hierarchies, zones and enclaves' wherein force was differentially applied.[22] This was amply demonstrated in the last chapter and the continuance of such parcelling and zoning, through as well as outside the law, is a feature of national consolidation that receives attention in the remaining chapters as well. Thus, as disciplinary governmentality and sovereign rule were and remain coexistent, and subject formation follows trajectories that do not yield the figure of the liberal rights abiding citizen is endemic to the transfer of sovereignty that happens with formal decolonization.[23]

Such critique is of profound importance in yielding studies of colonial governmentality that investigate in more deeply historical ways the terrain of competing ideologies, modes of thought, technical innovation, etc. in the construction of systems of rule and the citizen-subject who would be governed. These take on board the need to separate insights about governmentality between the descriptive, those that incorporate the substantialist ontology of liberal progress[24] and those that are analytical. The analytical core of Foucault's method that Laura Zanotti identifies is in the acknowledgement, that there are no phenomena that exist prior to interaction.

It is that mutual conditioning that the narrative on rule and knowledge has indicated for the broad swath of colonial governance studied in Chapter 2. Here, with the ruptures of Partition, it was the apparatus of rule which embedded certain

[21] *See* Achille Mbembe, *On the Post-Colony* (University of California Press: Oakland, 2001).
[22] Ibid.
[23] Kaushik Ghosh, 'Between Global Flows and Local Dams, (2006) 21(4) *Cultural Anthropology* 501.
[24] Laura Zanotti, 'Governmentality, Ontology, Methodology: Re-thinking Political Agency in the Global World' (2013) 38(4) *Alternatives: Global, Local, Political* 288.

dispositions and epistemic presuppositions which was itself subject to recalibration. As the two forms of nationalism that emerged as dominant within the sub-continent were elaborated within the states of India and Pakistan, the founding speeches indicate the markedly different ways in which those nationalisms were forged in relation to the system of rule and knowledge of colonial times. For this reason, the juxtaposition of them together can provide an initial point at which to investigate how the history of the sub-continent was recreated at that moment and how the state articulated itself in relation to what was necessarily a fractious and divided political sphere. Both operations of founding indicate that a certain grid of intelligibility establishes sovereign order and the state as the necessary appurtenance must appear through their words and deeds. Each, however, articulated a markedly different configuration for the founding of each state.

III. India

Governmentalizing Disorder:

To a far greater extent than was the case for the Muslim League, the Indian National Congress had hinged the legitimacy of its claims to represent the interests of Indians on the promise of popular sovereignty. Clearing the national space of foreign domination was a necessary step in the realization of popular sovereignty. The Indian National Congress high command had anticipated the arrival of Independence with prior acts to ensure legitimacy for its continued rule. However, even here, the inheritance of an administratively consolidated state was inescapable and the re-integration of the force and domination that was also central to the state that Nehru and the Congress founded can also be glimpsed right from shortly after its founding moments.

The Congress Party's control of the emerging Indian state can be dated back to a time prior to the formal announcement of Independence. While it had controlled a number of provincial governments voted in under the operations of the 1935 Government of India Act, it also gained power at a federal level through the formation of an interim government in 1946. From its early years pursuing mildly nationalist aims in 1886 to its long engagement with a burgeoning public political sphere, particularly through electoral politics, Congress leaders and party members had

internalized a range of values and protocols that were aimed at creating a relatively plural democracy, at least in terms of religion. Through the period of Congress's ascent, the incorporation as well as domestication of extremist positions on both right and left had also been undertaken. For instance, while a charter of rights was proposed and adopted at the 1931 national meeting at the behest of more radical groups within the Congress fold, the specific rights being acknowledged were peppered with caveats and clawbacks. Such hesitations were evidence of the "Congress leaders' concerns regarding the incompatibility between unfettered civil liberties and the governmental need to maintain internal peace and to protect both the government and the citizens of the nation-state."[25] From that early stage it was apparent that "Congress leaders continued to envision the Congress as the emerging state"[26] so the balancing of permissible liberties for citizens in the state to come was already being undertaken.[27] This is but one indication of how Congress members were managing the dualism of being both an insurrectionary force against British imperialism and undertaking the responsibilities associated with representative government.

For Congress members, the establishment of the interim government in 1946 was momentous because it represented the substitution of a lawful transfer of power for the impending alternative, a violent revolution. By the decision of a three-member mission of the British Cabinet it was determined at that point that "members of the Constituent Assembly were to be elected by Legislative Assemblies of the provinces included in British India, which themselves were elected according to the 1935 Government of India Act".[28] As seats were also divided on the basis of proportional representation for different communities, "seventy-three Muslim League representatives" were also elected.[29] While the AIML was originally shut out of the Cabinet, also known as the Viceroy's Executive council, the body was reconstituted to ensure their inclusion from 1941 onwards.

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[25] William F Kuracina, *The State and Governance in India: The Congress Ideal* (Routledge, 2010) 18.
[26] Ibid 19.
[27] William F Kuracina, *'Toward a Congress Raj: Indian nationalism and the pursuit of a potential nation-state'* (Dissertations and Theses 5, History, Syracuse University, 2008).
[28] Jon Elster, Roberto Gargarella, Vatsal Naresh and Bjorn Erik Rasch (eds), *Constituent Assemblies* (Cambridge University Press, 2018) 63.
[29] Hanna Lerner, *Making Constitutions in Deeply Divided Societies* (Cambridge University Press, 2011) 125.

Ready to take the reins of a state, Nehru stated of the interim government: "[t]he greatest merit of the Constituent Assembly was that the British Government will have nothing to do with it after it has been set in motion. The Constituent Assembly then will be completely sovereign and will be able to do anything."[30] Of course, partition was not yet a certainty and under a Congress led Cabinet, an Objectives Resolution was drafted with the intention that it would provide the framework for a constitutional settlement in the single Indian state that would emerge after the British departed. The Resolution stated that the emergent state would be a republic, democratic, and accord protections for minorities and 'backwards' classes. Deliberation and passage of this document added considerably to Congress members' credentials as experienced legislators, even if not yet versed in the everyday politics that the new dawn would inaugurate.[31]

Nehru's Story of the Nation:

As the leader of the Constituent Assembly for its brief period of functioning to date, Nehru delivered the inaugural address to the nation on the eve of Independence. In this, his famous 'tryst with destiny' speech, Nehru spoke not to Congress voters or those who subscribed to the particular programs that had been delivered by preceding Congress ministries. Rather, his address was to an Indian nation. In that speech he reconciled a past that began with the "dawn of civilization" with a reawakening of India to "life and freedom".[32] In that moment, at the stroke of the midnight hour, Nehru sees the long-suppressed soul of the Indian nation "finding utterance". While the act of dispossessing the past is almost complete, it also 'clings on to us still in some measure' insofar as this man of science and of progress sees the sorrows of the past continuing in poverty and in the possibility of internal dissension.

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[30] Sangam Lal, 'The Muslim League and The Constituent Assembly of India' (1981) 42 *Proceedings of the Indian History Congress* 495, 496.
[31] Ornit Shani, *How India Became Democratic: Citizenship and the Making of the Universal Franchise* (Cambridge University Press, 2017) 162. *"According to Ornit Shani the compilation of electoral roles is a practice that was instituted shortly after the decision on universal adult citizenship was undertaken as the electoral system for the new democracy. Shani argues, convincingly, that the act of listing the 170 million people (subjects, not yet citizens) who were eligible to vote instituted mass con- sciousness of democratisation before the Constitution had been written. What we have here is a numerology of the state: the counting and listing of people acting as an 'anticipatory citizenship'."*
[32] Jawaharlal Nehru, 'A Tryst with Destiny', *The Guardian* (online, 1 May 2007) https://www.theguardian.com/theguardian/2007/may/01/greatspeeches.

In a linguistic analysis of this speech, Syed Umer Ahmed Qadri suggests that Nehru's mode and tenor is to "restrict the arguability of statements, which it does by fully packaging propositions as 'things'."[33] For the future, it is the promise embodied in pledges that have been made and in dreams that have been collectively dreamt. By using the preposition 'we', Nehru is assigning direct responsibility to the addressees of his speech to take the next steps, to live the present, which past the midnight hour is already in realization of all the dreams for the future.[34]

While certainly not exhaustive of the varied events at that time that might suggest alternate readings, what is evident from the speech is that Nehru is evoking a past promise, limiting the present to a mere moment and projecting a vast future in the service also of establishing an order for the Indian nation that is immemorial and not marred by significant internal disruption.[35] There is a mention of the dismemberment of the country, when, after commemorating Gandhi and the countless volunteers he also speaks of "our brothers and sisters who have been cut off from us by political boundaries and who unhappily cannot share at present in the freedom that has come."[36] When he speaks of a period of 'ill fortune' that has ended in that moment, the midnight hour, in addition to colonial rule, he may well be signalling the fact that two and not one country emerged. Nehru does not linger on this as a condition signalling the vastness of a task ahead. While the political border has robbed a population of their rightful place in freedom at this moment, it is the pledge, the labours of the past that will carry the new entity of India into the future. The dismissal of Pakistan is strangely resonant with the idea that others in the Congress high command expressed that Partition represented for India the amputation of a diseased limb. The remaining healthy body is what Nehru is addressing.

What is interesting for the argument in this chapter is that in this moment, there is also no apprehension in Nehru that there is a suspension of legality or that he himself may be occupying a position that is *sui generis* for shaping an order that is yet to be established. While varied exceptionalisms are name, he is nowhere in this tract

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[33] Syed Umer Ahmad Qadri, 'A Linguistic Analysis Jawaharlal Nehru's Tryst with Destiny Speech' (2018) 18(3) *Language in India* 327, 334.
[34] Ibid.
[35] S Pahuja, 'Letters from Bandung' in L Eslava, M Fakhri and V Nesiah (Eds*), Bandung, Global History, and International Law: Critical Pasts and Pending Futures* (Cambridge University Press, 2017) 552-573.
[36] William E Burns and Suzanne McIntire, *Speeches in World History* (Infobase Publishing, 2010) 383.

assuming to himself the role of the lawgiver, itself an exceptional position to occupy before the coming of sovereign law or constitutionalism. Rather, it is as if Nehru kept the following caution by Rousseau at the forefront of his mind:

In order for a nascent people to appreciate sound political maxims and follow the fundamental rules of statecraft, the effect would have to become the cause; the social spirit, which should be the product of the way in which the country was founded would have to preside over the founding itself; and, before the creation of the laws, men would have to be what they should become by means of those same laws.[37]

These moments that exist at the founding of sovereign orders present possible studies of a confounding paradox that attends the project of institutionalizing sovereignty, particularly when its claim of legitimacy is popular sovereignty. Bonnie Honig surveys many thinkers who have grappled with this paradox, a chicken and egg problem of what comes first, good people or good laws, which can at times be covered by rhetorical ploys such as Nehru deploys but which nonetheless attends every founding. It begs the questions of who are "the people capable of the autonomous exercise of popular sovereignty?"[38] What generates the regulatory order for assessing the general will?

Hannah Arendt is a theorist who sought to illustrate the distinct historical configurations which render the paradox less abstract. While Arendt ignored the great anti-colonial revolutions of the twentieth century, she cast her gaze further back to the American and French revolutions for insight. She describes the "several good fortunes that allowed the American people and their founders to found,"[39] and included, amongst others, that the American revolution was waged against a limited monarchy and that the prior institutions of state governments had already included a system of representation. The contrast of course is with the French Revolution where both the articulation of a charter of natural rights as well as the fight against an absolute monarch pushed the French state back towards absolutism shortly after the revolution. In France, the quasi-transcendental order of a 'general will', which

[37] Jean-Jacques Rousseau, *'The Legislator' in Social Contract Book II* (Penguin 2006).
[38] Bonnie Honig, *Emergency Politics: Paradox, Law, Democracy* (Princeton University Press, 2009) 19.
[39] Bonnie Honig, 'Between Decision and Deliberation: Political Paradox in Democratic Theory', (2007) 101(1) *American Political Science Association* 5.

reconciled the multitude into a singularity, was the replacement for the transcendental and singular authority of the king.

Fundamentally, however, what Arendt argues is that a revolution is different from a rebellion as in the former the end is 'the foundation of freedom' whereas in the latter, it is merely 'liberation'.[40] This suggests her normative preference for limited government and for positive law over natural entitlements and rights. In the case of the latter, her extensive critical analysis of the ways in which the "social question"[41] interfered with the course of the French revolution to a degree far greater than was the case for the American Revolution, is also telling. In addition, a range of protections accorded even in the course of the revolution ensured that there would be a termination of violence through the articulation of a constitution to ensure the conditions if not the perfect realization of freedom thereafter in America.

Beyond the identification of historical conditions for the realization of post-revolutionary order, Arendt's analysis provisionally but usefully provides an indice of shared values for the instantiation of order. This is fundamental as an initial point for charting the different strategies of organization and insurrection against the dominant colonial state that were undertaken by the Congress and Muslim League respectively.

This is also a meaningful point at which to bring Arendt into conversation with Michel Foucault to advance the comparison of different techniques of government were being operationalized in the founding moments between India and Pakistan. The conference between Arendt and Foucault is important not least because the work of both is interested in the "nature of political power" and "the nexus between knowledge and power."[42] Beyond the topical similarities of their work, they are also both concerned with the nature of power, domination and what has been at stake for the individual subject in the organization of state power. While both agree that freedom is not simply the absence of coercion, Arendt holds fast to a normative preference for political power that ensures freedom. This is because, for Arendt,

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[40] Hannah Arendt*, On Revolution* (Penguin Books, 1990) 33.
[41] Ibid 22. ("in the modern age and not before, men began to doubt that poverty is inherent in the human condition, to doubt that the distinction between the few, who through circumstances or strength or fraud had succeeded in liberating themselves from the shackles of poverty, and the labouring poverty-stricken multitude was inevitable and eternal. This doubt, or rather the conviction that life on earth might be blessed with abundance instead of being cursed by scarcity, was prerevolutionary and American in origin; it grew directly out of the American colonial experience.")
[42] Jakub Franěk, 'Arendt and Foucault on Power, Resistance, and Critique' (2014) 6(3) *Acta Politologica* 294, 294.

freedom is realized when "a group of people act together with the aim of furthering some shared principle, or obtaining some common goal".[43] In an important contrast, Foucault has addressed this view directly by suggesting that "the idea of consensual politics may indeed … serve as a regulative principle;" it cannot "liquidate the problem of the power relation," and some element of domination stays embedded in all power relations.[44]

In seeking to draw upon these theorists for an appreciation of the revolutionary moment of 1947, it is important thus to distinguish between the categories of analysis that they make available. While Arendt directs our gaze towards the barter between the different forms of liberty encoded within the dominant nationalisms of the time, Foucault directs us to ask of such a revolutionary moment, why and at what cost? This also returns us to the point of difference between Foucault's and Arendt's accounts of power, which goes to the core of their rendering of the modern political subject. Whereas Arendt positions a subject acting in concert with others towards the realization of freedom, Foucault sees such a subject as beset by a range of biopolitical and disciplinary mechanisms that render such notions as 'freedom' as regulatory and normative, thereby disguising the contingent circumstances for the creation of that subject. For Foucault, rather than a normative preference for freedom or any such value, he trains his eye to the ways in which power is always relational. From such a perspective, the realization of freedom for a nation, at a moment in 1947 was the founding of another biopolitical and disciplinary configuration. It is an attentiveness to this that is called for here.[45]

A discussion opened up in the last chapter about the interactions of information and law making can also be redirected to this particular historical juncture for explanatory insight about the transitions that were taking place. With the spread of systems of government through the subcontinent, different apprehensions about the colonized informed the techniques of rule that were contrived and made available to colonial rulers. When technologies of rule and biopolitics converged in their mutual re-creation 'on the ground' in the colony the competing impulses of liberal ideological reproduction and authoritarian consolidation resulted in a plethora of 'productive

[43] Ibid 297.
[44] Michel Foucault, *The Foucault Reader, ed Paul Rabinow* (Pantheon Books, 1st ed, 1984) 378.
[45] Janet Afary and Kevin B Anderson, *Foucault and the Iranian Revolution: Gender and the Seductions of Islamism* (University of Chicago Press, 2005).

breaches'. This term has been employed by Gyan Prakash to specifically explain the burgeoning administrative offices of the colonial state as a consequence of colonial suspicions about the population, mediated by their resorting to ever greater expansions in knowledge and data about this population. As Chapter 2 showed, this sowed the seeds of insurrection insofar that the governed recognized that the colonial state had established its claims to sovereign control on the basis of terror and conquest and that the challenge to systems of pacification, those coded in the law, were contrived.

As Dipesh Chakrabarty has noted, colonial law was the object of revolt and rejection for all kinds of anti-colonial nationalists. He writes: "both violent and non-violent methods of political agitation used during British rule were techniques of challenging the sovereignty of the British in India. Anti-colonial political methods were all designed to challenge the capacity of the colonial rulers to make and enforce law. Breaking the law was central to Gandhian nationalism."[46] Whereas some of the predominant impulses of nationalism, including Gandhi's were to suggest a replacement of the British legal system with an indigenous one, this was not Nehru's project.

For Nehru, the apparatus of law could seemingly be appropriated and made instrumental to autonomous, indigenous purposes. For him, modernizing the apparatus of law could be the only means of defining the coming state, even as he trained his eye to retaining power in high executive offices and preferred the malleability of convention over the dictates of codification in certain cases.[47] Altogether though, the operations of statehood were imagined in the service of the Indian polity. This part of the story is nuanced by the insights of Kriti Kapila.

Kapila trains her eye to the ways in which "social diversity was imagined and governmentalized along religious, ethnic, and linguistic axes" through the constitution and politics in the early Indian state.[48] Resonant with the Leninist nationalist thesis, unity in diversity was the programmatic line of social reform and was operationalized in the promise of redistributive justice. There is considerable indication of this in the

[46] Dipesh Chakrabarty, 'In the Name of Politics: Sovereignty, Democracy, and the Multitude in India' (2005) 40(30) *Economic and Political Weekly* 3293, 3294.
[47] H Kumarasingham, 'The Indian Version of First among Equals — Executive Power during the First Decade of Independence' (2010) 44(4) *Modern Asian Studies* 709.
[48] Kriti Kapila, 'The measure of a tribe: the cultural politics of constitutional reclassification in North India' (2008) 14(1) *Journal of the Royal Anthropological Institute* 117.

formal guarantees coded in the constitution. Amongst them, the redrawing of provincial borders to accommodate ethnic units as per a constitutional guarantee as well as the provision of reservations for scheduled castes are the most cited examples. This configuration institutionalized a politics of recognition within the state, one in which a 'meaningful' politics could be grounded.

This harnessing of radical political potentiality was the cunning at the heart of this form of politics in the early Indian state. Thus, the terrain for politics expanded and occupied the social/cultural as much as the ideological of an earlier era. Purely ideological actors, the communists prior to their renunciation of political violence could be disdainfully described by Nehru as "stupid,"[49] and the enlightenment idea that "society should be organized on the basis of rational mutual self-understanding," with the state taking its place as the mediator of these claims accorded dominance in the mainstream of national political spaces.[50] It was not reluctant to recourse to heightened violence, as in the crushing of communist forces in Telengana or the forcible accession of both Kashmir and Hyderabad indicate.

However, in these instances, it was in the service of a law that is 'ours' that Nehru and others implored restraint amongst those agitating against the state. This inversion, in which post-Independence legality was given a fixity and primacy of place as the spoils for having overthrown, through agitational politics, the yoke of British rule, is of concern to Chakrabarty. In counselling discipline amongst the masses immediately after Independence, he sees the Indian political elite, with Nehru at the helm of a political union as well as a political morality, as seeking to quell 'politics for its own sake' – such politics that forever threatens to wrong-foot established authority.

In cloaking state power with the legitimating rubric of a national law, the unsettled and muddy terrain of a transition from sovereignty to disciplinary governmentality is also called into account. The inversion itself is an outcome of colonial modernity's prolonged deferral of the realization of rights and disciplinary domination, asserts Chakrabarty. In that he is led by the binary that sees sovereignty

[49] 'Communist Party of India "Stupidest Anywhere"', *The Times of India* (14 November1949) 3.
[50] Elizabeth Povinelli, *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism* (Duke University Press: Durham, 2003).

as the domain of rights and law as the disciplining and normalizing instrument of domination.

For Chakrabarty, though, the advent of disciplinary order is mediated by the category of society in the sense that "'society' is produced only when sovereignty is able to eradicate all private wars from the social body and banish them to the frontiers ofouter limits of the great state units."[51] At such a point sovereignty becomes popular sovereignty and forms the ground on which disciplinary technologies thereafter operate to penetrate law and right. War then ceases to be internal to a social body and exists "only as a (possible or actual) violent relationship… between states."[52] That this was not the case, that in fact the founding of 'society' was deferred, governmentalized and thereby that the 'governing of rule' is where Nehru situated himself, draws us into the muddied waters of post-colonial sovereign consolidation.

So, as the dust had barely settled from the transition to sovereign statehood in India, the regulatory fictions of popular sovereignty and the general will give way, and the operations of the democratic Indian state demonstrate that the "ultimate ground of a legal order is itself ungrounded" and relies instead on a mystical foundation of authority for the lawgiver.[53] The moment of founding of a political order is neither legal nor illegal and the law is thereby contaminated thereafter with the illegal, with the force that established authority.

Thus, to recap, although attentive to the heteronomous inheritance of an emergent polity, Nehru employed the regulative ideal of virtuous citizens operating in union to realize freedom. However, the route to freedom was marked by the disciplinary and biopolitical technologies of colonial rule. This draws into the account the many ways in which post-colonial theorists have sought to condition Foucault's insights, so that sovereignty and disciplinarity can be viewed not as stages in political and social development but as possibly coincident and congruent operations. Obedience to the law issued by the sovereign is a good inherent to a system of rule in the fractured forms of disciplinary governmentality marking the emergence of the 'modern'. Kaushik Ghosh suggests that more detailed analysis of politics in the post-colonial state indicates that two forms of rule "disciplinary and

[51] Dipesh Chakrabarty, 'In the Name of Politics' (2005) 40(30) *Economic and Political Weekly* 3300.
[52] Ibid. 3300.
[53] William W Sokoloff, 'Between Justice and Legality: Derrida on Decision' (2005) 58(2) *Political Research Quarterly* 341.

governmental – are really convergent, and they merge together to produce the general entity of biopower that marks modernity," and that without one "you cannot have the other."[54]

IV. Pakistan

(a) The Founder in the Founding: Jinnah and Pakistan

While the discussion of Indian originary moments demonstrated the mutual imbrications and the intractability of discipline, sovereignty and biopower in colonial foundings, the contrast with Pakistan is intended to offer a more specific appraisal of the rupturing effects of Partition. The remainder of this chapter invites a more penetrative gaze into the mentalities, the techniques and the forms of domination that were in fact being reorganized in the early years of its founding.

The contrast starts from a recognition that in the case of Pakistan, the realization of a sovereign order takes as its guarantor a legislator who is both prior to as well as incorporated within the legal founding. To illustrate this difference of what was made available to Jinnah and the conveners of the constituent assembly at its foundation point, Jinnah's inaugural speech to the Assembly as its first elected President will be looked at in some detail. That the speech suggests a moment of exception in which Jinnah is lawgiver is not inconsequential. In fact, it is indicative of both the specific inheritance of the Pakistan movement and idea, as well as the point at which the founding paradox can be related to the spatio-temporal order of power and domination, which comes to be embedded in the organization of state power from that point forward.

As the ideas associated with Muslim nationalism were being recalibrated to map onto newly vacated powers, this enacted a deferral of other sorts, particularly that of constitutional formation. In addition, the early years of governmental operations in Pakistan are replete with instances of emergency and extra-legal acts by the high executive, either through suspensions of assemblies or in the appropriation of law-making powers by individuals. What this chapter hones in upon is the degree to which the initial acts of founding put into relation a determinate subject of law, and the threshold of threat considered sufficient for emergency action to be taken. At

[54] Ghosh, *'Between Global Flows and Local Dams'* (n 21) 526.

every such turning, the re-establishment of sovereign authority as well as the reconstitution of society is being enacted.

The following discussion relies on the previous examination of the usefulness of Foucault's insights about the contours of sovereign power in the modern world for post-modern governmental forms. Additionally, it draws upon Giorgio Agamben's fusion of Foucault's notions of biopower and Carl Schmitt's work on founding exceptionalism to begin an exploration of the forms of life that were to gain recognition in the new state. However, in the conditions of rupture and in the novel circumstances of Pakistan's birth, the inclusionary mechanisms are at best gestural at this point in time. It is only in the following few years, with the consolidations of sovereign government, that the administrative employment of certain knowledge orders, of which many constitutive strands are repurposed colonial prejudices and predispositions, are employed and operationalized as systems of exclusion.

Starting from a similar point as grounded the discussion of India, it is important to understand how members of the Muslim League were positioned vis a vis the systems of representation and government that were constituted prior to Partition. While the previous charted the League's inability to capitalize on separate electorates in the 1936 elections to gain greater electoral advantage in the 1946 elections, only hints at the extent to which the League's program was forged from the vantage of latecomers to popular politics. In recognition of their electoral victories in 1946 and with Jinnah's increasing bargaining leverage, some members were also made members of the interim government. They chose to stay away from its proceedings in the lead up to Partition, yet it was these same members who were shunted into the first Constituent Assembly in 1947. In Pakistan, the Constituent Assembly that met on 10th August 1947 had very little legislative experience to guide it. Essentially free of any responsiveness to political constituents, they were not representative political actors in any real way.

When the offer was made to India and Pakistan to retain the services of the last viceroy to India, Lord Mountbatten, in the office of Governor General for both of the Dominions that were to be formed as per the Independence of India Act, Jinnah refused. The expansive appropriation of executive powers by Jinnah in assuming for himself the office of GG has led him to be remembered in posterity as having inaugurated a vice-regal form of government for the new country. While alternate

accounts of his reasons for assuming office have been offered,[55] it would be remiss to not account for his view of power: "Appeals to patriotism, justice and fair-play and for goodwill fall flat. It does not require political wisdom to realize that all safeguards and settlements would be to a scrap of paper, unless they are backed up by power."[56] While spoken during the move towards Partition, Jinnah's sense of premature arrival for the Pakistani state has to be amongst the reasons that he chose to arrogate so many of the newly available powers.

When the constituent assembly of Pakistan elected Mohammad Ali Jinnah to be the first President of the assembly, just prior to his assuming the position of GG, he delivered an acceptance speech that is considered the equivalent in momentousness as Nehru's tryst with destiny speech. However, a great deal distinguishes the two speeches.

As a first point of contrast in their speeches Jinnah speaks in the first person and directs specific points to a rotating audience. In Nehru's case, while he was also speaking to the constituent assembly of that country, and signals at the end of his speech that each member will step forward to renew their oath of office, his words are directed throughout to the Indian people, even as he too would have been acutely aware of a global audience. Jinnah's speech also was being live broadcast and while he speaks directly to a soon to be realized Pakistani public, those comments come after a set of directives that are addressed solely to the members of the assembly.

While signalling that "a very onerous and responsible task of framing the future constitution of Pakistan" has fallen upon them, Jinnah also expresses wonder, which he feels is shared by the "whole world",

"at this unprecedented cyclonic revolution which has brought about the plan of creating and establishing two independent Sovereign Dominions in this sub-continent. As it is, it has been unprecedented; there is no parallel in the history of the world.

[55] Ayesha Jalal, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Cambridge University Press, Reprint ed, 1994).
[56] Ali Usman Qasmi and Megan Eaton Robb (eds), *Muslims against the Muslim League* (Cambridge University Press, 2017) 232.

This mighty sub-continent with all kinds of inhabitants has been brought under a plan which is titanic, unknown, unparalleled.[57]

Later in the same speech he does not wonder at what has transpired, because he is able to identify the precipitating cause for these tectonic, historical changes in the fact that the division of India was the only possible solution to a constitutional problem. In conferring upon the assembly members this momentous responsibility of framing a constitution to contain this titanic movement, Jinnah also counsels: "you are now a Sovereign Legislative body and you have got all the powers".[58] What is instructive in how this power is being imagined is that this is closely followed by a few prescriptive statements about the ends to which it should rightly be deployed: "[t]he first duty of a government is to maintain law and order, so that the life, property and religious beliefs of its subjects are fully protected by the State."[59]

In further quick succession, Jinnah cites the rampant practice of "bribery and corruption", then "black marketeering" and finally "nepotism and jobbery" as needing urgent measures to correct. These are described as "poison", the "most grievous of crimes" and most remarkably, Jinnah displays the gravity of the offence by proposing penalties or describing what his posture will be towards their occurrence. Thus, in this moment, we have evidence of Jinnah as judge presiding over the trials of individual wrongdoers. He will act "with an iron hand", there will be harsh punishments and he will "not countenance" the commission of these acts.[60]

The emphasis on this part of his speech is not intended to reinforce the claims that are often circulated of Jinnah's innately authoritarian tendencies. Little less is this intended as a foil for the poetic cadence of Nehru's speech. It is, however to related Jinnah to the tensions of this moment. In the literature that investigates the founding paradox, the manner in which Jinnah inserts himself as "an objective or virtuous figure who can found the polity" is fraught with danger. This is stated to be because "his entry onto the scene compromises the people's autonomy or equality"[61] – a precondition that must be secured, in the scenario in which theorists such as

[57] *Parliamentary Debates*, Constituent Assembly, 11 August 1947, (Quaid-e-Azam Muhammad Ali Jinnah, President). Available online: www.na.gov.pk/en/content.php?id=74
[58] Ibid.
[59] Ibid.
[60] Ibid.
[61] Honig, 'Between Decision and Deliberation' (n 39) 5.

Rousseau have configured this moment, "a condition of their ability freely to will the general will".[62] The imposition of the founding will into a nascent polity is thereby the means by which the heteronomy that informs the making of a singular general will from the polity is compromised.

However, what some see as indicative of an essential problem in such a founding is imagined alternately as an inescapable feature of sovereign order. Most famously, Carl Schmitt finds a necessary role for the dictator or sovereign to call forth the creation of a legal order by a necessarily extra-legal act. Of the two characteristic forms for the exercise of such a moment of extra-legal decision, the commissarial, which is necessitated at a moment of a legal order's suspension and the 'sovereign dictatorship' in which "the state of exception signifies the exercise of 'constituent power'", Jinnah's role and words at this moment can be seen to be comprising the latter.[63]

In the continuum between the two forms of exceptional founding, one can situate Nehru next to Jinnah once again at a moment in which something integral is changing in the form of sovereign order. Of course in neither case is it a lawless state that they inherit. Systems of government in both emergent countries, including in the divisions of state power between the centre and provinces were dictated by the provisions of the Government of India Act of 1935, along with the alterations that were made by the Independence of India Act of 1947. In addition to the fact that each would be a dominion until such time that they affirmed another status for themselves, a great many other bridges to a continuing legality were also in operation. These included that civil servants and judges who had been appointed by the colonial government would continue to serve under the same terms and conditions. At the same time, legislative power of each of constituent assemblies was to be exercised as "nearly as may be in accordance with the Government of India Act, 1935,"[64] and nothing in the 1947 Act was to be "construed as continuing in force on or after the appointed day any form of control by His Majesty's Government in the United

[62] Ibid 3.
[63] Stephen Humphreys, 'Legalizing Lawlessness: On Giorgio Agamben's State of Exception' (2006) 17(3) *The European Journal of International Law* 677.
[64] *The Indian Independence Act 1947*. *See also* Vapal Pangunni Menon, *Transfer of power in India* (Princeton University Press, 2015) 520.

Kingdom over the affairs of the new Dominions or of any Province or other part thereof".[65]

Whereas the growth of representative institutions has been accounted for somewhat in Chapter 2, we are aware that it had remained nonetheless the case in colonial India that provincial governments were granted lesser powers even up till the Government of India Act of 1935. So, the tier of government in which representative assemblies were allowed existed below the centralized governmental structure of Viceroy, Cabinet and India Office. While the responsiveness of government had bifurcated in two directions, one extending locally to the native voter and the other extending to the UK electorate and its chosen representatives, it was the former that was the more important. It was in response to this newly vacant space of paramountcy that both speeches are directed.

It is worthwhile here drawing attention to the differences that attended the strategies of Congress and AIML with regard to the law making and authorizing function of the colonial government. The creative subversion of the law as a form of critique and protest attributed to Congress-led nationalism was in fact antithetical to the strategies of manoeuvring and negotiation that characterized the creation of Pakistan. Although there were forms of direct action advocated in order to press demands, the program was strictly confined within the rubric of lawful behaviour.[66] Even while Jinnah as a lawyer lent his representational services to those who were charged by the colonial state for crimes such as sedition, Jinnah's manoeuvre was to suggest that disapprobation of the state was lawful, rather than to pointedly critique the ability of the government to proclaim laws.[67]

That he saw himself as crossing an extra-legal chasm of considerable breadth speaks in turn to what had transpired to that point. The lengthy quote a few paragraphs above in which Jinnah comments on the titanic change of Pakistan and Independence is amongst those that Faisal Devji uses to establish the integral ahistoricism of Jinnah's vision about Pakistan.[68]

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[65] *The Indian Independence Act 1947* s 8, sub-s 2(b).
[66] For Jinnah's commitment to civil liberties*, see* AG Noorani, 'Jinnah's Commitment to Liberalism' (1990) 25(2) *Economic and Political Weekly* 71.
[67] AG Noorani, Jinnah and Tilak: *Comrades in the Freedom Struggle* (Oxford University Press, 2010). *See also,* AG Noorani, *Indian Political Trial* 1775-1947 (Oxford University Press, 2007).
[68] Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (Hurst Publishers, 2013).

This is discussed in greater detail in the following chapter as it impacts the ability of the new state to incorporate difference and dissensus. However, already at this originary moment, the forging of a singular horizon of time on which singularity can be grafted is demonstrated. Later in the same speech the novelty and inherent incompletion of this titanic plan is revealed to the people, insofar as they are required hereafter to busy themselves in "forgetting the past, burying the hatchet".[69] There is recognition here that there are those who remain fundamentally opposed to the creation of Pakistan, "sections of the people who may not agree with it, may not like it". However, as exculpation to them Jinnah offers that "it will be proved by actual experience as we go on that that was the only solution of India's constitutional problem."[70]

Jinnah also acknowledges at this moment that the problem of minorities – that which had created the impasse, India's constitutional problem itself – will be of continuing effect in the new nation. He sees the problem itself to have been so severe within India as to account for the whole period of colonial rule as the consequence.

"No power can hold another nation, and specially a nation of 400 million souls, in subjection; nobody could have conquered you, and even if it had happened, nobody could have continued its hold on you for any length of time, but for this."[71]

Essentially, by accounting for India's subjugation in these terms he is negating his own characterization of this 'nation of 400 million souls' as a nation in any real sense. To counter the fissiparousness of nations living together within the Pakistani state, he offers the redressal that now, the citizens of Pakistan will 'be free' to go to their temples, their mosques "or to any other place or worship in this State of Pakistan."[72] It was not colonial law of control but rather the mode of inclusion of all nations within an umbrella of legality that Jinnah and the AIML seemingly, at this point in the constitutional bargain, had to transcend. That was the much-needed guarantee against being swamped again within the confines of an aberrant and hence vulnerable nation.

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[69] *Parliamentary Debates*, Constituent Assembly, 11 August 1947, (Quaid-e-Azam Muhammad Ali Jinnah, President). Available online: www.na.gov.pk/en/content.php?id=74
[70] Ibid.
[71] Ibid.
[72] Ibid.

We can take this final point in Jinnah's speech further as an indication of what aspect of the life process was henceforth going to achieve inclusion in the new state. Giorgio Agamben has rendered the 'inclusive exclusion' that marks the originary act of sovereign and legal order as one that creates a 'relation of exclusion' to certain populations throughout the operation of a legal order.[73] Propounded on the basis of a distinction drawn in Greek political thought between the biological processes of life recreated within the home and the relations between individuals who comprise communities, the first was excluded from regulation or subjection to law. However, Kevin Attell suggests that for Agamben, "later developments in the political history of the West reveal retroactively that the constitutive biopolitical structure of Western politics had lain precisely (albeit obscurely) in this distinction."[74] Attell recalls that this coincides with Foucault's argument that "at the threshold of the modern era, natural life begins to be included in the mechanisms and calculations of State power, and politics turns into biopolitics".[75]

Agamben draws together this biopolitical terrain with the Schmittian notion of a founding exceptionalism. For Schmitt, sovereign power "was most clearly defined through the determining power of the exception or state of emergency". In other words, "what is required in the making of a decision in a concrete situation."[76] However, Schmitt also suggested that such an emergency or exception could be contained within the law by determining conditions for its exercise. In contrast and through the intermediation of Walter Benjamin's work, Agamben suggests in fact that such exceptionalism is a recurrent and endemic part of modern sovereign order.[77]

"This space devoid of law seems, for some reason, to be so essential to the juridical order that it must seek in every way to assure itself a relation with it, as if in order to ground itself the juridical order necessarily had to maintain itself in relation

[73] Giorgio Agamben, State of Exception, tr Kevin Attell (University of Chicago Press, 1st ed, 2005)
[74] Kevin Attell, *Giorgio Agamben: Beyond the Threshold of Deconstruction* (Modern Language Initiative, 1st ed, 2014) 131.
[75] Ibid.
[76] Shaunnagh Dorsett and Shaun Mcveigh, 'Just So: The Law Which Governs Australia Is Australian Law' (2002) 13(3) *Law and Critique* 289.
[77] For a more detailed description of Agamben's debt to Walter Benjamin see Samuel Weber, 'Bare Life and Life in General' (2012) (46) *Grey Room* 7.

with an anomie".[78]

This penchant for speaking of the exception as a space has led to their characterization as physical zones which lack normative order. Agamben speaks particularly about the camp as the emblematic site for the suspension of legal orders and the rendering of life into mere bare life where a power to kill can be exercised. Less severely, he speaks about more indistinct areas in which "the normal rule of law is suspended and in which the fact that atrocities may or may not be committed does not depend on law but rather on the civility and ethical sense of the police that act temporarily as sovereign." [79] However, others have spoken about the exercise of the exception being perpetrated in the popularization of 'dehumanizing discourses' against certain populations,[80] or as determined by an event of catastrophic proportions that suspends the operations of legality.

For post-colonial thinkers such as Achille Mbembe and Ranabir Samaddar, the edifice of legality that attended the making of European empire was shot through with exceptions. For Mbembe, colonial government maintained for itself the "right to kill without rule". However, this prerogative existed within the rubric of a rationalization that fundamentally overset a territorialization of power through the "production of boundaries, hierarchies, zones and enclaves".[81] To account for the perceived ubiquity of the terror threat in conditions of colonial government, Samaddar proposes that a "permanent exception" was "invented by the colonial rule as a combination of terror and the principle of responsible government".[82] This is resonant with the theses quoted above regarding the paramountcy of power that was imagined and then realized in colonial government. It is also more in line with theorization in the West that sees the extension of post-9/11 suspensions of fundamental rights as constituting a new normal, as well as drawing attention to the fact that these spaces of the

[78] Wendell Kisner, 'Agamben, Hegel, and The State of Exception' (2007) 3(2-3) *Cosmos and History: The Journal of Natural and Social Philosophy* 222.
[79] Giorgio Agamben, *Means Without End: Notes on Politics*, tr Cesare Casarino and Vincenzo Binetti (University of Minnesota Press, 2000) 41.
[80]Richard Ek, 'Giorgio Agamben and The Spatialities of the Camp: An Introduction' (2006) 88(4) *Geografiska Annaler: Series B, Human Geography* 363.
[81] Achille Mbembe, 'Necropolitics' (2003) 15(1) *Public Culture* 11, 26.
[82]Ranabir Samaddar, *The Materiality of Politics: The Technologies of Rule* (Anthem Press, 2007) vol 1.

exception are not exactly devoid of law but are in fact 'filled to the brim' with law and regulation.[83]

When Jinnah assumes, like Nehru next door, the key to such paramountcy, he draws into the law and names those who may be subject to punishment in its normal course of operation, the black-marketeer, the bribe-giver and others who compromise principles of 'fairness' and merit. On the other hand, he offers 'freedom' to those who, in their very being, might compromise the coherence of the nation. There are those who are subjects of the normal criminal laws and those who have been offered a fig leaf of citizenship. However, in the context that the founding itself involves a transition for the populace from being 'subjects' of the empire to becoming, potentially, citizens of new states, there is a foreshortening of potentialities for at least some of those who enter the Pakistani state on these terms.

This in many ways brings us back to the terrain that Arendt was investigating vis a vis the French and American Revolutions. In showing a preference for those trajectories which enabled the realization of freedom through the relatively prosaic processes that enable political interaction, she was castigating the assumption of a unity from the mere condition of assembled humanity. The liberation that she associated with a 'mere' rebellion was a precondition but by no means a sufficient condition for true freedom. On many registers thereby Arendt castigated foundings that held out negative liberties as the essential promise of insurrectionary upheavals.

The remaining part of this chapter is to be viewed as being informed necessarily by a retrospective view, one from which Jinnah's promise of such 'freedom' has gone unheeded. While Jinnah speaks specifically about religious nationalism in this particular speech, he also mentions another cleavage that held sway in determining the loyalties of those whom he had ardently sought to draw into the Pakistan project, indistinct as it remained until shortly prior to partition.

For Jinnah, the question of minorities was a central paradox for state building. Notably, even in this short speech, he reads together questions of ethnic, sectarian and broader religious affiliation as capable of dividing the population into minority units. Amongst Muslims he sees the further divisions of "Pathans, Punjabis, Shias, Sunnis and so on", and among the Hindus "Brahmins, Vashnavas, Khatris, also Bengalees,

[83]Mitchell Dean, 'Power at the heart of the present: Exception, risk and sovereignty' (2010) 13(4) *European Journal of Cultural Studies* 459.

Madrasis and so on".[84] Rather than at this point suggesting any mechanism for redressal of minority demands in the new entity, or even an apparatus for ensuring political interaction capable for generating agreement on such principles, Jinnah's recourse is affirm the relationship of citizenship and that too within a temporal horizon whereby discriminations based on such grounds have somehow ceased to exist. He says:

"Thank God, we are not starting in those days. We are starting in the days where there is no discrimination, no distinction between one community and another, no discrimination between one caste or creed and another. We are starting with this fundamental principle: that we are all citizens, and equal citizens, of one State."[85]

Thus far in Jinnah's inaugural speech he has promised freedom for those who would constitute separate nations but he does so now under the cover of belonging to a state. No longer is the state simply the Muslim nation and he has at this moment scuttled the very promise that was made towards the realization of this goal. Rather, here he introduces a state that is already constituted as the "actuality of concrete freedom". This seeming invocation of the Hegelian vision of the state seems somewhat to foreshadow the ways in which negative liberty will shortly drop out of Jinnah's lexicon as the founding happens again in two regions of Pakistan where sub-national sentiments had an early genesis.

b. The State before the Nation:

That provincialism was a preoccupation for Jinnah is made amply clear by a set of developments prior to and in the short time that he lived to preside over the Pakistani state as Governor General. He had steadfastly opposed proposals for confederacy between the two wings of the emergent state and the later to be realized advice to merge the four provinces in the Western wing was favourably received by him. Having unilaterally superseded an agreement he himself forged with the Khan of Kalat to leave the status of Balochistan to be decided by the Baloch at a later date,

[84] *Parliamentary Debates*, Constituent Assembly, 11 August 1947, (Quaid-e-Azam Muhammad Ali Jinnah, President). Available online: www.na.gov.pk/en/content.php?id=74
[85] Ibid.

he took over the running of the affairs of the new province shortly after Partition[86]. In a speech he delivered in Quetta in early 1948 he counselled:

"Local attachments have their value but what is the value and strength of a "part" except within the "whole". Yet this is a truth people so easily seem to forget and begin to prize local, sectional or provincial interests above and regardless of the national interests. It naturally pains me to find the curse of provincialism holding sway over any section of Pakistan. Pakistan must be rid of this evil".[87]

However, in this channelling of the Hegelian view of the universal spirit as the state, Jinnah is foreshortening many of the essential stages of Hegel's dialectic. As explained by Andrew Norris, "concrete freedom requires that personal individuality [Einzelheit] and its particular interests . . . should, on the one hand, pass over of their own accord into the interest of the universal, and on the other, knowingly and willingly acknowledge this universal interest even as their substantial spirit, and actively pursue it as their ultimate end."[88]

The Hegelian schema can be differentiated from forms of social contractualism in which the state overarches individual interest but remains unaffected by it. Hegel too has been criticized for eliding the specific genesis of the state form, for instance when he writes, "In considering the Idea of the state, we must not have our eyes on particular states or on particular institutions" and that instead, "we must consider the Idea".[89] it is important that this is hinged to the self-reflection of individuals and a corresponding refinement of inherited institutions to the point where the normative content and logic of such institutions is raised to the level of the universal. Thus, a correlative duty to obey just laws arises for those who share in the ethical life of the state.[90]

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[86] Rizwan Uullah Kokab, *Separatism in East Pakistan: A Study of Failed Leadership* (Oxford University Press, 2017) 173.
[87] Quaid-e-Azam Muhammad Ali Jinnah, *Address to the Officers of the Staff College, Quetta* (14th June 1948).
[88] Andrew Norris, 'Willing and Deciding: Hegel on Irony, Evil, and the Sovereign Exception' (2007) 37(2-3) *Diacritics* 135, 141.
[89] GWF Hegel, *The Philosophy of Right*, tr SW Dyde (George Bell and Sons, 1896) s. 258. For an account of Marx's criticism, see David A Duquette, 'Marx's Idealist Critique of Hegel's Theory of Society and Politics' (1989) 51(2) *Review of Politics* 218.
[90] GWF Hegel, *The Philosophy of Right*, tr SW Dyde (George Bell and Sons, 1896) s. 259. For a fuller discussion see Kenneth Kierans, 'The Concept of Ethical Life In Hegel's Philosophy of Right' (1992)

An assessment of Jinnah's speeches in this context is not aimed at drawing attention to any infidelity to Hegelian logic but rather to an understanding of the principles inhered in this actualization of state power. As noted earlier, Jinnah mentions the plethora of pre-existing nations as the enabling condition for foreign domination and yet utilized the category of the Muslim nation as one that necessitated its own demand for sovereign self-government. The negative vision as a terminus to social (national) conflict is explained more elaborately in the following chapter but is also evident here in the slippage from nation to state. The next chapter discusses in greater depth a historicism of the Muslim league's conception of the Muslim nation and the spartan imaginaries that were fostered towards the achievement of its end, a state. While momentarily, the transition from nation to state is tied to the discovery of 'freedom' for individuals and nations, this ladder is almost immediately also yanked away by Jinnah.

In the speech delivered in Quetta, Jinnah further names the evil that he intends to eradicate: the propensity to "feel, behave and act" otherwise than as Pakistanis. He also suggests that current discontents are "a relic of the old administration when you clung to provincial autonomy and local liberty of action to avoid control – which meant – British control".[91] Importantly here, shortly into the founding of the state of Pakistan, there is not even a promise of rights invested in communities or freedoms reposed in individuals. The point of fixation for Jinnah is that the Baloch are drawing upon their contained kinship and 'kaum-mulki' to deny what to him are self-evident responsibilities to the state.

In affirmative accounts, Jinnah's "adamantine refusal to accord legitimacy to primordial identities once Pakistan had come into existence"[92] is highlighted as stemming from necessity. Ilhan Niazi suggests that "the ambitious project of industrializing Pakistan while defending it from internal and external enemies, keeping it stable and relatively peaceful, all pointed to the centralization of financial, administrative and political power for the foreseeable future," and thereby

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13(3) *History of Political Thought* 417 and Timothy C Luther, *Hegel's Critique of Modernity: Reconciling Individual Freedom and the Community* (Lexington Books, 2009).

[91] Quaid-e-Azam Muhammad Ali Jinnah, *Address to the Officers of the Staff College, Quetta* (14th June 1948).

[92] Ilhan Niaz, 'Jinnah on governance: The unheeded advice of Pakistan's Quaid-i-Azam' (2016) 47(3) *Asian Affairs* 406.

necessitated the negation of "primordialism".[93] In other words, it is a statement of how power was to be organized so that conduct could most amenably be directed that demonstrates the need for a state in a particular form.

The distillation of this power in the form of the state is not one that was self-evident other than in a chimerical vision throughout the Independence movement that was propelled by Jinnah. The colonial government, through various stages and mechanisms had engineered indirect control for the larger territorial expanse of the sub-continent. An early pattern of seeking to disguise sovereignty through the maintenance of potentates and the enactment of a tributary economy did eventually give away to making more uniform laws, and also, as recounted in Chapter 2, to the staged incorporation of Indians into the governance apparatus. However, it was these very modes of systematized and uniform governance that provided the ground for an anti-colonial politics to be launched and thus led to a retrenchment by the colonial government in other forms of indirect rule.

In doing so, they ended up enabling the coexistence of a plethora of governance operations. Ranabir Samaddar has referred to this late colonial regime as social governance, a 'governance of peace' predicated on the right mix of "violence and persuasion, civilian mode and military mode, statistical mode and the cultural mode, and the representative mode and exceptional mode".[94] The governance of peace is itself an interesting proposition for a colonial government that he characterizes as an "extraordinarily warlike state," which raised the level of violence, even compared to pre-colonial times, to unprecedented levels. However, pacification followed a strategy of continually effacing the violence of foundings through terror and rules. Again, resonant with Mbembe's view about colonial government in Africa, the spatialization of regimes of rule were differentiated and segmented[95].

This account of colonial rule is echoed by Markus Daeschel who contests the assertion that the creation of a colonial society in a Foucaultian sense had ever been achieved, a necessary precursor event to allowing technologies of governance to be

[93] Ibid.
[94] Ranabir Samaddar, 'Governance Structures and the Current History of Peacebuilding in India's Northeast' (2012) 58 *Norms and Premises of Peace Governance* 1.
[95] Mbembe, 'Necropolitics' (n 82).

experienced as rules of conduct that were springing forth from the population itself.[96] Rather, even as "British colonial rule aspired to monopolise sovereignty according to European norms" it had to impose the same through "theatrical acts of violence".[97] As Daeschel here is not focused on the nature of colonial rules, he elides the sanction of violence they contain whilst still apprehending the manner in which such acts of theatrical violence could transfer power to local challengers of the Raj. By perpetrating acts of violence themselves, they challenged and resisted not only colonial domination but also governmental technologies that purportedly dispensed law and peacefulness. It was in countering this legitimating violence of colonial rule that Gandhi's strain of non-violence gained centrality – it could thereby demonstrate the inherent violence of the colonial state by abstaining from the use of violence itself.

Jinnah and the ML had a far more ambivalent view of the inherent vice or violence of the colonial state. As a consequence, the mechanism of redress was different for the Muslim League. Whereas the act of resistance for the Congress Party was to represent the unitariness of the Indian nation and thereby overcome domination by the colonial state, the elaboration of a political programme by the Muslim League was aimed at the spectre of Hindu Raj. This explains thereby why the ML under Jinnah was willing to countenance any number of constitutional settlements that would maintain the colonial government as a sovereign guarantor for a system of parity between Muslim and Hindu entities, something that had become anathema to the Congress after the Quit India Program.

As noted by Venkat Dhalupila, Muslim nationalism is "widely understood to have been forged by the ML in the United Provinces, before it was transmitted to the Muslim majority provinces where Pakistan eventually came into existence."[98] In other words, in the lead up to Partition, what were primarily urban constituents of the Muslim League from the North Eastern Hindu majority provinces were responsible

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[96] See Nicholas Rose *Powers of Freedom, Reframing Political Thought* (Cambridge University Press, 1999) Rose says that the analytics of governmentality are 'empirical but not realist". Such analyses of governmentality are studies of the emergence of particular 'regimes of truth' concerning the conduct of conduct, ways of speaking the truth, persons authorized to speak truths, ways of enacting truths and the costs of so doing.

[97] Taylor C Sherman, William Gould and Sarah Ansari (eds), *From Subjects to Citizens: Society and the Everyday State in India and Pakistan, 1947–1970* (Cambridge University Press, 2014) 148. Also, Markus Daechsel, Sovereignty, 'Governmentality and Development in Ayub's Pakistan: The Case of Korangi Township' (2011) 45(1) *Modern Asian Studies* 131, 135.

[98] Venkat Dhulipala, 'Rallying the Qaum: The Muslim League in the United Provinces, 1937–1939' (2010) 44(3) *Modern Asian Studies* 603, 604.

for pointing the Muslim League in the direction of separatism. In provinces where the Congress was the overwhelming victor in electoral contests staged in 1937, issues stemming from both the formula of power sharing as well as increasing communal friction led to a sizeable defection of Muslim Congress supporters to ML within the following decade.

In what would be pivotally important elections in 1946, especially important for Jinnah who wished to see a demonstration of support for his 'one nation, one party' claim for the Muslim League from within the existing representative formula, a paradox was necessarily also introduced. David Gilmartin implies that Jinnah unleashed a paradox of founding at this stage by relying upon a "cultured vision of the free individual" speaking democratically but in order to assert a collective interest[99]. Relying upon Ernesto Laclau who argues that "Universality is incommensurable with any particularity," and yet "cannot exist apart from the particular." For Gilmartin, this

"paradoxical relationship between the universal and the particular... rather than being resolved, was, at least in part, naturalized by being assimilated to the long-standing conception of the Muslim person as themselves as fundamentally constituted by contradictory poles – by the tension between higher and lower capacities defined by aql (reason, civility, restraint), on the one hand, and by nafs (energy, spirit, passion), on the other".[100]

Therefore, in the creation of Pakistan, the Muslim League's intentions were relayed by asking Muslims to demonstrate "purity of intention and cleansing of the heart," leaving "greed" and "fear" – along with "biradaris, tribes, personal animosities and rivalries" – behind.[101]

Of course, other appraisals have been offered. Amongst them is the view that the UP based Muslim nationalism developed to represent the interests "of an upper class and upper middle class elite attempting to preserve its privileged position in society through political means".[102] The early adherents of the ML were not so much anti-secular as they were "anti-democratic", seeking to "prevent the introduction into

[99] David Gilmartin, 'Rule of Law, Rule of Life: Caste, Democracy, and the Courts in India' (2010) 115(2) *American Historical Review* 406.
[100] Ibid 409.
[101] Ibid 410.
[102] Paul R Brass, 'Muslim Separatism in United Provinces: Social Context and Political Strategy before Partition' (1970) 5(3/4) *Economic and Political Weekly* 167, 182.

India of a representative system based on Western democratic principles of territorial representation and one man-one vote in which the Muslims as a community and the Muslim elites as a class would be an ineffective minority."[103] This too reconciles the evidence that complete Independence from colonial rule was secondary to finding such equipoise.

As the ML was finalizing its strategies, the 'left wing' of the Congress was endeavouring to recruit a greater number of Muslim adherents to the Congress by emphasizing the class contradictions between the elite leadership of the ML and "the political and economic demands of the Muslim masses".[104] This contradiction was emphasized in mass contact campaigns with Muslims in different provinces. By speaking to Muslims not as Muslims, the obscurantism of the Muslim League program was targeted for unravelling. However, while not suggesting that Gilmartin's is the only explanation for why, it is the case that intra-communal cleavage could not easily provide a bridge to class consciousness and certainly not one that readily aligned with the Congress. Nonetheless, the following chapter shows how socialist internationalism as well as a reworking of the national question allowed for certain affinities to develop, developing ultimately into a 'communist problem' in the early post-colonial state.

The reconciliation of the higher and lower capacities of Muslims was given more concrete expression in programs to recruit greater members in Muslim majority states. With some exception, including the NWFP, Muslim League support only grew in the years leading to Partition. In the territorially vast and populous Punjab, Jinnah and the ML spoke out about the patrimonial nature of politics there, referring to the province as the "fortress of naukarshahi"[105] in colonial India. They sought thereby to undo the everyday passions and allegiances of workers to the notables who were more wedded to the goal of gaining political power for their regions than in joining a national movement for Muslims. While Jinnah had periodically upheld the goal of provincial autonomy in successive constitutional negotiations, this was always also held in balance by the corresponding goal of ensuring parity of representation for Muslims in a central government. As the stakes of this bargaining grew to the extent

[103] Ibid.
[104] Mushirul Hasan, 'The Muslim Mass Contact Campaign: An Attempt at Political Mobilisation' (1986) 21(52) *Economic and Political Weekly* 2273, 2274.
[105] Gilmartin, *'Rule of Law'*, 91, 406,

that a separate nation was increasingly harkened to in the lead up to the 1946 elections, the particularisms of other nations, in this case the paternalism and clannishness that he ascribed to Punjabi's was indicted as being a factor towards their becoming facilitators of the British in their ploy to expand and fortify empire.

Jinnah's role as the leader of Muslims also crystallizes in this very configuration. While his charismatic authority has often been discussed, there is no ready explanation as to why a brittle and remote personality such as his was accorded such authority.[106] In the stage at which the Independence movement was gaining ground, in the inter-war period, the Indian Muslim leadership, including many high office holders in the ML were members of the "nobility, titled gentry, and the big landholders" or were members of the "Ulema, and the Mushaikhs".[107] As deeply wedded to local or provincial politics and interests, they are said to have lacked a "grasp of national problems and the drive which could have enabled them to play a key role in the politics at the national level."[108] It is often noted that within the party Jinnah performed this role of mediation but in a more personalised way.[109]

What the colonial state had additionally accomplished with its varied technologies of rule alongside the ever-present threat of coercive sovereign authority was that different temporalities would be allowed to co-exist. While it effected changes through the market and modes of production in the organization of work and exchange, it did not however seek to regulate holistically people's subscription to a present that it defined. For instance, where they sought legitimation for their assumption of paramountcy, they made reference to the fictive immemorial past of exemplary monarchical power as existing over local configurations of power, but in doing so did not embed a teleological orientation to colonial rule per se. While sharing a certain presentism allowed for a political inclusion, the exclusion of those who were deemed 'uncivilized' and 'incapable of liberal conduct' also resulted in their inclusion as lesser subjects.

In contrast, where Jinnah extends the invitation to feel differently, at a moment shortly after formal paramountcy of law-making had been seized by the federal

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[106] *See* Dhulipala, *'Rallying the Qaum'* (n 77).
[107] Muhammad Iqbal Chawla, 'The Charismatic Leader: Quaid-i-Azam Mohammad Ali Jinnah and the Creation of Pakistan' (2013) 28(1) *South Asian Studies* 261, 262.
[108] Ibid.
[109] *See* Maya Tudor, *The Promise of Power*, (Cambridge University Press, 2017)

government, the invitation was to engage in a kind of conduct that befitted a rational bureaucratic order of government. However, the organization of rights, the basis of governmental and biopolitical control, is sought emotively. In the last months of his life he appealed to the population to "keep together, put up with inconveniences, sufferings and sacrifices for the collective good of our people." And that "you will build up Pakistan as the first largest Islamic state in the world, not only in population, but in strength so that it will command the respect of all the other nations in the world".[110]

This chapter took two large detours to arrive at a focused discussion on Jinnah's founding acts in the state of Pakistan. The first was intended to help situate the broader arguments of this thesis in relation to the ways that the Pakistani state has been studied to this point. In the following chapters the insights of a great many writers on the Pakistani state will be taken up to build a narrative of the different forces that were operating on and through the state in the early years. What this chapter has nonetheless started to do is to indicate that the perceived incompletion of the project of Muslim nationalism opened up a space of exceptionalism which helped to situate the bureaucratic administrative machinery in relation to the population of the emergent state.

The other detour was in examining the formation of Nehru's India, which suggested that a nationalism that had been attentive to the operations of popular sovereignty was prepared, at least provisionally, to incorporate diversity in the population on a register that was different from the ethnic projections of colonial rulers. However, the operations of democracy and a renewed constitutional order did not efface the operations of the sovereign prerogative in other instances.

[110] Address by Muhammad Ali Jinnah, Governor General of Pakistan, in Dacca, East Pakistan; March 21st, 1948 http://www.columbia.edu/itc/mealac/pritchett/00islamlinks/txt_jinnah_dacca_1948.html

Chapter 4: State Security: Subverting the Knowledge Order

I. Introduction

The last chapter looked in depth at the moment of inauguration of the Pakistani state, bringing to the fore the complexities of relating popular sovereignty to the actual attainment of sovereignty. The exploration in that chapter of the founding paradox, with Jinnah at its core, side-stepped the practical context in which the paradox played out, including the broader party apparatus of the Muslim League (All India Muslim League, AIML) and its constituents. This chapter thus turns to that context, and takes a more historical look at the ways in which the political program taking shape in the years preceding Partition was underpinned by both Muslim nationalism and the Pakistan movement. These two elements helped old and new elites to engineer a system of government that further undermined the possibilities of a more diffuse governmental order from emerging.

Although momentous, Jinnah's role in defining the juridico-political order for the state that he inaugurated was short-lived. With his death in the first year of Pakistan's existence, patterns and practices of ruling settled into offices of the emergent state that assumed the burden of managing security, economics and other affairs. Along with these particular material competencies, the role of the bureaucracy in this period was fortified through its ability to form a discourse of state security. Foucault's insights into the constitution of discursive formations offers a template for understanding the bureaucracy's centrality in what is a transitional moment towards the operationalization of a new knowledge-power configuration. This presents a slightly different story than the more familiar one which understands those consolidations as a direct consequence of their place in the colonial governmental scheme. It also tells us something about the relationship between old and new fascisms, and the Pakistani state, by the ways in which state security was being defined in these offices.

The chapter builds on a recent body of work that looks at the 'Pakistan' idea in the years prior to Partition, and which identifies lacunae at its heart that are not readily filled by reference to religious nationalism as the sole driving force towards Partition. Drawing in particular upon the works of Markus Daeschel and Faisal Devji, this

chapter undertakes an interrogation into the formative tendencies within the Muslim League. Such works present a grand arc of history, converging on the view that a brand of fascism has defined the operations of the post-colonial Pakistani state. They note the ahistoricism and de-societalization of the Muslim League itself in the lead-up towards Partition, and see those phenomena as laying the foundations of a fascist turn. This chapter draws on this scholarship to investigate first the basis by which support for the Muslim League was garnered in local sites, and then to investigate how an overarching social coherence was forged.

Both scholars look not only to the affinity of interests between office holders and primary constituents of the party but also investigate the circulation of categories of thought and forms of action that were informing early twentieth century modernity globally. However, for each, the experience of colonialism is central to pinpointing what about state power those who were the initial founders of Pakistan sought to channel. Given the non-territorial basis of the nation that was being called into being, an entirely "anti-societal understanding of politics"[1] developed amongst the Leaguers. For Devji, the community was self-fashioned insofar as it required the forging of an "informal social contract"[2] to join together groups with varying orientations to the existing legal and political fields not to speak of differences in culture, ethnicity and class. The basis of authority for a political program denuded of a history of its adherents is made somewhat more apparent in a recognition of how power was in fact being apprehended in this period, as a condensation and authorization for communities, discussed here in this chapter by reference to Daeschel.

It is the AIML's articulation of a blood and soil nationalism that is generally understood as the propelling and popularizing feature it shares with fascism. However, as a range of writers have shown, fascism in the early twentieth century gained appeal in far-flung parts of the globe also because it suggested a way out of economic backwardness, one tied to a regeneration of the 'nation', however imagined.

The last part of the chapter turns to an exploration of communist containment. It is rarely remembered that communists were actively incorporated into the Pakistan movement. In a manner that suggests the openness of a time in which "plans,

[1] Markus Daechsel, *The politics of self-expression: The Urdu Middleclass Milieu in mid-twentieth century India and Pakistan* (Routledge, 2006), 79.
[2] Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (Hurst Publishers, 2013) 47.

prognoses and utopias"[3] were being imagined, not only in a national but on an international plane, the communists found points of filiation with the Muslim League, and for a time the League also showed a receptivity to the use and inclusion of communists. This little remembered period of active cooperation establishes the grounds for highlighting the immediacy of the change that occurred from shortly after Partition onwards.

When communists sought to organize within Pakistan in the first months after its birth, they drew attention to themselves as threats to the stability and existence of the state. Their identification and the policies drawn up for their containment further exalted the position of bureaucratic managers as authoritative figures for engaging and pronouncing upon state security. Deliberating upon the threat that communists posed more importantly allowed the bureaucrats to disassemble the claims of more representative actors, including of provincial governmental spokespersons. Most importantly though, as the offices of this national government were being established in the Western flank of a territorially separated state, the identification of threats to national security in the Eastern half suggests the unmanageability of that population, particularly its large Hindu minority.

Altogether, what is being demonstrated in the chapter is that the consolidation of ruling power in the administrative offices of government was not a direct consequence of their place in the colonial governmental scheme but was aided by the nature of the state's founding, including its initial exceptional moments. We shall see in the next chapter that the imperative toward containment that is drawn out here, and shown to be located in the bureaucracy and high functionaries of the Pakistani state, is visible again in the punitive posture assumed towards those who forged a political program on the grounds of historical ties and ethnic affiliation. It is this constellation of movements and maneuvers that starts to define the transitions from earlier to later fascisms in the Pakistani state, continuing to the present day.

[3] Helge Jordheim, 'Against Periodization: Koselleck's Theory of Multiple Temporalities' (2012) 51(2) *History and Theory 1*51, 153

II. Bureaucratic Government and Discourse

As described in the last chapter, late 1946 saw the establishment of the constituent assembly for the soon to be independent nation. As also noted there, the centralizing tendencies as well as the lack of legislative experience on the part of assembly members rendered it somewhat denuded of effective power. What supplanted this body in governance was the bureaucracy. As shown in Chapter 2, the administrative centralization and control of colonial rule had created several configurations of government both in succession and simultaneously. In the situation of unrest and social unease, the control imperative of the colonial state was reframed as one of public order and sovereign order, and found habitation within the bureaucracy.

That the bureaucratic grip on power was strengthened in these years is readily betrayed in the files under study here. As with so much else, the partitioning of the bureaucracy left Pakistan in an unenviable position vis a vis broader India in 1947. It is estimated that only 9% of the positions within the Indian Civil services were held by Muslims at that time; as members of the Indian Civil Service, both Indians and British serving officers were permitted to choose one of three alternative courses for their future, to serve in either India or Pakistan or to retire. Of the "101 Muslim ICS-IPS officers in 1947, 95 opted for service in Pakistan; the others remained in India or retired." Additionally, "50 British officers (36 ICS, 14 IPS) entered service either by option or on contract at independence. Several left after a few months service."[4] However, the continuation of a number of British officers within the administrative structure in a system where political fetters were weak perpetuated the distancing of this tier of government from the everyday concerns even of the refugees who were streaming across the border. As noted by Kaur, the Pakistani state forged in these early years the "core principle of official resettlement policy… self-rehabilitation, that is, the ability to become a productive citizen of the new state without state intervention".[5]

[4] Ralph Braibanti, 'Public Bureaucracy and Judiciary in Pakistan' (1963) *Bureaucracy and Political Development* 360.
[5] Ravinder Kaur, 'Distinctive Citizenship: Refugees, Subjects and Post-Colonial State in India's Partition (2009) 6(4) *Cultural and Social History* 429, 434.

The period of turbulence within the broader ICS, however, was one that predated Partition. During the Second World War, Indian recruitment to the administrative structure had been stalled. Then, at Partition, the 'helpless' witnessing of local breakdown wherever they were stationed is said to have demonstrated "the very real loss of power" for these men who had previously "relied upon the adoption of a learnt prestige".[6] The 'heaven born' had been granted powers that tied communities by binds of privileges that he could dole out. The reconstitution of the administrative services was now in the hands of these men as well as new recruits who were offered a hasty introduction into the services. The shakiness of the iron cage in the early years was not only by virtue of the psychic scars that they now bore but also because the transfer of power had left them short of many of the necessary implements of rule.[7]

At Partition, one of the difficulties encountered by administrators was the dearth of documents intended to be shared through the transfer of power agreements. Ralph Braibanti points out that "[w]hatever records and office equipment may have been sent from Delhi were lost in the burning and destruction of trains which accompanied independence."[8] However, as the files for provincial administration, barring Punjab and Bengal, did not need to be divided or shared, there was an asymmetry of information between the centre and provinces within the federation.

While in all the instances in this and the following chapter the provincial governments are consulted in the formation of national policy, it is noteworthy that rather than defer to those who possessed a more continuous knowledge of regions and persons, officeholders at the center denied the salience of such knowledge. For the study undertaken in this thesis this is of profound importance not only because it indicates the origins of a continuing disequilibrium in the structure of federalism, but because it invites an analysis of how the achievement of statehood created a new terrain of knowledge.

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[6] Taylor C Sherman, William Gould and Sarah Ansari (eds), *From Subjects to Citizens* (Cambridge University Press, 2014) 225.

[7] Ilhan Niaz, 'Jinnah on governance: The unheeded advice of Pakistan's Quaid-i-Azam' (2016) 47(3) *Asian Affairs* 406. *See also* Charles H Kennedy, *Bureaucracy in Pakistan* (Oxford University Press, 1987).

[8] Ralph JD Braibanti, *Evolution of Pakistan's Administrative System: The Collected Papers of Ralph Braibanti* (Pakistan Public Administration, Research Centre, 1987) 97.

In seeking to understand the centrality of the administrative office holders to what is a refounded knowledge order, it is useful to gain some insight into the idea of a discursive formation, such as Foucault describes in the Archaeology of Knowledge. Given that Foucault's direct grappling with the nature of state practices and with sovereignty are situated within a later period of his work and are concerned more directly with the institutional forms, techniques and forms of conduct by which power and domination are exercised, there are obvious reasons to be wary of undertaking a fine-toothed analysis or appropriation of his other works that deal with objects such as madness and the field of psychopathology.

However, what a considered lesson from Foucault allows is an appreciation of the relationship between subjects who form discourse and the protocols by which unity and coherence are imparted to an emergent discourse. It is my contention that the exceptional act of founding the state of Pakistan reinforced the authority of the bureaucracy in ways that engaged them in creating a discursive field that was akin to a specialist knowledge. It is this specialist knowledge which was responsible in its operations for demoting those who had actively contributed to discourse formation in the independence and partition movements – the communists and also regional leaders – and rendered them as objects that needed to be acted upon.

To begin such an analysis, it is useful to highlight that Foucault sees a surface of emergence on which objects first appear. These "are not the same for different societies, at different periods, and in different forms of discourse"[9] but they are what make visible objects that were perhaps previously undifferentiated and thereby unascertainable. In some ways, the previous chapter treads this ground by identifying that the significations of nation, as they were carried through the independence movement, eventually manifested the problem of the state's internal security once independence had been achieved. While this was explained there in reference to the exercise of a sovereign exception, the collapse of event and statement is something that Foucault also situates within the field of discourse and is thereby not to be dispensed with.

The nature of the exception may in some ways be seen as a limiting condition to the operations of discourse, as it is singular and defined by decisive acts situated

[9] Michel Foucault, *The Archaeology of Knowledge and The Discourse on Language, tr AM Sheridan Smith* (Pantheon Books: New York, 1972) 41.

outside of the social relations in which discourse is formed. However, as the operations of the sovereign exception as described in the last chapter were oriented to ensure the displacement of nations and nationalist aspirations and the primacy of the state in their place, this exceptionalism can be seen thereafter to be enfolded within the discursive practices and formations that were being operationalized. The historical conditions that helped chart the incipient state are described earlier in this chapter: the imaginaries of the nationalists of the AIML of a state without determinate content, and communists engaging the national question and seeking a resolution for the subcontinent's Muslims through the means of other ideologies.

In contrast to the communists, the bureaucrats in the newly founded state were able to avail the rights conferred by an existing law and the powers 'spontaneously conferred' by the hasty colonial departure.[10] As persons of status in the new state, their relationship to other members of the society and the manner of their being differentiated from them was derived from their proximity to the institutional site that was also the "point of application"[11] for programs forged through such discourse.

To understand the mechanisms by which authoritative statements formed a unified discourse of state security, it is important to pay attention to what Foucault describes as a system of formation. Foucualt describes the necessary operation as the establishment of rules to lay down "what must be related, in a particular discursive practice, for such and such an enunciation to be made, for such and such a concept to be used, for such and such a strategy to be organized".[12] It is not simply the case that the bureaucrats, by way of representing their view and values produce authoritative discourses to reflect their subjective preferences for power. Rather, the discourses tend towards coherence because they are conditioned by their relation to the state and because they align in giving the state a more determinate shape.

Thus, the specialist knowledge of state security is organized on a "grid of intelligibility" by acts of division, contrast, regrouping and classification.[13] It is impossible to be attentive to the myriad classifications and regroupings that were being operated in this moment so the choice has been made here to read into the

[10] Ibid 55.
[11] Ibid.
[12] Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences* (Routledge, 2nd ed, 2001) 74.
[13] Ibid 46-7,

archive of official documents a particular apprehension of historical time.[14] A particular relation of closure against a recent past invests those who are presently invested in the functioning of the state with authority to oppose and suppress those who would employ the state for future goals. It also makes visible the intention to realize, through the offices of the state, a manifest destiny for the Muslim nation. By doing that, it casts as suspicious those whose claims on and about the state do not derive from a past which was inevitably tending towards the realization of Pakistan.

III. Founding Fascisms in the All India Muslim League

The predominant view of the brand of Muslim nationalism that eventually led to the realization of Pakistan cites discontent at its core, and links such discontent to the disintegration of the Mughal Empire and the decline of privileges accruing to Muslims as a consequence. This discontent was fed by a British predilection for charting relative educational attainment, access to employment and other socio-economic measures between religious communities, all indicating that Muslims were lagging behind Hindus on such measures. The availability of such evidence itself indicates the entwinement of information and administrative 'modernization' and also the contours for the development of wholly new social fields, primarily in the civic sphere and it's growing associational groupings.

In reference to the last chapter, it is important to see that while the Government of India Act of 1858 was pivotal for extending the relations of subject-hood to all Indians, the act and the administrative changes thereafter inaugurated an elaborate and fairly uniform apparatus of control.[15] For Sudipta Kaviraj, the transformation was all-encompassing, and he suggests altogether that "[m]odernity

[14] I'm drawing together the tools of Foucault's archeological method with some of the insights drawn from critical studies of Reinhard Kosselek. While Kosselek's work is directed at establishing a theory of history, insights into the multiple temporalities of modernity and the production of 'historical knowledge' itself as a "specific horizon of intelligibility" are particularly useful. See Luca Scuccimarra, 'Semantics of Time and Historical Experience: Remarks on Koselleck's Historik' (2008) 4(2) *Contributions to the History of Concepts* 160 and Ordhein Helge, 'Against Periodization: Koselleck's Theory of Multiple Temporalities' (2012) 51(2) *History and Theory* 151.

[15] BM Gandhi and VD Kulshreshtha, *Landmarks in Indian Legal and Constitutional History* (Eastern Book Company: Lucknow, 2005) 346. It contained formulas for a federal division of powers between existing and newer provinces, for the division between executive and legislative powers as well as adapting and reforming a civil service that had been established under Company rule. In quick succession a set of acts to establish a uniform system for a higher judiciary, a uniform policing apparatus and other acts to conduce to a homogeneity of the governance function would also be passed.

came to India by the political route, indeed through the introduction of a new activity called 'politics'." In the formal domain, the administrative restructuring created the possibility of a more inclusive legislative function, given the slow transferal of powers from the British legislature to the colonial government.[16]

For many who study anti-colonial nationalism, the formation of communal nationalism and particularly Muslim nationalism was simply one of the "internal contradictions of an imperialism which also sought to subscribe to liberal doctrine".[17] It reflected the incompletion of liberal potentialities presumed to be latent in the making of a national space. Accepting that the harkening to liberal potentialities worked in tandem with the extensions of suffrage, representation, and "eventually led to the transfer of power to Indians in 1947",[18] Muslim nationalism in particular is thereby cast as an aberration in an otherwise progressive unfolding. In such a view, Muslim elites are seen to be capable of cynical manipulation of the Muslim masses who were thereby prevented from seeing themselves as secular liberal subjects.

However, against that, we have a set of remarkably detailed historical studies to show that emergent political subjectivities hardly showed greater or less gullibility to correlate with religious identity. Gyanendra Panday[19] and others have argued cogently that in all cases, for people to conceive of themselves in an evolving national terrain, local identities had to be reconfigured. Panday shows that these were transformations wrought at sites of contest between local groupings. He demonstrates that in the late 19th century, inter-community conflict was on the rise at the ritual sites the circulation of 'news' through newly accessible print technologies as well as the innovation and publicization of 'hard statistical indices' aided in the solidification of such identities. However, to arrive at the unities implied in the conception of the 'Hindu community' and the 'Muslim community' people in all cases had to overcome identification with caste, sect and locality.

Where a de-escalation of communal political subjectivities was achieved, it was through active processes of negotiation. In other words, it was less an

[16] Thus, through the Indian Councils Act of 1861, the office of Governor-General came to be associated with a council which would include at the minimum, a number of members with extended service in India and also allow for its discretionary enlargement to include Indians.
[17] Quentin Skinner and Bo Stråth (eds), *States and citizens: History, Theory, Prospects* (Cambridge University Press, 2003) 153.
[18] Ibid 154.
[19] Gyanendra Pandey, *The Gyanendra Pandey Omnibus* (Oxford University Press, 2008).

independent evolutionary process than one influenced by the strategic directions taken within emergent political parties engaged in electoral contest from the early decades of the 20th century onwards. In the cultivation of greater mass support, parties across the spectrum sought electoral victories on the grounds of a future that they represented in their programs for a state yet to be founded. However, the varying degrees to which parties were engaged in the actual practices of governing significantly impacted their orientation to communal sentiments in the present.

For Congress, the sole national party representing the cause towards home rule, the tie-in to the governance function was assured from 1919 onwards, in the expansion of suffrage as well as in the control that it came to exercise vis à vis the allowable domain of political power. In contrast, the All India Muslim League at this point was barely in contest. Thus, whereas the Congress in successive maneuvers broadened its mass base of support by incorporating elements from the right and the left through a malleability in its own program, this was mostly absent in the trajectory that the AIML forged, with implications discussed further below.

In many ways this is the inheritance that people like Faisal Devji and Markus Daeschel investigate more rigorously in reference to Pakistan and the politics of the All India Muslim League. What they suggest in fact is that this story about the AIML being built upon a notion of the co-mingling of religious/group nationalism and liberal potentiality disguises a fundamental deracination at the heart of both as they developed in the subcontinent. Both writers also see simply arcane matter at the centre of the Pakistan demand that the AIML carried forth into Partition.

Markus Daeschel's work[20], The Politics of Self-Expression, is an original and fruitful historical and theoretical engagement with an emergent form of politics that encompasses certain strains of Muslim nationalism in the Indian subcontinent, and much more besides. His theoretical innovation is to trace the separate trajectories taken by what he names as a politics of interest and a politics of self-expression, both in chronological succession and simultaneously. Whereas the politics of interest has its genesis in the introduction of limited representative government and is wholly operationalized in reference to colonial governmental ordering, the politics of self-expression takes off later in the move towards self-rule. The politics of interest worked more directly in response to the forms of colonial governmental order that

[20] Daechsel, *The politics of self-expression* (n 1).

were introduced in the subcontinent, and thereby reinscribed colonial presuppositions about the Indian populace in its unfolding.

In some ways, the politics of interest is the encompassing way in which Daeschel would contain the historical insights of those who studied the growth of politics and associationalism as recounted above. However, for Daeschel, in this constellation, the primary interest that held sway and around which a native politics of interest was defined was of maintaining control by an ideologically bereft imperial power. The conviviality it enjoyed and fostered with 'the jolly good fellows' amongst Indians, "ambitious and cynical men who looked after their own interest" led to the latter being rewarded in terms of political freedoms for some time.[21] As a broader nationalist movement developed, the early representative councils of appointed members or those elected on the basis of a tightly limited franchise gave way in the early twentieth century to the establishment of a broader electoral sphere. In this and with calls for self-rule becoming more pronounced, the colonizers established a divide amongst elite Indians between those who used nationalism to pursue their own ends and those who they termed 'professional agitators'.[22] The former became the lynchpins, headmen for communities organized in chains of obligation through the perpetuation of patron-client relationships.

Daeschel furthers his analysis by suggesting that maintaining colonial rule based on difference required accommodating the shifting political terrain, so that formal acceptance of native agency resulted in superimposing the logic of self-contained individuals as the building blocks of liberal politics onto the level of communities. 'The Hindus', 'the Muslims,' as well as assorted tribes and castes appeared as collective units that pursued their own material interests in similar ways as individuals. In other words, the superimposition of liberal individualism did not produce or realize individuals, so much an encourage the Hindu and Muslim pursuit of their interests. In Daeschel's account the politics of self-expression grows in parallel with the politics of interest beginning in the early 1920's. For Daeschel, training an eye to this form of politics entails being attentive to form rather than content. Daeschel sees the politics of self-expression as a "certain mode of doing

[21] Ibid 20.
[22] Ibid 21.

politics associated with a certain stylistic repertoire".[23] Not simply "the continuation of an earlier modernity", the politics of self-expression also marked the starting point of a new and much darker formation that arguably continues into the present. For Daeschel, this form of politics itself could be the carrier for an ideological program that was fascistic but the two, for him, are not collapsible.

For Devji, the early concessions of separate Muslim seats and electors in the elected assemblies of the time were reflective of such a form of politics. Unable to grasp immediate success through this innovation, the AIML nonetheless channeled this into future demands. Citing the 'incredibly long gestation period' of the idea of separatism without actual role in governance, Devji also notes the elevated levels of abstraction in which these ideas worked themselves out; the upshot for those who would become Pakistan's founders was that the 'existential burden' of historically distinct and separate communities could only be settled in a constitutional terrain.[24]

Fascism in South Asia has been studied in a somewhat episodic fashion. More recent political turnings in India in particular have resuscitated the study so that an arc of political ideology can be drawn back to some of the precursor movements of the BJP or Hindutva more broadly. These were movements that were dismissive of "modern formulations of secularism, plurality and democracy" and "precluded the making of a nationhood constituted by the struggle for economic justice."[25] To a different extent, they were either incorporated into the evolving common sense of anti-imperial politics or were pushed out of political relevance for quite some time, only to reappear forcefully in the 1990's.

Studies of Pakistan are somewhat in contrast because other than some illustrative examples, it is hard to find early expressions of fascism in party programs, even of religious parties. A problem of 'finding fascism' in this context can also be in the absence of pitched battles at any point between fascists and non-fascists. When we look below at the stylistic repertoire that gained salience in the functioning of the Pakistani state, it is worthwhile to compare literature about Fascism in India as well as in Europe, where it is assumed to have originated.

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[23] Ibid 4.
[24] Devji, *Muslim Zion* (n 2).
[25] Aijaz Ahmad, *Lineages of the present: Ideology and Politics in contemporary South Asia* (Verso, 2000).

Studying fascism in all cases implies having to work through both a unity and disunity in what features can be brought under a definitional umbrella. Broad definitions discern unity in "a genus of political ideology whose mythic core in its various permutations is a palingenetic form of populist ultra-nationalism'.[26] This phrase, 'palingenetic ultra-nationalism', is Roger Griffin's recurring and much cited innovation in the study of fascism(s). The word 'palingenetic' means rebirth, so fascism is a form of nationalism that describes 'its' nation as decadent and in need of rebirth through a nationalist revolution.[27]

The prototypical Italian and German cases of a fully realized fascism can certainly be seen to embody this form of ultra-nationalism. Nonetheless, this and the fact that they arose during a similar time period has led to a popular collapse of their historical differences and the degrees to which they were 'worked out on the ground'. In both cases however, the governmental order that was seized by Mussolini in 1922 and Hitler in 1933 have been traced back further in time. The processes of national unification, in Italy the Risorgimento and in Germany the victory of the 'lesser Germany' movement at the end of the Franco-Prussian War provided the administrative apparatus onto which an exclusionary nationalism could be built. However, as cultural and economic plans were the operational ground for advancing these right-wing nationalism, these dimensions are also traced in turn to literary romanticism, to radical syndicalism in varying degrees dependent upon the historical inheritance in each region.

What Italy and Germany shared is that both systems of fascism arose as reaction to the perceived exhaustion of liberalism. In fact, both presented themselves as third way alternatives to bolshevism and liberal capitalism. The economic program of corporatism is essential in both countries to elaborating that in practice, as is the governmental spending and infrastructural development, both aspects which endeared fascism to 'progressives' in other places, including India.[28]

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[26] Roger Griffin, *'The Palingenetic Core of Fascist Ideology' in A Campi (ed), Che cos'è il fascismo? Interpretazioni e prospecttive di richerche* (Ideazione editrice: Rome, 2003) 97. Available online: https://www.libraryofsocialscience.com/ideologies/resources/griffin-the-palingenetic-core/ .

[27] Roger Griffin, 'Between metapolitics and apoliteia: The Nouvelle Droite's strategy for conserving the fascist vision in the interregnum' (2000) 8(1) *Modern & Contemporary France* 35.

[28] The extent to which such alignments with fascism were operational in the history of Subhas Chandra Bose's sojourns away from India after having served as President of Congress in 1938 is heavily debated. *See* Sugata Bose, *His Majesty's Opponent: Subhas Chandra Bose and India's Struggle against Empire* (Harvard University Press, 2011).

Interestingly, the growth of Italian fascism shortly after WWI has been seen as a part of a world-wide movement "to search for new ways of modernizing society by the underdeveloped countries' including China, Russia and Mexico during those years. In many ways this is evidence for an alternate argument that fascism can be explained as a "developmental dictatorship",[29] a recurrent political response to economic backwardness under capitalism. Nonetheless, between an early and late fascism in Italy the differences in its programs ranged from "nationalism with republicanism, anticlericalism, women's suffrage, and social reform" at its core to one in which "militant anti-Catholic and anti-communist" sentiments were used to bind a mass movement.[30]

Altogether though Stanley Payne rightly notes that when "most theories of generic fascism refer to fascism they seem to mean, in fact, national Socialism".[31] Thus, the firm belief in racial hierarchies is accorded centrality. Relatedly, "romantic notions of Volkisch (racial-environmental) nationalism blended with pseudoscientific social Darwinism" are widely understood to be coterminous with fascist thought.[32] To a far greater extent than in Italy, the operationalization of a Nazi agenda was concomitant with the fostering of a cult of personality around Hitler. The most marked difference between the two is that the notion of race was somewhat anathema to the Italian Fascists until they experienced subordination to the Nazis and promulgated their own race laws in 1938.

Although this reflects only a brief and circumspect perusal of theories of fascism, the conclusion that can be drawn is that beyond the notion of a paligenetic and exclusionary nationalism and perhaps also the readiness to employ force, there is no necessary coherence to the ideological program of fascism. This is not to say that the resemblances are insubstantial or that there is not a family of ideas that together in combination produces fascist configurations. The seeming incommensurability is perhaps also a reason why Daeschel avowedly rejects the search for 'fascism' as one that is focused too much on 'discursive' practice.

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[29] A James Gregor, *Italian Fascism and Developmental Dictatorship* (Princeton University Press, 2014).
[30] Kevin Passmore, *Fascism, a Very Short Introduction* (Oxford University Press, 2nd ed, 2014).
[31] Stanley G Payne, A History of Fascism, 1914–1945 (University of Wisconsin Press, 1996).
[32] Kevin Passmore, *Fascism, a Very Short Introduction* (n 30) 123. *See also*, Anson Rabinbach and Sander L Gilman (eds), *The Third Reich Sourcebook* (University of California Press, 1st ed, 2013).

Important, however, in all cases of the study of fascism is the terrain of receptivity. The harkening to a blood and earth nationalism is a process of aligning the features of a shared past into a projected future. The present in fascist imaginaries is often a decayed one and this is what gives rise to a need for 'rebirth'[33]. In the case of Germany, this was tied to race and in the case of Italy, it was the harkening to the lost glories of Roman antiquity and then a common 'Mediterranean' culture. The existence of a party apparatus to reconcile the "space of experience" with the "horizon of expectation", experienced as discordant absent party interventions, is integral to this.[34]

For the project here, this begs an assessment of what precisely in the AIML and in the broader configuration of anti-colonial nationalist programs suggest the 'dark formation' of Daeschel's account of the politics of self-expression. Working further through the interventions of both Daeschel and Devji, one can begin to mark out some of the tendencies inherent in the exclusionary program of early state making in the Pakistani state.

One tendency that both touch upon in slightly varying ways is in the deployment of the categories of domination and will. This poses the question of what types of horizons actors situated themselves in when exercising dominance and will. To begin with, what these authors both have to say about this resonates with a melancholic view of modernity as a "period of time that understood itself to be sui generis, unique and of its own kind".[35]

Daeschel points out that in the vein in which the Muslim League operated, the "state" was merely a "name – or more commonly a set of images" that indicated the overcoming of political temporality itself, so that its achievement was "when total bliss and salvation had finally come to stay." For Daeschel, this is the essential darkness of the AIML's brand of action; its moment of "de-societalization" in which the state had "little utility as a concept of political action". What is implied in all this is that the state was a category deferred to future realization and that realization would

[33] Christopher Clark, 'Time of the Nazis: Past and Present in the Third Reich' (2015) 25 *Geschichte und Gesellschaft. Sonderheft* 156, 160.
[34] Manu Goswami, 'Imaginary Futures and Colonial Internationalisms' (2012) 117(5) *The American Historical Review* 1461, 1463.
[35] Matthew Philpotts, 'Cultural-Political Palimpsests: The Reich Aviation Ministry and the Multiple Temporalities of Dictatorship' (2012) (117) *New German Critique* 207, 229.

put an end to the dissensus in the political sphere: it was simply not seen or imagined as a tool for rectification of social or economic ailment or conditions.[36]

Devji similarly argues that the political field as imagined by the higher functionaries and even ideologues in the AIML was one that could only be encountered through an acceptance that 'determination of will and "steadfastness of purpose" could drive society into the future, even absent a political foundation. In countering the view that religion was the foundation, he offers instead: "religion was deployed to name only the most general, disparate and shifting qualities" of "widely different regional, sectarian and linguistic groups whose more formal aspect was the negotiated settlement that produced Pakistan".[37]

In seeking the attainment of this negotiated settlement, Devji interestingly charts the many invocations of the Devil as an adequate model for emulation by these same actors, as in the idea that the Devil embodied a will to act. The drive towards determined ends supplanted the need for the political action towards reconciling the differences of regional, sectarian or linguistic traditions that the diverse Muslims of the subcontinent embodied. Ultimately for Devji, "this is what made it so radical as a founding idea for the nation".[38]

The notion that they were living in entirely novel times, given the length of the colonial experience and the prospect of escaping it, was not entirely misplaced. What is interesting however is that the lived experience of the time should allow a hollowing of history. While nations were being imagined to be coterminous with the category of state, their prior histories were neither being 'remembered,' invoked or commemorated.

Devji traces Jinnah's view of colonial rule as establishing a 'state of nature', one in which communities had become 'too intertwined in history'.[39] However, Jinnah's plan for rectifying this did not permit a casting back to any pre-colonial notion of Muslim grandeur. Rather, worked through his imaginary of a future politics was the divestment of the Muslim community in India of its own past. For Jinnah, this did not translate into a pan-Islamism predicated on a community of faith

[36] Devji, *Muslim Zion* (n 2).
[37] Vanja Hamzić, 'Book Review: Faisal Devji, Muslim Zion: Pakistan as a Political Idea' (2016) 36(2) *South Asia Research* 288. *See also* Devji, *Muslim Zion* (n 2) 47.
[38] Devji, Muslim Zion (n 2) 47.
[39] Ibid 97.

transcending borders and region. The new possibility for him was a new social contract, one by which "all that had been inherited from the past could be abandoned to begin afresh".[40] This was also apparent in the last chapter's account of Jinnah's speeches, in which he implored the new Pakistani citizens to bury the hatchet, feel like Pakistanis, and enjoin themselves in the state.

Daeschel identifies a pathology of this time in that power was increasingly seen to be distributed in aggregates, so that the notion of Raj was being increasingly deployed to measure the relative power of such communities. Raj was a form of rulership that could only be exercised in a terrain where power was absolute, in a zero sum equation, so that one community's exercise of power implied the submission of another: "[t]he banning of a book could be Muslim Raj, as could the appropriation of a building against the wishes of their owners".[41]

Devji and Daeschel seem to imply a contrast between the active incorporations and negotiations undertaken by the Congress Party as reflective of a different orientation towards history than the AIML. Although famously Gandhi wrote in Hindh Swaraj that history is a "record of the wars of the world",[42] deployed by the English to keep Indians in a state of subservience on the grounds of their historical underdevelopment, his was the exceptional strain of thought which in many ways bears a similarity to Jinnah's views on Muslim history. However, for Nehru and others, the critiques of a political economy of oppression as well as the promise of a future developmentalism were all hinged to a deeper historicity that informed present action and future plans.

This section has been oriented towards illustrating deeper linkages through which to understand the contours of a far-reaching connection between fascist imaginaries reliant upon particular conceptions of the past, a singular presentism, and a will to act and dominate that were apparent in the AIML's own program. In the following part I investigate the untroubled incorporation of communists into the Pakistan movement in the last years of colonial rule. For a great many reasons, this is a surprising as well as little recounted alliance. What it shows is that the grounds for inclusion into the Pakistan movement in the period leading towards Partition was

[40] Ibid.
[41] Daechsel, The politics of self-expression (n 1) 75.
[42] Richard L Johnson, (ed), *Gandhi's Experiments with Truth: Essential Writings by and about Mahatma Gandhi* (Lexington Books, 2005) 86.

somewhat open, so that those who worked out their allegiances through a historical materialism could nonetheless find points of traction with the members of the Muslim League.

IV. Communists with the League:

This part of the chapter investigates the "heady mix" of open possibilities and political futures that were central to colonial era communist and socialist internationalism.[43] Taking on the necessary caution that we know very little about "utopian aspiration and pragmatic reckoning, collective action and conceptual improvisation"[44] that was part and parcel of such movements, it is possible nonetheless to see that the communist cause was distinctly tied to "a concrete historical and geopolitical futurity".[45]

What will be discussed here are two distinct processes impacting the simultaneous spread and containment of communist ideology in these waning years of colonial rule. The first comprises the push and pull of this internationalism. While the world historical dimensions were relayed through a doctrinal engagement with Marxism and bolshevism, a distinct indigenization was also simultaneously at play. As the Soviet Union became increasingly mired in its own internal consolidations, the spirit of internationalism that it had initially fostered also receded. Pushed to the margins through colonial state repression, the communists in India forged idiomatic translations of the ideology that employed the conceptual categories that the political vocabulary of this time was offering up. Amongst the shared ideas that allowed for an association with the AIML was the belief in pre-constituted communities and an ideational hankering to a state that would mark a distinct end to the factionalism of these times.

The history of the Communist Party in India is a circuitous one. At least one story of its origins traces its founding to the Hijrat movement during which Muslims from British India travelled through Central Asia towards Turkey in an effort to join the anti-imperial Jihad being waged there. The Hijrat movement was itself one strand of the larger Khilafat movement of 1920-22, through which the Congress party was

[43] Goswami, 'Imaginary Futures and Colonial Internationalisms' (n 34) 1462.
[44] Ibid.
[45] Ibid 1464.

first able to bring its brand of nationalist politics to the Indian masses.[46] In 1920 a fatwa was issued declaring India to be a land of war for Muslims following the dissolution of the Ottoman Empire at the hands of the British and allied powers. Thereafter, a number prominent Ulema decreed that Muslims should seek to move to lands ruled by other Muslims. Thus, many thousands of people joined caravans and set out for Kabul with the intention of eventually travelling further towards Turkey.[47]

Following the arrival of many such waves of what were considered 'refugees' in Kabul, the hospitality of the Afghan government was soon exhausted, and many Muslim travelers were made to return from that point. Others went further and in their travels through Central Asia also encountered the appeals of a spreading Bolshevism in Turkmenistan.[48] Already there was the young Bengali intellectual M.N. Roy, who had fled India in 1916 and been instrumental in founding the first communist party in Mexico. In Tashkent in October 1920, Roy formed the Indian Communist Party in an initial meeting with only seven other members, a number of whom had set out on Hijrat. After various periods of ideological and military training, which for some entailed attendance at the Communist School for Toilers of the East, these initial members and others who had joined them returned to India.[49]

In these early years of Soviet communism, a great deal of ideological flux attended the elaboration of an official line on national liberation movements, the revolutionary aims of socialism and the accommodation of minorities. Coincident with this was a concerted effort to spread communism by undoing imperialism. Seeing the fundamental contradiction of capitalist imperialism in the 'east' as between colonizer and colonized rather than between bourgeois and proletarian, Lenin directed the fostering of relations with national liberation movements. However, given the multi-ethnic federation that was being consolidated in the Soviet republic, a contradictory stance attended the accommodation of minority ethnic interest: while sub-national claims on autonomy were cast as expressions of false consciousness,

[46] *See generally* Fozia Jabeen, *The Khilafat-, Hijrat- and Gandhi's Non-Cooperation-Movement* (Grin Verlag, 2017).
[47] *See* Malcolm Russell, *The Middle East and South Asia 2013* (Rowman & Littlefield, 2013) 41.
[48] *See* Kamran Asdar Ali, Surkh Salam: *Communist Politics and Class Activism in Pakistan, 1947-1972* (Oxford University Press, 2015).
[49] John Patrick Haithcox, *Communism and Nationalism in India: MN Roy and Comintern policy, 1920-1939* (Princeton University Press, 2015).

there was a simultaneous accommodation of "disunion for the purpose of union".[50]

It was in this context that linkages were fostered and many members of a dissident exile community of Indians were drawn into the task of forming a communist front in India. Early pamphlets presenting a plural vision of Indian independence to be built up from peasant and workers committees also travelled to and were tabled at Congress Party meetings in the early 1920's. However, by the Sixth Communist International in 1928, the Soviets had also determined a change of course to discourage henceforth "any collaboration with bourgeois nationalist parties such as the Indian National Congress." [51] As the Communist Party of India remained the main interlocutor for Soviet orthodoxy in the sub-continent, it also drew away from this form of politics.

In India, the communists faced a highly alert adversary insofar as the colonial government by then had a highly developed surveillance and intelligence gathering apparatus to hone in on communists. [52] In waves then, those who were arriving back by travelling through North-west India were charged with sedition. A set of political trials unfolded and in the proceedings and judgments of these trials what becomes apparent is that the colonial government sought, through 'judicial means' to outlaw communist ideology and did this by drawing a distinction between it and what was henceforth accommodated as legitimate 'nationalist politics'. Communism in India was thus inextricably tied to internationalist politics, which in turn was held to be diametrically opposed to national politics. If nothing else, "this was reflective of how seriously the state treated the power of ideas, especially those that were considered to be subversive".[53]

The communist party remained officially outlawed, but the ideas associated with communism spread rapidly over the course of the 1930's and 1940's. Interestingly, the communists and the AIML also aligned on the issue of fighting

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[50] Walker Connor, *The National Question in Marxist-Leninist Theory and Strategy* (Princeton University Press, 1984) vol 6, 203.
[51] Kamran Asdar Ali, *Communism in Pakistan: Politics and Class Activism 1947-1982* (IB Tauris, 2015). *See generally* Sadaf Aziz, *Constitution of Pakistan* (Hart Publishing, 2017).
[52] Maia Ramnath, *Haj to Utopia: How the Ghadar Movement Charted Global Radicalism and Attempted to Overthrow the British empire* (University of California Press, 2011). Maia Ramnath, *Decolonizing Anarchism: An Antiauthoritarian History of India's Liberation Struggle* (AK Press, 2012) vol 3. *See also* Harish K Puri, *Ghadar Movement: Ideology, Organisation, and Strategy* (Guru Nanak Dev University, 1993). Harish K Puri, *Ghadar Movement: A Short History* (NBT India, 2011).
[53] Ali Raza, 'Separating the Wheat from the Chaff: Meerut and the Creation of 'Official' Communism in India' (2013) 33(3) *Comparative Studies of South Asia, Africa and the Middle East* 316, 318.

fascism in the Second World War, in contrast to the Congress position which was to boycott the war effort and resist recruitment into the British India Army. For its part, the Communist Party of India defined a stance that accepted that political emancipation was not to be imagined as coincident with the attainment of independence. Thus, in 1942, a resolution was passed on the nationality question recognizing that "[e]very section of the Indian people which has a contiguous territory as its homeland, common historical tradition, common language, culture, psychological makeup and common economic life would be recognized as a distinct nationality" in the event of independence. Not only that, but it also accepted that such units could exercise the "right to secede" from such a union or federation.[54]

Amidst this flux, a young communist worker, Irfan Latifi, was tasked by the AIML with writing the party's manifesto in 1944. The manifesto argued that a separate Muslim state "would eventually transcend and resolve religious differences in the region, because a Muslim-majority state (or a state constructed by a minority community in India) was inherently more equipped to appreciate religious plurality, harmony and diversity than a state dominated by a large Hindu majority".[55]

The manifesto was intended to counteract the entrenched interests of a 'loyalist' constituency in the Punjab and the efforts of the Congress in Bengal to institute a mass contact campaign to enlist largely poor rural voters as supporters there – also interestingly spearheaded at times by communists who had remained in the fold of Congress.[56] The old Leninist settlement of the nationality question was also woven in, declaring that the state under the League would be the alter-ego of the national being and in good time the two would merge to form an ordered and conflict free society.[57]

It was in that context that a CPI leader Sajjad Zaheer broke from party orthodoxy in 1946 to propound the Pakistan idea as the "logical expression of the

[54] Ali Raza, 'The Illusory Promise of Freedom: Mian Iftikhar-ud-Din and the Movement for Pakistan' in Ali Usman Qasmi and Megan Eaton Robb (eds), *Muslims against the Muslim League: Critiques of the Idea of Pakistan* (Cambridge University Press, 2017) 176.
[55] Nadeem F Paracha, 'The idea that created Pakistan', *DAWN* (online, 25 December 2014) https://www.dawn.com/news/1153105
[56] *See* Haithcox, *Communism and Nationalism in India* (n 48).
[57] Nadeem F Paracha, ''The volatile fusion: Origins, rise & demise of the 'Islamic Left'', *DAWN* (online, 23 July 2015) https://www.dawn.com/news/1195863.

development of political consciousness among the Muslim peoples of India".[58] Kamran Asdar Ali notes, "Zaheer's attitude towards Pakistan and the Muslim League reflected the radical line of the Communist Party of India which saw the need for the Muslim masses to be made conscious of their nationalistic and historic duty and to be wrenched away from their communally-minded feudal Muslim League leadership".[59]

In the last years of empire then, "Muslim ideologues belonging to the Communist Party of India (CPI) were brought into" the AIML fold, even with a branch of the revolutionary leaders expressing antipathy towards the high command of the Muslim League itself. The CPI had exhibited support for the AIML and saw the party as being revolutionary and anti-colonial (as opposed to communal); also, that it was in more of a position to carry out radical reforms and policies than the INC, which the CPI viewed as 'counter-revolutionary.'[60]

For the Muslim League, which stuck so closely to a script of constitutional negotiation and lawful petition with the colonial government, such overt allegiance was surprising. However, the specific need to enter this alliance could be seen to stem from the realization that separate electorates alone had not in fact established a ready-made constituency for the Muslim League in elections through the 1930's.

Not only Muslim communists, but communists of other communities including Hindus were readily incorporated into the ML because they possessed the capacity to be intermediaries between a rural sphere and the primarily urban constituents of the ML in the lead-up to very important elections in 1946. There was in fact very little internal dissention within the ML about the inclusion of communists during the Partition movement, even as their inclusion served as fodder to discredit the party as 'Godless' by members of other communities.[61]

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[58] *See*, Sajjad Zaheer, A Case of Congress-League Unity (People's Publishing House: Bombay, 1944). Also, Kamran Asdar Ali, 'Communists in a Muslim Land: Cultural Debates in Pakistan's Early Years' (2011) 45(3) *Modern Asian Studies* 501, 507.

[59] Kamran Asdar Ali, 'Communists in a Muslim Land: Cultural Debates in Pakistan's Early Years' (2011) 45(3) Modern Asian Studies 501, 515.

[60] *See generally* P Eashvaraiah, *The Communist Parties in Power and Agrarian Reforms in India* (Academic Foundation, 1993).

[61] Sardar Baldev Singh adds: "To me the high confidence which Indian Communists enjoy in the inner counsels of the Muslim league everywhere is inexplicable. Mr. Jinnah and his friends know this, that a number of top Muslim Leaguers are pucca Communists. That these men are spreading the poison of godlessness in Muslim homes, as accredited propagandists for the League, only fools can deny. How does Mr. Jinnah justify this deadly anti-Muslim drift in the high counsels of his League. It is not the same old story that he and the League are out to capture power by whatever means they can. The Sikhs

In 1948 the CPI itself split so that there would be a party in Pakistan as the adjunct of the one that stayed in India. Amongst party members their affiliation or choice of citizenship between the countries had more to do with staying where they were than with their religious or communal identity.[62] For that reason it is estimated that less than 5% of the Communist Party of Pakistan's membership in the East Bengal after Partition was Muslim. This was a much-noted fact in the bureaucratic file about communists in Pakistan that was compiled in 1948, which will be looked at in greater detail in the following sections.

V. Communist Containment:

This final section details the deliberations of various government actors on the subject of communists within Pakistan. It has already been suggested that these administrative offices were emerging as the authorized spaces for articulating the truth of an incipient social order, an authorization conferred in the initial exceptional act of Jinnah's founding of Pakistan. Here, we investigate this assertion by referring to the ways in which communist activity was being defined as a threat sufficient to imperil the newborn state and that the identification of that threat was tied to the temporal imaginations carried through in communist programs of action.

The idea that there were subversives lying in wait was openly proclaimed from the first days of Pakistan's founding. Jinnah himself referred to 'fifth columnists' and counselled that they should be dealt with brutally. The most-cited incidents of his offering such warnings are in his public addresses in Dhaka. In March of 1948, Jinnah addressed students at Dhaka University and when he spoke of such fifth columnists and 'quislings' as those who were seeking to disrupt the workings of the state, he was met with jeers and shouts of 'no' from students.[63] Given that the term fifth columnists was first used by one of Franco's Generals in the course of the

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have forewarned themselves. May I beg my Muslim friends to be on their guard." Times of India, 24 October 1945.

[62] Marcus F Franda, 'India's Third Communist Party' (1969) 9(11) Asian Survey 797; Marcus F Franda, 'Communism and Regional Politics in East Pakistan (1970) 10(7) *Asian Survey* 588.

[63] Nisid Hajari, *Midnight's Furies: The Deadly Legacy of India's Partition* (Houghton Mifflin Harcourt, 2015) 237.

Spanish Civil war, there is a convenient parallel to be drawn with the political program that may have been incubating here[64].

By tabling the idea that individuals as well as 'nations' were compromising the realization of the state, the perfectly realized state may in this way be understood as the surface of emergence that aligns the production of a particular and 'official' discourse thereafter. It thereby also signals the deeper change, one that does not brook even the mention of a previous alignment between the Muslim League and the communists in the lead-up to Partition. The fields of initial differentiation are the threshold conditions for ascertaining and naming the regularities that sustain the object, the pursuit of the state. In citing the threat to this object, the officials who catalogue and uncover such a threat are also aiding the unity of discourse as well as constructing themselves as authorities in the production of such discourse.

The files that are studied here are situated within the archives of the National Documentation Centre in Islamabad. They represent the work undertaken by the Prime Ministers Secretariat, the Interior Division and a range of high level cabinet ministries and their bureaus. I was investigating in particular the files from 1947 onwards.

In some ways the following is resonant with other studies that identify the bureaucratic file as emblematic of the material construction of power at a remove from the formal and assumed locus of power within the state. Matthew Hull in his review of recent anthropological study of files traces the many ways in which the aesthetic, affective and discursive dimensions of the file have been illuminated. The mediative forces, "the procedures, techniques, aesthetics, ideologies, cooperation, negotiation and contestation"[65] that generate and are reworked in the circulation of files situates such studies at a far remove from seeing them as repositories of facts. In their very construction, they "transform, translate, distort and modify the meaning or the elements that they are supposed to carry".[66] Hull, in his own work on the municipal development vehicle for Islamabad, the Capital Development Agency,

[64] Glyn Prysor, 'The Fifth Column and the British Experience of Retreat, 1940' (2005) 12(4) *War in History* 418.
[65] Matthew S Hull, *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan* (University of California Press, 2012) 5.
[66] Ibid 13.

draws attention to the materiality of the files and works to "restore analytically the visibility of documents, to look at rather than through them".[67]

Such readings are meant to contest the idea that the communications of the bureaucracy merely convey a dispassionate relaying of facts aimed at stabilizing expectations and relations between the units of society. However, as noted by David Graeber, such readings are also overburdened by complexity and the density of social relations they convey. They draw upon "complex webs of meaning or signification: to understand intricate ritual symbolism, social dramas, poetic forms, or kinship networks".[68] They are, in short, anthropological in those ways. Although focused on the file and the bureaucracy, the study undertaken here has none of the features of what might be an institutional ethnography.

Rather, they are read with the texture of what is included in the file – who is being named and which forms of disorder the communists are said to be fomenting. While the problem of communists is located in their actions of disruption in the present, such acts are located on a historical continuum of suspicious past alliances and insatiable future strivings. In contrast, the authors of the files are the bearers of a responsibility to realize a future, one they are entitled to define by their present right to engage policing, surveillance and law. The responsibility accrues by virtue of their being able to engage these techniques of government. As the deliberations take place on the plane of defining a current course of action, either in heightened policing or in enacting a ban against the Communist Party, they provide an index of urgent and ancillary problems as the catalogue of what imperils the security of the state. That itself becomes the surface of emergence for a further object of discourse, the subversive Hindu population of East Bengal.

Such a catalogue provides some insight into the modes of understanding and administrative rationalities that are displayed and enacted as a consequence of the gathering of such a file. In that, one is also led by other accounts of what is in fact communicated in certain types of files, particularly the intelligence file, traces of which are also included in this account. The trajectory that is charted is one that begins with an apprehension of threat, then localizes the threat in individuals for

[67] Ibid 253.
[68] David Graeber, 'Dead Zones of the Imagination: On Violence Bureaucracy and Interpretive Labour' (2012) 2(2) *HAU: Journal of Ethnographic Theory* 105, 108.

whom the category of subversive, as deployed by the British colonial state, is readily available. However, given the founding moment and the drawing of limits on who would gain exclusion in the Pakistani state, the use of available categories is somewhat altered to account for the threat to the state as one that is already, ostensibly, a response to the collective strivings of Muslims. A slightly altered reading of official communications will be undertaken in the next chapter to understand the mechanisms whereby a particular demotion of alternate knowledge was enacted in fulfilling the promises of stateness, including by way of bordering practices.

VI. The Bureaucratic File

a) Actions Against Communists

The first document in the "Actions Against Communism" (AAG) file arises apparently from a discussion between senior ministers representing Finance, Commerce and the Interior and relays a decision that "the question of taking action against Communists should be discussed"[69] in a meeting on the following morning. It is dated April 8, 1948, shortly after Jinnah spoke in Dhaka and it was in fact anticipated that he would preside over the meeting.[70] Minutes of the meeting that may have followed are not shared in the file.

Interestingly, April is the month that is recorded as one in which the Pakistani government undertook the initiative to establish diplomatic relations with the Soviet Union. A meeting was held between Zafarullah Khan, Pakistan's foreign minister, and Andrei Gromyko, Soviet deputy foreign minister on this matter.[71] This early ambivalence about cold-war alignments is almost always neglected in the retrospective story told repeatedly about Pakistan's close and seemingly inevitable alliance with the US throughout the cold-war and beyond[72].

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[69] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *Letter to Cabinet Deputy Secretary* (DO No 55/7/48, 8th April 1948), Retrieved from: National Documentation Centre, Islamabad.

[70] Government of Pakistan, Cabinet Division, Karachi, *Action against Communism* (File No 108/CF/48), Retrieved from: National Documentation Centre, Islamabad.

[71] Ardeshir Cowasjee, 'A recap of Soviet-Pakistan relations', *DAWN* (online, 12 March 2011) https://www.dawn.com/news/612610/a-recap-of-soviet-pakistan-relations.

[72] Note here that there was discontent that the USSR was the only major power that had not immediately extended recognition.

In these earliest years, Pakistani overtures were not limited only to gaining recognition by the Soviets but extended to seeking an invitation for a state visit by the Prime Minister Liaquat Ali Khan to Moscow. When such an invitation was extended and accepted, "there was much jubilation in Pakistan". In fact it was reported that "people were almost hysterical with delight".[73] Nonetheless, the visit did not materialize as shortly afterwards, the Americans, showing greater concern now that Pakistan not fall into the Soviet sphere of influence, extended an invitation to Liaquat. Shortly after, in May of 1950, he made what was considered a grand tour of the United States.[74]

In the official documents that identify the communist threat within Pakistan's borders, it is interesting that there is only passing mention of ideological support from the Soviets for those who were then considered to be disruptive and subversive forces in the country. To some extent this reflects the reality that the Soviets had distanced themselves from active support of decolonizing movements with the rejection of the Trotskyite thesis of permanent revolution in favour of the Stalinist idea of socialism in one country by this point.

In contrast, the mention of fascism comes rapidly in this file, in the record of minutes from a cabinet meeting that took place on 21st July 1948. Laying out the question under consideration, "the policy to be followed in regards to disruptive and subversive elements," the document records the Premier of Bengal as saying "there was no doubt that a firm policy towards disruptive and subversive elements would be criticized as fascist".[75] While the exact contours of the firmness that was anticipated are detailed further along in the document, the insight that the aims of such a policy would be perceived as intending to keep "the present Government in power" is what is feared as the likely interpretation of any such action. Thus, fascism in this conception is linked solely to the realization of a one-party state. However, as was described earlier, the wilful deployment of domination, the placement of a nation on a singular horizon of regeneration is where the deeper resonances with fascism can be located.

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[73] Hafeez-Ur-Rahman Khan, 'Pakistan's Relations with the USSR' (1961) 14(1) *Pakistan Horizon* 33.
[74] Cowasjee, 'A recap of Soviet-Pakistan relations' (n 67).
[75] Government of Pakistan, Cabinet Division, Karachi, Meeting of the *Central Government Ministers and Premiers of Provincial Government* (File No 108/CF/48, Copy No 13, 21 July 1948), Retrieved from: National Documentation Centre, Islamabad.

It is in fact the head of government, Prime Minister Liaquat Ali Khan, who establishes even more resolutely that the object to be addressed does not allow for an evaluation on the touchstone of anything remotely like public opinion. In fact, Liaquat's statement echoes the exceptional founding moment of Jinnah's first speech in affirming that the unity of such a public is yet to be determined by the making of a constitution. In the record of minutes for the same meeting he is quoted as saying, "A great responsibility rests on our shoulders because our actions now would constitute a precedent for the future after the constitution had been framed". The collective body to which he directs this responsibility is inclusive of high-level bureaucrats and a smattering of cabinet ministers. Also, "[i]f we were weak at this stage, future policy would also inevitably be weak".[76] That a confounding array of temporalities is being sounded out in this statement is something that will be investigated further below.

Liaquat Ali Khan was a close associate of Jinnah's and was roundly considered his lieutenant – he was the first PM and so when Jinnah's death in April 1948 left the Governor-General's office vacant, power for the following two years fell into Liaquat's hands. Described favourably by Americans as "a man of Western habits", he was thought from that vantage as being a "force for moderation in all phases of Pakistan's domestic and international affairs."[77] Liaquat as PM was not much more of a meditative or democratizing force than it can be assumed that Jinnah would have been. Stepping into the vacuum of power within the ML, he relied heavily upon the bureaucracy. It was therefore not a great surprise that when he was himself assassinated in 1951, the likely contenders to take over as PM were all bureaucrats rather than politicians.

As a first point of departure, the files establish a marked distancing from the concerns of electoral assemblies, whether that be the constituent assembly at the federal centre or the provincial assemblies. The last of the colonial laws, the Government of India Act of 1935[78] and the India Independence Act of 1947[79] had laid out formal systems of government that were indeterminate in the assignment of sovereign authority. The first was the colonial statute which continued for formalize

[76] Ibid.
[77] General CIA Records, *The Assassination of the Prime Minister of Pakistan* (Document No CIA-RDP79S01011A000500060005-4, 16 October 1951). Available online: https://www.cia.gov/library/readingroom/docs/CIA-RDP79S01011A000500060007-2.pdf
[78] *Government of India Act 1935.*
[79] *India Independence Act of 1947.*

the duality of making only certain powers available to representative assemblies, whereas the greater share of such powers were held by unaccountable institutions. The latter only accentuated the dualism of the 1935 Act.

Furthermore, Jinnah had relied on the 'extremely wide' power under S. 9 of the Indian Independence Act to bring an interim constitution into operation,[80] which was granted initially for a term of seven and a half months but was extended thereafter.[81] Using this provision Jinnah had arrogated to the office of the Governor-General the power to pronounce a provincial emergency and engineered other such personalizations of rule under the law.[82] Such powers as were seized in this way led to the quick dismissal of provincial political assemblies after Partition, first by dissolution of the NWFP government in early 1948, and then Sindh and East Bengal within the next three years. The federal take-over of fiscal and broader budgetary powers also reflected this and altogether these conditions indicated the ways in which democratic responsiveness, itself secured by the existence of provincial assemblies, was dispensed with in the drive to secure the state.

That the officers of the federal government were able to align effective powers of policing, intelligence and law to effect policy and make the provincial governments the object of their directives is revealed in a follow up document to the directions issued from the federal cabinet on the 12th of April. Here it is stated that the provinces "have been given guidance by the Ministry of the Interior from time to time" and that they "were asked to take action against individual communist agitators and a list of all those whose objectionable activities had come to notice was supplied to them." It is noted that the provincial governments were "particularly advised to intensify police action by giving their executive authorities wider discretion in interrogating, searching, detaining or extorting political suspects". Furthermore, it was directed that "while Pakistani communists should continue to be detained, non-Pakistanis should be extorted by all Provinces simultaneously and made to leave Pakistan under police escort". However, a revision is suggested to the last policy insofar as it has also seemingly been determined by the federal government "that irrespective of the fact

[80] Khalid Bin Sayeed, 'The Governor-General of Pakistan' (1955) 8(2) *Pakistan Horizon* 330, 333.
[81] Hamza Alavi, 'State and Class in Pakistan' in Hassan Gardezi and Jamil Rashid (eds), *Pakistan: The Roots of Dictatorship, The Political Economy of a Praetorian State* (Zed Press: London, 1983).
[82] The power to impose emergency in the provinces was granted to Governors by §93 of the Government of India Act. Under §92A this power was taken from the Governors and granted to the Governor-General. *See also* Sayeed, 'The Governor-General of Pakistan' (n 76) 333.

whether a communist is a Pakistani or a non-Pakistani, he should be detained as long as there remains the danger of his acting in manner prejudicial to the State."[83]

The content of this summary of governmental activity references obliquely a concurrent arrogation of power that was happening in the federal centre by way of seizing the power to legislate on matters of public morality and public order. That this was a subject matter accorded to the provincial government under the 1935 Government of India Act was an issue deliberated on and eventually set aside in favour of the enactment of the Pakistan Public Order Act of 1948.

What is interesting is that in an internal memo originating from the Interior ministry it is acknowledged that three out of the four provinces disagreed vehemently with the central government.[84] The Sindh government in particular felt that only in exceptional circumstances such as during the waging of war should powers to detain without trial be accorded. Initially, the only reason given by the Government of Pakistan for the proposed action was that in certain circumstances the provincial governments would find it difficult to take the necessary action, and they cite, quite imprecisely, the presence of 'disruptive elements' incessantly engaged in a manner prejudicial to public safety and order as the threat sought to be countered. Again, all of the provincial representatives barring those from the NWFP contested the presence of any significant threat to public order.

Interestingly, the central government in its internal memos goes back quite far in its perusal of colonial era regulations to find a template for this law. They refer to the Bengal State Prisoner's Regulation No.3 of 1818, which allowed the government to place persons under restraint for reasons connected with defence and external affairs. They also referred to Defence of India Rules (1935), ruing that they had sadly elapsed but that they provided an adequate template of what the Ministry of Defence was said to have relayed as an urgent need. It is communicated that the Criminal Procedure Code constrains its capacities to arrest and detain those suspected of carrying out espionage activities at the behest of India. It is also stated in one of these

[83] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *Communism in Pakistan* (File No 108/CF/48, Copy No 13, 13 April 1949), Retrieved from: National Documentation Centre, Islamabad.
[84] Government of Pakistan, Ministry of Interior, Information and Broadcasting, Home Division, Karachi, *Pakistan Public Safety Ordinance*, 1948 (Copy No 13), Retrieved from: National Documentation Centre, Islamabad.

memos that the Ministry of Defence "insist that it is necessary that they should have the power to detain such persons for at least a month."[85]

So, early on, the mechanism for establishing a realm of criminality that necessitates the taking of urgent action, outside the bounds of an existing law, are agreed upon amongst members of the federal administrative state, to the detriment and eventual exclusion of provincial office holders and thereby also of an electorate.

What is being offered in place of current legitimacy is the tie-in to a certain future. Thus, the discursive unity of threat arises in order to justify the fashioning of a monist state, the constitution that is to come. It is a future that is determinately tied to action in the present. The constitution itself may have founding force for a people but not for the realm of government, and action is what is echoed in Liaquat's statements. When Liaquat suggests that the responsibility rests on "our shoulders" in the present, he is referring to the responsibility of forming the future, not of acting correctly right now. Actions undertaken in the present, if not worthless, must become precedents of strength and intentionality for the future. While it may seem that the view is simply forward looking, so that the present responsibility arises from an orientation to an open future, the openness of that future is being related not to the good of the people, but to the good of the state.

Unlike in other revolutionary regimes where the emergence from a period of darkness might be commemorated by erecting monuments of such emergence, these acts of control are themselves the memorializations to be carried into the future.[86]

Subversive Communists to Communal subversion**:**

That the directions for action were so readily transformed into a policy of heightened policing and law-making disguises in some ways the further deliberations and the settling of discourse around state security more broadly. In fact, what has been shown so far is that the central state and its officeholders engaged law and policing to establish state security as central to the concerns of governing. However, as restated by commentators on Foucault, what we should also train our sight upon in critically charting the construction of discursive fields are the ways in which the

[85] Ibid.
[86] Government of Pakistan, Cabinet Division, Karachi, *Meeting of the Central Government Ministers and Premiers of Provincial Government* (File No 108/CF/48, Copy No 13, 21 July 1948), Retrieved from: National Documentation Centre, Islamabad.

"conditions for the existence of an object … extend beyond the singular object in enough ways to allow other related but not formally identical objects to exist in relation to the first, thereby providing the objects required to populate a theory".[87]

In this, it is important to be attentive to the ways that the repetition and correlation of the figure of the subversive in the discourses around state security also indicates other foundational objects emergent at this time. What was described in the previous section and is resonant also with the tactics of late colonial government, is that a mode of appertaining the figure of the subversive entailed a picking apart and localization of threat on registers that seemed to indicate his imperviousness to the operations of a normal law.[88] From the perspective of the administrative actors, the process of detecting subversion required a knowledge of the interiority of the subject of subversion and thereby necessitated intelligence and surveillance. However, what is interesting in a reading of the files of individuals compiled by the early Pakistani state pertaining to communists is the brevity of such files and that their subjects are treated almost gingerly.

Interestingly, while the figure of subversion is initially the individual, it also transpires that only somewhat later, still within the time horizon for the compilation of this file, communities are brought within a net of implication. A number of these of files on prominent communists exist within the AAG file and through them it becomes apparent that the individual subject of the file is of only of provisional importance in defining the nature of subversion that is related to the realization and sustenance of the state.

Of the ten intelligence files included in the AAG file, each begins with a recording of seemingly whatever information was available, this being in some cases age and residence, in others including caste and/or religion. While religion is not marked in each case, the greater number are Muslim and, in spite of the preoccupation with East Bengal that is eventually on display, they are almost all resident of either Sindh or Punjab. In a number of cases there is an account of physical attributes, including whether they wear glasses, their height and complexion.

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[87] David Webb, 'The Discursive Regularities' in *Foucault's Archaeology: Science and Transformation* (Edinburgh University Press, 2013) 66.
[88] Matti Peltonen, 'From Discourse to 'Dispositif': Michel Foucault's Two Histories' (2004) 30(2) *Historical Reflections* 205.

Barring two accounts which mention secret meetings, the account of their activities seems to be based purely on visual surveillance and that is limited to recording dates and times of speeches made in public, usually at sites of industrial action. There is ample evidence in the archive of governmental documents for this time that other forms of surveillance, including the interception of correspondence and more intrusive spying, were regularly being employed by Pakistan's Intelligence Bureau, usually against those seriously suspected of espionage. However, the communists seem to have escaped this kind of treatment in spite of the flurry of governmental activity that was being unleashed in the name of their containment.

The files contain mostly jumbled accounts that move quickly over what are again, public sightings and statements. For instance, about a prominent communist in Sindh it is written that he "[s]poke at a public meeting of the Alcock Ashdown Workers Union in February and also at a meeting of the West Wharf Bombay Company Workers Union," and then "[o]n the same day attended a private meeting of the interim committee of the Pakistan Trade Union Congress".[89] In a few cases, the nature of speeches is somewhat elaborated, so that statements such as "strong criticism was made against the alleged anti-labour attitude of the Government" or that "the Government was strongly criticised in the usual communist strain"[90] are there to provide an indication of the wrong that was committed.

What is most notable in these files is that prior histories of these communists are also presented in a collapsed fashion. For instance, Jamalludin Hussain Bukhari was a central and founding figure of the Sindh communist party. He had been involved in the Hijrat movement and then had visited Moscow in the 1930's.[91] None of that information is found within his file. In fact, even as the file mentions that "he first came to notice in 1921" and was jailed for 12 months in the next few years, the nature of his activities is completely omitted. Bukhari, like Sajjid Zaheer, was amongst those who decided in favour of Pakistan and joined the movement for its realization as affiliates of the Communist Party of India. They were both men who had some recorded interactions with Jinnah in the course of the latter's life. Of

[89] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *File on Sobho T Gianachandi*, (File No 108/CF/48 Encl 4), Retrieved from: National Documentation Centre, Islamabad.
[90] Ibid.
[91] Liaquat Rajper, 'A comrade to the Core', *The News on Sunday* (online, 18 February 2018) https://www.thenews.com.pk/tns/amp/564997-comrade-core.

Bukhari, it is recorded that Jinnah invited him to be a member of the Constituent Assembly and Zaheer, after meeting Jinnah prior to Partition, counselled against the formation of a larger left front in the lead up to Partition.[92]

Amongst the communist members who are described in the file, it is Zaheer whose history, including his studies in London and brief association with the Congress Party, is described in greater detail. However, as with Bukhari and others in the file, his relationship to the Pakistan movement itself is completely omitted. The file states: "[f]ew Indian Communists have shown a greater degree of consistency in their devotion to Communism than he".[93] What is perhaps most noteworthy in the material gathered about Zaheer is that his association with Hindus is particularly highlighted. In tracing his movements amongst them, mostly labour organizers, the file arrives at the conclusion that he was directing his efforts to building up "an independent republic of Pakistan" and that incidents of labour agitation picked up pace after his visit to Karachi.

Zaheer was to be implicated some years later in the Rawalpindi Conspiracy case which itself becomes the precipitative cause for the banning of the Communist Party in Pakistan.[94] However, as will be discussed in the final part of this chapter, Zaheer was in fact a minor player in the events that led to the charge of conspiracy and resulted in his arrest and conviction by a secret tribunal, alongside the famed poet Faiz Ahmed Faiz, a powerful army general and 11 others. As with the others in that case, Zaheer's relationship with the new state was a relatively intimate one, partially on account of his class origins as a member of a prominent Urdu speaking family from Delhi. The alleged plot was aimed not at the installation of a workers' government but rather at the pronouncement of a martial law that would weed out foreign influence in the working of government. The reasons why that was demonstrably perceived as the greater threat and punished to a greater extent than other forms of communist organizing is also discussed in the conclusion of this chapter.

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[92] Government of Pakistan, Ministry of Interior, Home Division, Karachi, File on *Jamaluddin Hassan Bukhari* (File No 108/CF/48 Encl 1), Retrieved from: National Documentation Centre, Islamabad.
[93] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *File on Sayyed Sajjad Zaheer* (File No 108/CF/48, Encl 10), Retrieved from: National Documentation Centre, Islamabad
[94] Ibid.

In general, the recording of material on individuals that is included in the larger file suggests that what are presented as base truths about the intelligence file are only somewhat demonstrated here. While certainly true that the existence of the file indicates the apprehension of threat not by virtue of what a person has done but for who they are, what is notable in these is that the file having been filtered through many pairs of hands left the nature of the accusation vague.[95] While in the case of Bukhari, it is stated that he is a "communist of revolutionary and violent views", there is no further indication of this tendency to violence.[96] It is may simply be an attribution to mark his stature as a highly respected exponent of Marxist thought and literature.

In direct contrast to these files is another and far lengthier document that was compiled from the first directions towards communist containment issued in April of 1948. "A note on 'Communism in Pakistan', is stated to be submitted in compliance with the Cabinet's direction in case No. 137/17/49".[97] Although no authorship is assigned, it was likely written by a member of the Ministry of the Interior. The note is divided into three parts, the first covering "present conditions in the Provinces,"[98] and is based largely on the reports received from the Intelligence Bureau and partly on the fortnightly Letters of the Chief Secretaries to the Provincial Government, as well as one or two reports received from the Defence Ministry. It is worthwhile lingering on the fact that the present position in the provinces is being relayed by agencies situated at the centre of the federation. Part II goes on to detail somewhat sketchily actions taken by Provincial Governments and the guidance given by the Ministry of the Interior. The final part "brings out the urgent need for action on a positive basis" towards the amelioration of "the living conditions of the people in East Bengal".

As the note goes on to describe the present conditions in the provinces, it is clear that East Bengal is represented as the province of greatest perceived instability owing to communist activity: the movement associated with communism in the province is described as "well entrenched with a widespread and resourceful

[95] For general accounts of practices of intelligence gathering in South Asia, see Andrew Muldoon, 'Politics, Intelligence and Elections in Late Colonial India: Congress and the Raj in 1937' (2009) 20(2) *Journal of the Canadian Historical Association* 160.
[96] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *Communism in Pakistan* (File No 108/CF/48, Copy No 13, 13 April 1949), Retrieved from: National Documentation Centre, Islamabad
[97] Ibid.
[98] Ibid.

organization". Furthermore, "operating on all fronts and using almost all the known methods of propaganda and agitation,"[99] the intention of communists is declared to be to "create unrest among the people and to subvert the present regime." While the prognosis for containing communism in the province is also tied to being able to address "the acute economic distress of the people," the focus on the current threat is tied most determinedly with "the old revolutionary traditions of Bengal which still survive."[100]

The file further elaborates that the carriers of the "old revolutionary traditions of Bengal" are mostly members of the Hindu minority community there. This community "has not been able to adjust itself to the new conditions created by the partition of the country and remains a disgruntled element in the population, prone to disruptive tendencies".[101] It is worthwhile pausing here to fully appreciate what the reference to old revolutionary traditions of Bengal might mean.

There is some possibility that the allusion carries back to the cultural and social movement of reform that has been spoken of as the Bengali Renaissance. Conventionally divided into a pre- and post-1857 period, the idea that early colonial conquest brought change through rationalism and 'modernization' is associated with the first period. The second, lasting till closer to Independence, indicates the adaptations and resistance that were woven through a popularization of more vernacular cultural forms and the creation of a public political sphere. That the renaissance as a whole is being denigrated here is not impossible given that British apprehensions about the emergence of a middle class babu culture of 'mimic men' directed many of their efforts at containment of these groups.[102]

Alongside this there may be allusions to the *swadeshi* movement that resisted the colonial manoeuvre of partitioning Bengal in 1905.[103] In distinct contrast to the politics of "prayers and petitions" associated with Congress, there was a definite celebration of revolutionary violence in these movements that demanded, earlier than

[99] Ibid.
[100] Ibid.
[101] Ibid.
[102] Homi K Bhabha, *The Location of Culture* (Routledge, 1994).
[103] Andrew Sartori, 'The Categorial Logic of a Colonial Nationalism: Swadeshi Bengal, 1904-1908' (2003) 23(1-2) *Comparative Studies of South Asia, Africa and the Middle East* 271.

Congress, that Britain withdraw wholly from India.[104] Although associated also with Hindu revivalism as a political force, the critique of imperial political economies and aspirations to restore a vernacular 'essence' in these movements presents again, an antithesis for what the ML nationalist stance was to become.

Altogether though, the revolutionary tradition is perhaps most upsetting because its existence signals the unextinguished harkening to a transformation yet to come. It is less the acts of the communists that garners them the distinction of being disgruntled and prone to disruption, than the impossibility of convincing communists and particularly Hindu communists that the revolution has already come. The distinction is drawn later in the file that the threat of communism can be divided into "its intellectual and ideological aspect and (b) its economic aspect."[105] Thereafter the ideological aspect is left unexplained.

In spite of the promise of a more thorough diagnosis of the 'problem', what emerges in place of communist threat aligned with an ideological program of any discernible sort is the existence and expression of dissatisfaction: "[l]abour always has one grievance or the other in regard to wages, working hours, living accommodation, and provision of amenities…" The repeated collapsing of ideological and economic 'aspects' presents itself in the fear that such dissatisfaction could spread to susceptible groups including government workers.

In addition, again by reference to Bengal, the early agitations against the central government's decision to enforce Urdu as the language of state to the exclusion of Bangla, spoken by a majority of Pakistan's population at the time, is spoken of as the 'language controversy'. Citing the abatement of this controversy, an Intelligence Bureau report suggests that the 'communists' also lost some ground and confined their activities to "communist propaganda on an academic level" but then turned to more active interference in the affairs of their institutions thereafter. The first clue is that "efficient Hindu Professors and teachers" have established their disloyalty in their own letters and correspondence, a feature that indicates that such letters were being intercepted. It is notable here that such more intrusive techniques

[104] *See generally*, MRA Baig, 'The partition of Bengal and its Aftermath' (1969) 30(2) The Indian *Journal of Political Science* 103.
[105] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *Communism in Pakistan* (File No 108/CF/48, Copy No 13, 13 April 1949), Retrieved from: National Documentation Centre, Islamabad.

of surveillance are in fact being employed against "Hindu professors" while communist agitators, mostly on the Western wing and Muslim, are not targeted in these ways.

When, in the Interior Ministry document, the question of official strategy is posed, such positive action is sketched out as inspired by the Marshall Plan and includes only two further bulleted recommendations, the (limited) subsidy of foodstuffs and a program for 'rural uplift'. The implicit contrast is with the actions of communists – representing them repeatedly as insatiable other than in the face of the overthrow of 'constitutional' governance – whereas the government can offer a way out.[106] Of course by this point, it is less communists and more the Hindus of Bengal who are being described. The perception that the material and the ideological are bound together intractably for those authoring the file gives further credence to the assertion that there is no real solution other than what the government is capable of delivering.

The government establishes this by casting doubt once again, centring the communists and through them decrying the wisdom of bringing anything from a past into the present or the future. As a group, the communists are presented as having been denuded by the fact that many of their members were either non-Muslims[107] or because they are at this moment embroiled in "controversy" as to whether "the Communist Party of Pakistan should function independently or as an integral part of the Communist Party of India". The past that they bring into a prospective future, if not controlled, is a "hopelessly devastated time" in which the uncertainty about the shape of the nation held sway over the Muslim population of the sub-continent.

The last observation that can be drawn out of this particular file is the repeated references to what will happen if such a responsibility is not undertaken with resolve at this moment. The prediction that is repeated is not simply of greater disorder but rather that the communists will go "undercover". That even where things "appear calm" it is because the communists are currently "lying low" in wait for a suitable

[106] Ibid.

[107] Referring to his difficulties in a letter addressed to P.C. Joshi in October 1947, Muhammad Atta, the chief communist worker of the N.W.F.P. explained that since the departure of Hindu and Sikh comrades there were left in the Province only a few Muslim workers who were mostly peasants and were not able to look after the office work.

opportunity.[108] It is only also in the context of a future possibility that Soviet Russia is in any way presented as a threat to the order being crafted in Pakistan. While suggesting: "[t]here is so far no evidence to show that Soviet Russia is abetting or actively helping" in ongoing labour agitations, "future possibilities cannot entirely be eliminated on account of the close proximity of her southern Republics."[109] In the context of simmering geopolitical tensions and, till the writing of the file, with unsettled border issues on all sides, this anxiety is one that is repeatedly proclaimed. What this account has attempted to show are the complex mediations through which the discourse of state sovereignty was being devised in the early Pakistani state and the in work of administrative office holders. While the threat of the communist was invoked repeatedly, the measure of threat was whether or not they were in service of foreign powers and whether or not they aligned themselves with populations who were bearers of a historical disaffection.

This chapter has started to engage topics and issues that will be worked through further in the next chapter. However, to draw out further implications and connections, it is important to explain how this discourse of internal state security built up over the next few years towards an outright ban on the Communist Party in Pakistan. As mentioned earlier, the ban was enforced in the aftermath of the state's 'discovery' that a conspiracy to overthrow the government was being hatched by up to 14 people, including Sajjad Zaheer. The conspirators included an army officer who would become approver, i.e. someone who would be a prosecution witness in exchange for charges being dropped against him, and two Army Generals. Major Akbar Khan and his wife Nasim Khan were purportedly at the centre of the conspiracy and all references to violent overthrow of the Liaquat Ali Khan government were contained in Major General Khan's personal files. While admitted as prosecution evidence, it was the General's contention that these were in fact diary entries. Nevertheless, they presented a loose plan of action towards the overthrow of the government. While Sajjad Zaheer's presence at only a few gatherings that Mr. and Mrs. Khan hosted in their home suggested to the prosecution and high

[108] Government of Pakistan, Ministry of Interior, Home Division, Karachi, *Communism in Pakistan* (File No 108/CF/48, Copy No 13, 13 April 1949), Retrieved from: National Documentation Centre, Islamabad.
[109] Ibid.

functionaries of the state that not only he but also the communist party could be banned on this pretext, it is interesting to note that the 'conspiracy' showed little awareness of or sympathy with what were communist sites of action or concern. Instead, "[t]heir line was that, after the death of the Quaid-i-Azam, there was no leader of his caliber to run the state, and that the civil servants and police were corrupt. The people were not fully ready for a democratic state, but they had great faith in the army and there was no reason why it should not take over the government to run it honestly and efficiently".[110] A particular object of concern for Akbar Khan and many others putatively supportive of his views was that the army should be further nationalized, not that the conditions of the working classes should be addressed.

The irony that is apparent is that the fascist imaginaries of state founded their opposition in still more wilful turns to fascist programs. However, that communists and progressives were enfolded in these turnings has much to do with the deliberate choices of administrative managers about whom to apply the category of 'subversive' to in the early Pakistani state.[111]

[110] Hassan Zaheer, *The Times and Trial of the Rawalpindi Conspiracy 1951: The First Coup Attempt in Pakistan* (Oxford University Press: Karachi, 1998) 166.
[111] Ibid.

Chapter 5: Frontiers, Borders and Bacha Khan

I. Introduction:

Under the conditions of British colonial rule, the knowledge order that gained expression in an ethnographic state was simply not operationalized in the North West Frontier areas of British India. What happened in place was the marking of internal boundaries, between settled and tribal areas, subjecting thereby, the people who resided here to containment through the separation into discrete groups. While the fact that the Pakistani state retained both the settled and tribal areas distinction and enforced the exceptional laws here from its inception has been traced to cultural chauvinism as well as simple expediency, I believe that a constellation of features in fact accounts for the micro and macro decisions that laid a framework of maintaining the frontier space as somewhat exceptional from this point forward.

A brief perusal of critical literature on borders suggests that the violence of bordering practices and their exclusionary operations are embedded in the very processes by which people and territory were earlier colonized. The reordering of borders enacted through decolonization did however, enact new forms of violence that settled the governmental order in determinate ways. As international law and norms pivot the making of firm borders into a necessary condition for the realization of sovereignty, this is experienced as a significant pressure by newly emergent states. A historical legacy of a soft border with Afghanistan and the immediate urgency of defining a hard border with India in the broader context of seeking sovereign equality in the world system propelled military objectives to a position of pre-eminence in the early Pakistani state.

In the account of Partition given in the end of Chapter 2, the aggravated uncertainty of persons living on either side of the border drawn between India and Pakistan was highlighted. The early part of this chapter identifies the sites where such uncertainty boiled over into conflict between the emergent states of Pakistan and India. The site of the greatest such escalation was Kashmir, and early conflict there led to a reference at the United Nations, a territorial division of Kashmir and the marking of a line of control. The problem of Pakistan's border with Afghanistan can be traced back to the drawing of an earlier line of control, in that case between the

Governments of India and Afghanistan through the Durand Line. It is the Durand Line that created the conditions of possibility for governing the North Western regions as a 'frontier space' within the colonial governmental assemblage.

Both of these troubled borders significantly impacted the Pakistani state's approach to the population of the North West Frontier. It relied upon an earlier practice of seeking military recruits from these regions, this time as tribal fighters to be deployed directly against India in Kashmir. Additionally, by defining a standard of loyalty to the state as one that required a disavowal of ethnicity or historical ties that bound the populations of the North West Frontier and Afghanistan, it sought to fortify that border by aggressive policing of subversion amongst the province's residents.

A brief correspondence between the Prime Ministers of India and Pakistan focused on the Bacha Khan, a nationalist leader of sub-continental stature during the anti-colonial Independence movement, provides an indication of the multiple ways in which sovereign order was being worked out after Partition.[1] Khan was lifelong leader of the Khudai Khidmatgar, a non-violent movement that had been forged in the NWFP[2] as a platform for challenging colonialism. Bacha Khan's harsh treatment by the Pakistani state draws the attention of Prime Minister Nehru and other sympathizers in India but also, thereby, draws our attention to how the border is itself being constructed; not only in military encounters and through the forging of treaties but also in acts of renunciation to match the demands of sovereign recognition between states.[3]

This exchange is used here to indicate a point of emergence for the radical claims that Bacha Khan is articulating as a Pakhtoon in the newfound configuration where borders are being drawn with such firmness. In speaking to a state that would seek to represent a community of faith and also simultaneously draw apart populations long united by other ties, Khan meets a hostile audience. Khan's speeches in the constituent assembly as well as the almost immediate response of criminalization from the state's offices demonstrates, in a pointed and concentrated

[1] *Letters between Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948), Retrieved from: National Documentation Centre, Islamabad.
[2] North West Fronties Province, now known as 'Khyber Pakhtunkhwa'.
[3] Nehru's Letter to Liaquat, *Letters between Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948, 3 October 1948), Retrieved from: National Documentation Centre, Islamabad.

form, a number of operations have survived or been reconfigured in the transitions from colonial to post-colonial rule in Pakistan.

By disabling claims to speak of historical continuity and of community, the founding operations of Pakistani statehood by which the ties of nation are shunted out of the state are demonstrated. By treating Khan as a subversive, the possibility of assigning such a status to the larger population is also opened up. Finally, the last part of the chapter looks to the ways in which Pakistan's entry into a world system was influencing the choice to deal with Khan and the Pakhtoon broadly in the manner of containment, criminalization and separation.

II. Borders and Citizens

To understand how bordering practices impart complexity rather than reflect certainties, it is good to begin with the broad problematization that is offered by Etienne Balibar of the border as not only an institution itself but acts as "a condition of possibility of a whole host of institutions".[4] Whereas operational views about borders in international relations have tended to see them simply as the "geographical edge of a state", and the "boundary that delimits state jurisdiction and territory",[5] these are insufficient for understanding the multiple ways in which the border remained subject to contest and flux in these years. As the account in the chapter starts to show, such a plain view of borders is what is immediately represented in the exchanges between Nehru and Liaquat. However, underlying the reliance upon such truisms, a range of practices and techniques aimed at recognizing, seeking recognition for and manning and policing such borders were also being operationalized. Not only at the line that was actualized by control but inwards towards the elaboration and institution of configurations of rule that would encompass the population at large.

Critical scholarly attention has sought to dismantle the notion that borders spontaneously define an interior space for those who are constituted as citizens and thereby establish an untroubled relation between territory and sovereignty by reference to operations of law and dispersions of rights. Situating the frontier in these

[4] Étienne Balibar, 'What is a Border?' in *Politics and the Other Scene* tr Christine Jones, James Swenson and Chris Turner (Verso: London, 2002) 84.
[5] Nick Vaughan-Williams, *Border Politics: The Limits of Sovereign Power* (Edinburgh University Press, 2009) 41.

spaces has sometimes been instructive for enabling a critical perspective on the specific bio-political processes by which to locate governmental authority – to the extent that they are relaxed, reframed or incompletely realized in territorial corridors or zones that precede borders. Central to such views is the inversion of an idea of the people as determining government and in its place the idea that the modern government takes 'population' as the target of its operations.

However, to be thus governed, a population must be known. The problem with the frontier such as was defined through the encounters with colonial rule and then in the encounter with the Pakistani state is that it represented "an elusive, statistically unstable entity", albeit borne out of a neglect that privileged territory over population.[6] However, this focus on the frontier as a space of exception does not address what might be the ambivalence of borders themselves. Again, Balibar suggests the view that borders, as "both internal and external, or subjective and objective" are variably marked by state policies, juridical control as well as "collective identifications and the assumption of a common sense of belonging".[7]

Such differentiated views of how borders are realized and experienced is something that Jayan Nayar ties to the conditions of sovereign order itself. Expressing skepticism about the tendency to treat exceptionalism as aberrant within the conditions of modern sovereignty, he walks the reader through an account that varies considerably from theoretical insights into the nature of sovereign order that grapple with a "metaphysical sense".[8] On the contrary, he sees in such tendencies "an apologia" for "particular configurations of (b)ordering, both of territories and bodies", emblematically undertaken in the acts of colonial conquest.[9]

Thus, for Nayar the "respective ascriptions of the national and the international/global imaginations of political-legal space of belongings and exclusions in/from territory – combine to constitute, as actualities, the different ontologies of subject-beingness."[10] He thereafter goes on to specify a three-fold typology of subject-being, those that exist in varying degrees within every sovereign assemblage.

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[6] Sandro Mezzadra and Brett Neilson, *Border as Method or the Multiplication of Labor* (Duke University Press, 2013) 137.
[7] Balibar, Etienne, 'At the borders of citizenship: a democracy in translation?' (2010) 13(3) *European Journal of Social Theory* 315, 316.
[8] Jayan Nayar, 'On the elusive subject of sovereignty' (2014) 39(2) *Alternatives: Global, Local, Political* 124, 130.
[9] Ibid 130.
[10] Ibid 129.

The normal citizen subject is the ubiquitous "category of modern constitutional arrangements"[11], seen to be in need of restoration in the contemporary world from the assaults of global markets and political rebordering that follows market rationality.[12] Then importantly for the analysis in this chapter, there is the exceptional abject subject who is made subject to borders of negation and incarceration, through bio-polical processes of exclusion from the category of the political – thus representing the condition that imperils the life-horizon of the citizen-subject. The last category that Nayar deploys is the exemptional extra-territorial subject, who, put simply, is a member of the transnational elite. It is them, Nayar asserts, that processes of bordering and biopolitical government operate, freeing up "appropriative license across territories" through "normal containment" of the citizen-subject and the "exceptional bans" of the abject subject.[13]

There are definite resonances of Nayyar's account of the emergence of heterotopic sovereign orders in the configuration that emerges as Pakistan. As the backdrop of the exchange cited between Nehru and Liaqat demonstrates, the establishment of sovereignty is sundered of any presumed moorings in a conceptual order of the sort evaluated in Chapter 3; the brute force of border-making through conquest is laid bare. Situated as these emergent states are in a global sphere when they assume paramount power from colonial rulers, the realization of their own primacy proceeds apace with the recognition they seek and are accorded from other powerful states. A feature that is little studied about sovereignty between states[14], below the assessment of who possesses more or less of it, is how it's capacities are configured by extra-territorial forces. The final part of this chapter seeks to illustrate

[11] Ibid 127.
[12] Nayars analysis is in many ways resonant with other projects seeking to establish a politics of the present through an investigation of 'imperial formations past and present as well as the perceptions and practices by which people are forced to reckon with features of those formations in which they remain vividly and imperceptibly bound". Ann Laura Stoler, 'Imperial Debris: Reflections on Ruins and Ruination' (2008) 23(2) *Cultural Anthropology* 191, 193. See also Trevor Parfitt, 'Are the Third World Poor Homines Sacri? Biopolitics, Sovereignty, and Development' (2009) 34(1) *Alternatives: Global, Local, Political* 41.
[13]Nayar, 'On the elusive subject of sovereignty' (n 8)137.
[14] In the context of international relations, this is studied in the work of Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge University Press, 1996). Other important contributions to contemporary studies of sovereignty include Dina Jadallah, 'Democracy Promotion and Abstracted Sovereignty' (2012) 34(4) *Arab Studies Quarterly* 205; Mark Beeson, 'Sovereignty under Siege: Globalisation and the State in Southeast Asia' (2003) 24(2) *Third World* Quarterly 357.

how some such forces bore upon and interceded in the bio-political processes ranged at all manner of state-subjects in this period.

As mentioned earlier, subsisting between these two is the figure of Bacha Khan, the ostensible subject of the exchange that will be elaborated later. Both because he presents a study of the abject-subject that Nayyar references and that is formed at the historical moment of Pakistan's birth as well as by reason of his own negation of the salience of the borders that were being drawn, it is necessary to give greater elaboration to his life history and his words. Before that however, an account of the border conflicts as well as the conditions of government that were inherited in the frontier space of the North West Frontier province are described below.

III. Pakistan's borders:

Pakistan's territorial accessions at Partition included East Bengal, Punjab, Sindh, Balochistan and the NWFP. Additionally, it included a number of princely states that were called upon to accede to either Pakistan or India by the terms of the Indian Independence Act 1947. Those that joined Pakistan included Swat, Dir, Hyderabad, Lasbela, and others. The Muslim League did not campaign hard in any of these, relying upon geography and the fact that there were Muslim leaders in all as sufficient indication that they would choose Pakistan. However, a combination of British inducement as well as Congress pressure brought even a number of Muslim princes and their majority Muslim populations into the Indian Union. These included Bhopal, Hyderabad Deccan and also, in what remains one of the most explosive unsettled territorial disputes in the world today, Kashmir.

When, after first signing a standby agreement with Pakistan, the Maharaja of Kashmir State then signed an instrument of accession with India, this was a highly contentious act. Kashmir state had a 78 percent Muslim population, much of which was agitating against this possibility. The fact that the Radcliffe line had been drawn to keep certain districts in the Punjab on the Indian side, and thereby maintain a land-link for India to Kashmir led to heavy speculation that Britain was on side with the Indians to deny the wishes of the Muslim majority. For Nehru and his associates, for

any partition plan to be a 'settlement', the "outer limit of India must remain intact"[15]. For him, this determinately included both the NWFP and Kashmir, although when a referendum was announced for the people of the province to make this determination, he was forced to concede its loss to Pakistan.

When the Indian army violently suppressed the Kashmiri revolt against the Maharaja's accession to India in 1947, the Pakistan British commander of the Pakistan armed forces did not deploy troops directly but rather large contingents of 'tribal fighters' were organised and sent to aid Kashmiris in their struggle. The idea of a spontaneous resistance from within Pakistan's territory fueled the idea that 'Muslim' Kashmir needed liberating from 'Hindu' India. Upon a complaint by India to the UN, Resolution No. 47 was passed, calling upon Pakistan to ensure the withdrawal of their fighters. More importantly, the resolution called for the "democratic method of a free and impartial plebiscite" to allow for the exercise of self-determination by the Kashmiri people to decide their future as part of either India or Pakistan.[16]

Flanking the disputed territory was the westernmost reaches of the NWFP. It was from this population that the tribal forces were recruited and deployed into Kashmir. Important for the analysis that follows is an understanding of the ways in which the NWFP itself had a tenuous incorporation into Pakistan at Partition. This inheritance itself dates back to this tribal frontier's separation from the sovereign territory of Afghanistan. In reference to the propensity to assign the state of Afghanistan and the frontier areas a quality that she refers to as "constructed deviance" Nivi Machanada has noted that sovereignty-centric historical study displays a tendency to "under-appreciate peripheries, frontiers, and zones of exceptions."[17] Situating all of this geographical terrain in an account of a periphery allows some greater insight into the technologies of governance employed by imperial governance, both in Afghanistan as well as where it assumed direct colonial rule, as in the Northern Areas, later known as the North-West Frontier.

It then also becomes clearer how the construction of such deviance operates as a mechanism of discourse construction by the early Pakistani state. While this chapter

[15] Qazi Shakil Ahmad, 'Pakistan-India Relations: Some Geostrategic Considerations' (2014) 57(3) *Pakistan Horizon* 13, 14. Krishna Menon, a common friend of Nehru, in his letter to Mountbatten dated 14 June 1947.
[16] *Security Council of the United Nations*, SC Res 47, UNS (01)/R3, 286th mtg (21 April 1948).
[17] Nivi Manchanda, 'Rendering Afghanistan legible: Borders, frontiers and the 'state' of Afghanistan' (2017) 37(4) *Politics* 386, 387.

does not seek to unpack or trace this construction, it is instructive that the idea that the Pakhtoon people were deeply religious was a mechanism of disqualifying the varied ideological currents that ran through the populace by the time of partition and independence. It was the character of being religious and honour bound that was worked upon to make them pliant warriors of Jihad to liberate fellow Muslim Kashmiris.

The Pashtoon dominated territories of the North West and Afghanistan were paying tribute to both the Mughal and the Kabul Kingdoms when in 1849 the East India Company annexed what was described as the Frontier and brought it within the administrative sway of the Punjab province. As successive wars waged by the Company's army in the Afghan frontier[18] were unable to conquer the whole of Afghanistan, in 1893 the Durand line was established to mark a putative border and thereby divide the Pakhtun population of the region. The region south of the Durand Line but north of the Indus River, whose course is said to constitute a "decisive break in terms of cultural patterns"[19] was severed from what came to be Afghanistan. The Northern Territory or the North West Frontier was incorporated in varying ways into the British colonial enterprise.

The making of Afghanistan with stable borders further north was negotiated in stages between the British and the Russians in the same decade in high imperial fashion. Following the conclusion of the Anglo-Afghan treaty of 1921, Afghanistan was maintained somewhat as a buffer state by the British for many decades, with a dictation of foreign policy from within the aegis of the India Office, a term set by the Afghans. A further term of the treaty provided that the Afghans "under- took to respect the independence and the frontiers of India."[20] The preoccupation of the British was to forestall the Soviets from trying to gain access through Afghanistan to its colonial holdings in India.

In its colonial holdings, the British instituted systems of rule that were somewhat amended through time but which always, importantly, used the ascriptive category of 'tribal' to mark the population. However, while the invocation of the

[18] Akbar S Ahmed, 'Colonial Encounter on the North-West Frontier Province: Myth and Mystification' (1979) 14(51/52) *Economic and Political Weekly* 2092.
[19] Mukulika Bannerji, *The Pathan Unarmed* (Oxford University Press, 2000) 28.
[20] Saleem MM Qureshi, 'Pakhtunistan: The frontier dispute between Afghanistan and Pakistan' (1966) 39(1/2) *Pacific Affairs* 99-114, 103.

tribal distinction was a legitimating feature of this governance regime, unlike in the rest of India where caste and religiosity were fortified through operations such as census and through public laws and tenure systems, it has been argued that though 'tribe' was enunciated, it was not quite operationalized.[21] Some have suggested that the "epistemic and on-the-ground engagement with 'tribes' in Afghanistan" and for long in the North West Frontier, "remained cursory and sporadic".[22]

While for Afghanistan this resulted in "a state that was formed by colonial diktat but not occupied by colonial order, as it were", the nature of rule to the South and East of Afghanistan markedly was more bureaucratized.[23] There was a strategic logic in this insofar as the British recognized amongst the populace were to be found "the hardest fighters in the world"[24] and so sought the means to enlist a sizeable proportion in the imperial army. However, this recognition of Pakhtoon valour also fed colonial anxieties about unrest and rebellion, leading in turn to the creation of further divisions which marked not only administrative units, but also jurisdictional bounds against the administration of other laws.[25]

Although established formally as a province in 1904 the region was administered mainly by executive ordinances. Also for administrative purposes the region of the frontier was itself sub-divided into settled areas including Peshawar, and some additional districts, what were termed the tribal agencies, most of which constitute present day FATA.

The Frontier Crimes Regulations Act of 1904 was the mechanism through which settled districts were separated from the tribal areas broadly. The specificity of the FCR was to vest heavy control in the representative of a federal bureaucracy as well as to retain the customary codes, termed *Rewaaj* or tradition, through which crimes had been classified and punishments apportioned. There were allowanced for collective punishment and for tribal councils to determine guilt and punishment. In other words, the mergers of administrative judicial and magistracy powers were all retained in the official and customary codes through which areas came to be ruled. While both providing administration on the cheap for the colonial government, this

[21] Manchanda, 'Rendering Afghanistan legible' (n 17) 390.
[22] Ibid.
[23] Ibid.
[24] Joseph Korbel, *Danger in Kashmir*, (Princeton University Press, 2015) 74.
[25] Ibid.

was also a strategy of protection against the corrupting influences of colonial society: "Encapsulated in their own traditions, the tribes were immune to the debauchery, not to mention the dangerous potential for politicization, latent in colonial modernity". [26]

When, in 1918, the Montagu Chelmsford reforms were proposed for India wide governance transitions, they contained recommendations for limited representative government for all the provinces of British India but the NWFP. Emphatically, "no franchise for Pathans, no elections, no legislature, no ministry — not even elections for local bodies"[27] were allowed, so that the settled area distinction was not sufficient to recuperate any of the Pakhtoon population. Not only were rights not invested in the people who resided here – the frontier was also the space in which the crown could exact the heaviest punishment against those it considered as subversives. Writing in reference to the earliest of the conspiracy trials under colonial rule, Ahmed Salim notes that the condition of apprehending communist conspirators in Peshawar was propitious for the colonial government insofar as information did not easily travel out from there. Although not "wholly forbidden country like Tibet but nearly as formidable" Salim suggests that some official intervention was all that was required to ensure that news would not travel far and incite other 'subversives' and 'conspirators'. [28]

In the inter-war era, it was in the service of "broader imperial peace"[29] that army actions were undertaken within the frontier regions as the last Anglo-Afghan war had resulted in increasing unrest here. The build-up of the army machinery in reference to the Tribal zones is not to be underplayed. When officials debated the military presence that was to be deployed to counter such unrest, the view to broader strategic objectives by citing the "vast difference it would make if we could feel that a million fighting men of the frontier were on our side in the next war" [30]. While recruitment into the imperial army was also picking up pace, the nature of conflict was also growing more acute.

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[26] Benjamin D. Hopkins, 'The frontier crimes regulation and frontier governmentality.' (2015) 74(2) *The Journal of Asian Studies* 369, 380.
[27] Rajmohan Gandhi, Ghaffar Khan, *'nonviolent badshah of the Pakhtuns.'* (Penguin Books India, 2008) 53.
[28] Ahmed Salim, 'Freedom Movement and Peshawar Conspiracy Cases.' (2004) 21(1) *Pakistan Perspectives* 43.
[29] Elisabeth Mariko Leake, 'British India versus the British Empire: The Indian Army and an impasse in imperial defence, circa 1919–39.' (2014) 48(1*) Modern Asian Studies* 301, 309.
[30] Ibid 313.

In 1936, Elizabeth Leake estimates that 5 to 7,000 Wazir tribesmen took part in attacks led by the 'militant Faqir of Ipi"[31] leading to costs up to one lakh rupees per day for the British Indian Army.[32] This included aerial attacks against tribes who played host to the Faqir. This level of conflict led to the maintenance of a forward policy, "the almost complete occupation of tribal territory". [33] When tensions with the Soviets subsided and as nationalist sentiment gained pace throughout India, increased military spending was less tenable as the British intended to shore up their imperial possessions in the sub-continent and elsewhere. In 1937 the rules for establishing representative political institutions at the provincial level were extended to the NWFP and the colonial state stepped back from its tactic of engaging heavy force.

The elections of 1946 established a Congress Ministry in the NWFP under the leadership of Khan Abdul Jabbar Khan. The Muslim League was active in the province and was buoyed by the decision of the boundary commission that there would be a referendum in the province, confident that this area would readily vote for inclusion in Pakistan. Jabbar Khan was the brother of Abdul Ghaffar Khan. While the Congress government of Jabbar Khan had legislated for the abolition of the tribal areas distinction, the British governor of the Province refused assent to this measure.

The brothers together had opposed the idea of a separate Muslim nation in the subcontinent but assumed radically divergent views once, in spite of their efforts to the contrary, Pakistan came into being in 1947. The provincial Congress government felt itself somewhat betrayed by the narrow choice thrust upon the provinces' residents' to vote upon joining with either India or Pakistan and counseled it's voters to boycott such a vote. Of the total voting population, only 55% went to the ballot but amongst them an overwhelming majority chose Pakistan. The brothers themselves had counseled inclusion of the option to declare an independent '*pakhtunistan*', an option that was rejected by the Viceroy. [34]

At Partition the elders and notables of the tribal agencies agreed to accession to Pakistan as long as they would continue to be ruled by their own customary codes

[31] Ibid 309.
[32] Sayed Wiqar Ali Shah, 'Ethnicity, Islam, and Nationalism: Muslim Politics in the North-West Frontier Province, 1937-47' (2003) 62(4) *The Journal of Asian Studies* 1302.
[33] Leake, *'British India versus the British Empire'* (n 26) 311.
[34] Elisabeth Leake, 'The Great Game Anew: US Cold-War Policy and Pakistan's North-West Frontier, 1947–65' (2013) 35(4*) International History Review* 783.

and they as a class would be guaranteed positions as Political Agents[35]. Along with officials appointed from within the federal bureaucracy the Political Agent was a primary intermediary between the government and the population. It is notable that the FCR applied not only to the Pashtun but also to large areas of what became Balochistan.

As Nehru's and the Congresses desire to see the outer line for India as a representation of a secure fortification against external threat went unmet with the inclusion of the NWFP into the territorial expanse of Pakistan, so too the inclusion of Kashmir into the Indian union was perceived as a profound problem for the Pakistani state. For the Pakistani's, the nature of the award, itself not subject to any higher law or appeal as per the terms of the Partition of India Act[36], also destabilized the forms of sovereignty that Jinnah had articulated. Whilst it was agreed that the rulers of princely states would have the option of choosing whether to accede to either India or Pakistan with due consideration to the 'wishes of their people'[37], this resulted in more than one military action. Along with Kashmir, another Muslim majority state, Hyderabad, was eventually included in India. The states of Junagarh and Manavader, located within Gujarat state in India, chose to enter Pakistan but were occupied by India shortly after partition. This was more readily accepted by Pakistan than the Indian accession of Kashmir and Hyderabad given that the populace of these principalities was largely Muslim.

Establishing the liminal status of Kashmir and NWFP at this stage of territorial redefinition is reflective of these regions being situated in a 'frontier-space' for the colonial state. While the colonial state exercised little internal governance in Kashmir state, the NWFP was a space that had created heightened anxiety and also ruled by a governance that were markedly different from that being enacted in the larger expanse of colonial government.

[35] Tayyab Mahmud, 'Colonial Cartographies, Postcolonial Borders, and Enduring Failures of International Law: The Unending Wars along The Afghanistan-Pakistan Frontier, (2001) 36(1) *Brooklyn Journal of International Law* 1.
[36] *Indian Independence Act 1947*(British Parliament).
[37] Ibid.

IV. The Border Contest

The following parts of this chapter allow us to reflect on the particular form of sovereign order that was being implanted, contested, subject to maneuver in relation to the border that was drawn between Pakistan and India vis a vis the events in Kashmir and between it and Afghanistan given the legacy of the Durand line.[38] As shown in the previous chapters, the unplanned nature of the events surrounding August 1947 worked to the benefit of the executive and administrative office holders in the Pakistani state, which in turn compromised the grounds for the founding of a more representative sphere of government. In some ways, this chapter highlights another aspect of this larger story, this time in reference to the ways in which bordering practices and from within those, the institutionalizations of military logic at this time shaped the nature of state authority and sovereignty from this point forward.

The operations undertaken to destabilize Indian claims on Kashmir themselves demonstrated the extent to which the army apparatus that Pakistan inherited at Partition was itself fractured. The decision to undertake the Kashmir shows the fractured nature of an existing chain of command within the young state's army. Akbar Khan, the Major-General who was arrested and convicted through the proceedings of the Rawalpindi Conspiracy tribunal in 1951, was, in 1947 a young lieutenant colonel. Bypassing the British Commander in Chief, one of the many members of the officer corps who has retained by the Pakistani state after August 1947 to serve in the military, he was one of three officers who aided in engineering the battle plan for engaging 'tribal forces' to wage a jihad in Kashmir.[39] While General Messervy opposed the plan, the hostilities remained apace until a cease-fire was brokered and Pakistan was accorded a vital corridor of territory from Kashmir state which it has retained in possession till date. Thus, by 1948, the Line of Control had been drawn to mark a putative border with India and one which allowed for the naming of the portion in Pakistan's control as Azad or free Kashmir. The idea of a

[38] Recent works in reference to the border between East Pakistan and through the Punjab in particular show the multiply contested ways in which borders were in fact being solidified. See Malini Sur, 'Battles for the Golden Grain: Paddy Soldiers and the Making of the Northeast India–East Pakistan Border,1930–1970' (2016) 58(3) *Comparative Studies in Society and History* 804; Joya Chatterji, 'The Fashioning of a Frontier: The Radcliffe Line and Bengal's Border Landscape, 1947-52' (1999) 33(1) *Modern Asian Studies* 185; Sarah Gandee, 'Criminalizing the Criminal Tribe: Partition, Borders, and the State in India's Punjab, 1947-55' (2018) 38(3) *Comparative Studies of South Asia, Africa, & the Middle East* 557.

[39] Aqil Shah, *The Army and Democracy* (Harvard University Press, 2014) 33-34.

line dividing a free and unfree part of a greater Kashmir is one of many tropes that defined a conceptual horizon for sovereign realization in Pakistan thereafter.[40] The goal of liberating all of Kashmir has been used endlessly to enable expansions of the military's share of resources and thereby to swamp out all other institutions of government.

However, in keeping our eye on the events of the early state, it was in the midst of what is the first 'war' fought between India and Pakistan on their respective claims to Kashmir that a particularly interesting letter is written by Jawaharlal Nehru to Liaquat Ali Khan.[41] While the letter specifically draws attention to the ill-treatment being accorded to the Khan brothers it serves here both as a reference point for the rapid changes that were taking place on the plane of inter-state relations as well as the forms of political organization and ideological contest that had been unleashed in the making of these states.[42]

While framed in the language of a sympathetic concern from Nehru for Abdul Ghaffar and Abdul Jaffar Khan, the correspondence also indicates a field of contest in which the states were from their inception engaged. While having lent putative support to each other as worthy of respect and recognition, the unsettled nature of territorial claims harkened also to the conceptual incompatibilities between the different forms of nationalism unleashed not only in overthrowing direct colonial rule but also in the dismemberment of India. As officials in the Pakistani state were immediately beset with the recognition that the territory it was accorded would not be host to all of the sub-continents Muslims[43], the status of Muslim minority in the state of India lent itself to being used for impugning India's more grandiose claims of exercising sovereignty on behalf of an equal citizenry. However, the exchange between government was aimed really at the ensuring survival and recognition within a broader geopolitical terrain. For Pakistan, this indicated another anxiety about its own claims to sovereign order, claims compromised by the relation of proximity and the troubled nature of its borders with Afghanistan.

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[40] Qazi Shakil Ahmad, 'Pakistan-India Relations: Some Geostrategic Considerations' (2014) 57(3) *Pakistan Horizon* 13.
[41] Nehru's Letter to Liaquat*, Letters between Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948, 3 October 1948), Retrieved from: National Documentation Centre, Islamabad.
[42] Pallavi Raghavan, 'The Making of the India–Pakistan Dynamic: Nehru, Liaquat, and the No War Pact correspondence of 1950' (2016) 50(5) *Modern Asian Studies* 1645.
[43] *See* Vazir Zamindar, *The Long Partition and the Making of Modern South Asia Refugees, Boundaries, Histories* (Columbia University Press, 2007).

A figure on whom many of the anxieties of the early Pakistani state came to be fixed is Ghaffar Khan. The affectionate veneration that was popularly accorded to this man is hinted at in Nehru's initial letter and is also relayed somewhat in the titles, Frontier Gandhi and Bacha, meaning King of the Khan's. These venerations also indicate a field of intelligibility amongst him and his followers that transcended forms of solidarity to an impersonal state that Jinnah articulated. Bacha Khan explained his orientation to politics as arising from a filial duty to his ethnic Pakhtoon family, itself a potential challenge to the nationalism that had been articulated by the Muslim League. Recalling Jinnah's vehemence against provincialism and other existing nationalisms from the body of the new state does not wholly however account for the particular treatment that was accorded Khan.

The letter I refer to here is not exceptional insofar as even in the midst of heightened tension and warfare between India and Pakistan, there was a steady stream of correspondence between the Prime Ministers of the two countries. Some of this recently declassified correspondence has been perused to illustrate that the two came close to declaring a no-war pact in the year 1950. Discounting views that suggest that certain antinomies essentially pit the two against each other, "secular vs. religious, authoritarian vs. democratic, a non-aligned foreign policy vs. participation in international defense treaty systems"[44], Pallavi Raghavan investigates the correspondence between Nehru and Liaquat which shows that the two parties also demonstrated "an appreciation of the dividends of an improvement in bilateral ties"[45] for themselves. While Raghavan thereby focuses directly on missed opportunity for realizing such dividends of peace, the correspondence cited below, less voluminous but in some ways resonant with the brokering that she studied, reflects the uncertain and hedged manner in which relations were being carried out between the two. It is almost as though they are seeking the grounds from which to carry out further negotiations, even as they already seem acquainted with the strategies of inter-state bartering, threatening to throw things into the international sphere and engaging the protections of sovereign immunity to accord with dominant logics and custom, wherever it suited them.

[44] Raghavan, 'The Making of the India' (n 42) 1650.
[45] Ibid 1648.

A little more than a year after the Partition Plan was enacted, and when the twists in the story had accorded Kashmir to India and NWFP to Pakistan, an outcome that in no way accorded with the popular will in either unit, Nehru wrote this letter to Pakistan's Prime Minister, Nawabzada Liaqat Ali Khan. Dated October 3rd, it was addressed to "My dear Nawabzada". I quote it at length below:

"I am writing to you after considerable hesitation. Indeed it is only after some weeks of thought that I have at last decided to write to you on this subject. I hesitated because I was afraid that I might be misunderstood. But I feel so strongly on this subject that I am impelled to write to you.

I am writing about conditions in the Frontier Province which, from all accounts, are very bad. I have no desire whatever to interfere in any way in Pakistan's internal affairs. But I would be less that human if I was no powerfully affected by the kind of news that is reaching us of the oppression and persecution of the Khudai Khidmatgars in the Frontier Province and more specially of Khan Abdul Ghaffar Khan, Dr. Khan Saheb and other old colleague(s) of ours, who have played such an notable part in the struggle for the independence of this country. Men of their stature compel respect and if they are treated with cruelty, all those who respect them and have affection for them must necessarily suffer pain".[46]

In contrast to much of the correspondence between the two which is urgent and written to demand immediate attention, Nehru begins by admitting "hesitation" in writing for fear of being misunderstood.[47] While Bacha Khan's history and stature will be discussed in the following section, it is important here to note that the intimacy that Nehru betrays in his address of Bacha Khan is one that is enfolded within the complex politics of the nationalist movement. Shruti Bala addresses the ways in which this relationship was not as seamless as it has been portrayed, as nationalist histories written in India in particular highlight the irregularity of the NWFP's inclusion into Pakistan. While acknowledging that Khan Abdul Ghaffar Khan, "was an active member of the Indian National Congress, chief of the Frontier Province chapter of the Congress and a close ally to Gandhi" she also suggests that seeing the movement that Khan spearheaded as "a provincial off- shoot of Gandhianism"

[46] Nehru's Letter to Liaquat, *Letters between Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948, 3 October 1948), Retrieved from: National Documentation Centre, Islamabad.
[47] Ibid.

disproportionately "privileges the two brief visits of M. K. Gandhi to the North-West Frontier Province as landmark moments in the movement's history".[48] It thereby also ignores salient differences in the ideologies of non-violence as they were articulated in different sites.

Importantly, the time that this letter was being written Khan was himself disavowing the previous association with Congress in ways that suggested not only a necessary distanciation after the outcome of the referendum but also schisms that existed prior to Partition. Even in his employment of Khan, Nehru's letter refers to earlier points of earlier disagreement and these are the points at which the grappling with the nature of an emerging sovereignty can be apprehended.

As Nehru describes the Khan brothers as men of a certain stature, who have played a notable role in the achievement of independence from colonial rule, it is tempting to see his individual act of writing this letter as informed by a pact that was articulated in the making of his independence speech. It will be recalled that in his tryst with destiny speech Nehru makes a reference to Pakistan in the following terms:

"We think also of our brothers and sisters who have been cut off from us by political boundaries and who unhappily cannot share at present in the freedom that has come. They are of us and will remain of us whatever may happen, and we shall be sharers in their good and ill fortune alike."[49]

What might thereby be indicated is that the parcelization of a population within a political boundary in the new state of Pakistan would not dissuade Indians from engaging in other forms of reciprocal relations. Having foretold that the people of Pakistan were thereby robbed also of a freedom that had come to the historical entity of India, the boundary is seemingly called into question. It could be imagined that Nehru sees himself as writing from an exalted plane of freedom that is extended far enough to efface this new border/boundary. However, the letter goes on to cushion any implication that the entity of Pakistan is being called into question.

Recalling his own advice to the Khan brothers at the time of the referendum, Nehru's repeats in this letter that he had suggested that they "accept it fully and to

[48] Sruti Bala, 'Waging nonviolence: Reflections on the History Writing of the Pashtun Nonviolent Movement Khudai Khidmatgar' (2013) 38(2*) Peace & Change* 131, 133-135.
[49] Jawaharlal Nehru, 'A Tryst with Destiny', The Guardian (online, 1 May 2007) https://www.theguardian.com/theguardian/2007/may/01/greatspeeches.

function in accordance with it".[50] Nonetheless, he also escalates his allegations against the Pakistani government, echoing words that Bacha Khan spoke in the Constituent Assembly by writing "The accounts that reach me of the state of affairs in the Frontier Province amaze me, for this appears to be worse than at any time under British rule". [51] However, tellingly, this is the worst that Nehru can say. There is no attempt to seek restitution for the brothers and in fact, it seems that he wishes mostly to respond to allegations by the Pakistani state that the Khan brothers are "being encouraged by us to adopt a rebellious attitude towards Pakistan". [52]

As he admits further along, India itself has been accused by Liaquat as well as the Pakistani press about the 'persecution of Muslims in India' to which his response here is "I do not know what sources of information you may have. But I do know that the situation in India has improved beyond recognition and there is no persecution of Muslims anywhere in India." [53] Nehru goes on to say that 'petty incidents' occur but that they are dealt with harshly. Altogether, Nehru aims to bury such critique by tying it to the "rumour mongering of the Pakistani press which repeatedly states that India has hostile designs upon Pakistani territory". [54] While the effort to define the grand arc of Indian borders was underway, it is from this view, oriented to safeguarding the state against other threats.

Interestingly, Nehru here as well as Liaquat later in his response both tie together the violation of individual rights to conditions of sovereign order, albeit in slightly different registers. As noted in the previous chapter, the establishment of constitutional governance undergirded modes of incorporation for the Indian population. Instances of violence thereby needed to be understood as aberrant, rather than the norm. Here and repeatedly through other exchanges, Nehru foregrounds this conception of domestic order and this brings us back Chakrabarty's insight that the post-colonial Indian state drew a straight line between allowable and disallowed politics within its own borders. [55]

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[50] Nehru's Letter to Liaquat, *Letters between Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948, 3 October 1948), Retrieved from: National Documentation Centre, Islamabad.
[51] Ibid.
[52] Ibid.
[53] Ibid.
[54] Ibid.
[55] *See*, Chapter 3 Chakrabarty discussion.

Seeking and achieving respect in a community of nations required the demonstration of lawfulness within its own borders for Indian state, a standard it could not always abide. The transitions in Congress's own organization could be charted to reflect a movement from " a body with powerful central direction and quasi-military obedience on the part of its subordinate units" to a "feebly co-ordinated loose federation of largely autonomous entities" with state and district level organization.[56] It thereby followed the trajectory of moving from being a 'movement' itself to becoming a political party. While democracy and the governmentalization of rule was the evidence of legitimacy and lawfulness, more recent research indicates also how the centralization of executive power by Nehru defied many of the presumed conventions of Westminsterian democracy, in defiance thereby of its legitimating logic.[57]

More so, the Congress under Nehru was concerned with the spatial expanse of its sovereign order beyond the actions of fortification and annexure that characterized its operations in Kashmir. Significantly, only a month prior to writing this letter to Liaquat, the Indian state had begun a 'police action' against communists engaged in insurgency in the central province of Telangana. Bordering the princely state of Hyderabad, the action in Telangana also provided a pretext for containing communist operations in this state which had defiantly chosen not to enter either India or Pakistan at the time that the Partition Plan was announced.[58] The control of communist elements allowed for a building military operation against the princely state and it's forcible seizure.[59] While the Pakistani's had no extant claim on Hyderabad, they were indeed viewing the acts of the Indians with apprehension that it might be a prelude to a territorial attack on its Eastern border. [60]

Hyderabad itself had occupied a strange pull on the Muslim nationalist imaginary in the years leading to Partition. Altough the Nizamat had been divested of all sovereign powers by the colonial state, the Nizam himself was in some circles

[56] Wyndraeth Humphreys Morris-Jones, 'The Indian Congress Party: A Dilemma of Dominance.' (1967) 1(2) *Modern Asian Studies* 109, 110

[57] H Kumarasingham, 'The Indian Version of First among Equals — Executive Power during the First Decade of Independence' (2010) 44(4) *Modern Asian Studies* 709.

[58] Taylor C. Sherman, 'Migration, citizenship and belonging in Hyderabad (Deccan), 1946–1956.' (2011) 45(1) *Modern Asian Studies* 81.

[59] On communists in India see Calman, Leslie J. "Congress Confronts Communism: Thana District, 1945–47." Modern Asian Studies 21.2 (1987): 329.

[60] Top Secret Report, PM Secretariat (File No 357), Retrieved from: National Documentation Centre, Islamabad.

promoted as a leader of the Muslim's of the sub-continent. [61] While evidently not directed in the same manner as the mercenary operation in Kashmir, there was a percolation of fighting forces across borders that was being policed by denial of specific entry to members of Bacha Khans Pakhtoon brethren. This is detailed by Taylor Sherman:

"*According to Indian Government documents, former members of Hyderabad's army were sent to Afghanistan and to Pakistan's North West Frontier Province (NWFP) to recruit forces to protect the state. In turn, the government of Bombay refused entry to men from the Frontier and the Hadhramaut on the ground that they were expected to travel to Hyderabad in order to enlist in the Nizam's forces".*[62]

In an earlier letter to Liaquat, Nehru had wagered that the two countries must necessarily draw closer together, that without such rapprochement there was only the possibility of existing in a "state of veiled or of open hostility". [63] It is interesting however to trace the arc of this letter in reference to the subject it addresses. Altogether, Nehru treads a careful line of criticizing Pakistan, restoring India and ultimately also acknowledging that the line that has been crossed by the Pakistani state in reference to the Khan brothers is a moral one.

Nehru's sympathies with the two brothers cuts across this morass and yet suggests that some additional concern was being sounded out. As mentioned earlier, this correspondence was not exceptional. In Pakistani governmental files, there is mention[64] of warnings being delivered to the Indians on the extent of troop movements being perceived in Hyderabad and Kashmir. However, at the same time the Pakistanis are alarmed that a cry has gone up from the Nizam of Hyderabad that Pakistan would send in troops if India is to attack Hyderabad.[65] When the Indian

[61] Sunil Purushotham, 'Federating the Raj: Hyderabad, sovereign kingship, and partition' *Modern Asian Studies* 1-42.
[62] Taylor C. Sherman, William Gould, and Sarah Ansari. *From Subjects to Citizens*. (Cambridge University Press, 2014) 98.
[63] Nehru's Letter to Liaquat, *Letters between Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948, 5 January 1948), Retrieved from: National Documentation Centre, Islamabad.
[64] On occasion this is expressed via cable to foreign heads of state, including in a letter dated 8th December 1948 from Liaquat Ali Khan to Clement Attlee.
[65] "It appears that the Hyderabad Govt. had bolstered up the people by saying that a large number of airplanes would come to their help and that Pakistan would declare war the moment India attacked Hyderabad". Prime Ministers Correspondence with the Governor of NWFP, II Chundrigar Top Secret report, file no. 357. Interestingly however, the move towards communist containment in both countries shows evidence of intelligence sharing centered on Hyderabad. For instance in the "Actions Against

attack proceeded without Pakistans intervention as one of several events of this year that opened up space for the Pakistanis to cultivate relations with those foreign powers, including Britain, which had been far less receptive to the new state at the time of its birth. It is with a bit of such self-assurance that Liaquat responds to this letter from Nehru.

In a letter authored from London, Liaquat writes that he "knew the main facts and could have replied straightaway," but that he chose to investigate further to see if there were any "ground for the allegation of cruelty made" in Nehru's letter. Liaquat then writes, "Ordinarily, I would have been inclined to regard a letter on this subject as inconsistent with international usage and propriety but, recognizing as I do the spirit of goodwill which has impelled you to write, I am replying with equal frankness and friendliness." This invocation of international usage and propriety is also interesting here. Correspondence between the two is otherwise replete with calls for action regarding the status of minorities on either side. That Liaqaut is signaling a potential impropriety, the meddling in the internal affairs of Pakistan suggests that the treatment of the Khan brothers is a particularly guarded aspect of these internal affairs. In fact, he very clearly states that "It was not till they were fully satisfied about the highly dangerous and disruptive character of the activities of Khan Abdul Ghaffar Khan and some of his followers, that the Provincial Government decided to place restrictions on them." To suggest that they have been "treated with cruelty" is indeed to use a "harsh and ill-deserved expression".[66]

Liaquat's push-back is not here matched with any particular allegations about the current peril of Muslims in India. However, as Nehru has made clear, the assertion was constantly being filtered out that India was in defiance of a duty to its religious minorities[67]. Similarly, functionaries of the Indian state were often calling

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Communists file" discussed extensively in the last chapter (see n 70, Chapter 4) the following is noted: "The Provincial Government have been warned that according to the Indian Intelligence authorities the communists in India would try to organize widespread sabotage and unrest sometime about June next…They have also been informed that the Communist Party of Hyderabad State wants to spread its tentacles to India and Pakistan."

[66] Liaquat's Reply to Nehru, Letters between *Liaquat Ali Khan and Nehru* (File No 14(3) PMS/1948, 15 November 1948), Retrieved from: National Documentation Centre, Islamabad. All quotations in the para are from this letter.

[67] For instance, in his letter of 5th January Nehru counters: "Any impartial person familiar with the tragic happenings in the Punjab will recognize the complete baselessness of the suggestion that India organized the whole-sale massacre of the Muslim population in any part of its territories".

attention to instances of violence against Hindu's in East Pakistan,[68] a violence that bore the marks of official sponsorship.[69]

This complicated exchange of accusation and counter-accusation played itself out over the territorial expanse of the sub-continent in reference to all the sites where boundaries were being marked. Flowing from an idea, that of separate nations, that had had no firm hold on territory, the impetus towards conquest quickly became one by which acquisition of territory preceded by far the management of populations. This is reflected in the fact that there was a relatively slow and staged incorporation of technologies to control human migration across these borders.

V. Bacha Khan

While the interim government had begun the process of defining who would be a citizen and according to what criteria for India, there were several further acts including the passage of the Constitution and the British Citizenship Act of 1948 that created both the possibilities and the urgency for a domestic legal regime to be defined. In Pakistan, the corresponding field was in the initial year and a half after Partition determined in a set of discretionary policies emanating from several ministries in Pakistan.[70] For example, the foreign minister aligned the unchecked immigration as a threat to the economic integrity of the country. In addition, the possibility that persons coming lately into Pakistan were in the service of the Indian state was highlighted as a threat in case they engaged in espionage activities. The Interior ministry, reflective of the bureaucratic consolidations that were occurring as the initial transformations were being assimilated into the Pakistani state, was increasingly incorporative of such concerns in the elaboration of a permit and then a passport regime under its direct management.

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[68] Nehru himself refers to the violence in Noakhali, East Bengal in his letter to Liaquat 5th January 1948. However, in the public sphere, Nehru's equivocation on the extent of mortal peril faced by Hindu's in East Bengal is was in marked contrast to the official urgency and action to settle Hindu refugees fleeing from the Western flank of Pakistan. See J Chatterji, 'Dispersal and the Failure of Rehabilitation: Refugee Camp-dwellers and Squatters in West Bengal' (2007) 41(5) *Modern Asian Studies* 995. See also Uditi Sen, 'The Myths Refugees Live By: Memory and History in the Making of Bengali Refugee Identity' (2014) 48(1) *Modern Asian Studies* 37.

[69] Richard D Lambert, 'Religion, Economics, and Violence in Bengal: Background of the Minorities Agreement' (1950) 4(3) *Middle East Journal* 307.

[70] Vazira Zamindar, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (Columbia University Press: New York, 2010) several accounts of exchanges between the two ministries.

The articulation of municipal law was ultimately the plane on which the control of population flows between borders was settled with the making of the Indian Citizenship act in 1955 and the Pakistan Citizenship Act in 1951. A prior bilateral treaty the Nehru – Liaquat pact[71] also did away with the salience of the mutual hostage theory that had had some play in the lead up to partition. The mutual hostage theory is one that, although built on doctrinally shaky foundations expressed the view that the sizeable Hindu minority in Pakistan and the Muslim minority in India would be the guarantee of the others treatment of 'their' minorities.[72] As borders came to be more firmly established, with checks on the flows of people and things across them, this too became a quaint fiction. However, here, it is worthwhile to resist the tendency to see it as only that. It is intriguing in itself for representing a view of sovereign order in which the border makes possible inter-state relations but does so with a view to destabilizing claims of exclusivity for either governmental body. At the early stage that Nehru and Liaquat exchanged the letters detailed here, it is in some ways this dance of deterrence that each is performing. However, increasingly, the hostages had no recourse to their coreligionists protection, just as Khan had no protection from the exactions of the Pakistani state from either India or Afghanistan.

Social Reformer

"In any case, what is significant to note is that for the exceptional subject, territoriality defines not a jurisdictional limit, borders operate not as a halt; rather both territory and borders serve as opportunities and expedited gateways that enable the transcendence, both conceptually….and materially, of territorial thought".[73]

Abdul Ghaffar Khan was the son of a relatively large and prosperous landowner in the Uthmanzai district of the NWFP. Having traversed through an early religious education and then given the further chance to study at a missionary school

[71] *Nehru-Liaquat Agreement,* Agreement Between the Governments of India and Pakistan Regarding Security and Rights of Minorities (New Delhi, 8 April 1950)
[72] Philip Oldenburg, 'A Place Insufficiently Imagined: Language, Belief, and the Pakistan Crisis of 1971' (1985) 44(4) *The Journal of Asian Studies* 711,719.
[73] Nayar, 'On the elusive subject of sovereignty' (n 8) 129.

in Peshawar, Khan returned to his home district at a young age to counsel social reform and uplift amongst fellow Pakhtoon. Even in this, his distinctly non-political phase, the colonial surveillance apparatus identified "potentially radical political implications of such mobilized self-help"[74] and had him arrested.

In 1924, Abdul Ghaffar Khan had set out for religious pilgrimage and spent many years on what he considered to be a spiritual quest. While his journeys took him through a familiar route to those who returned with communist affiliations, he was not transformed in these ways. He did however develop a more thoroughgoing critique of the manner in which the British had marked boundaries between Afghanistan and British India, as well as between tribal and settled areas, thereby separating the Pakhtoon from each other. He also objected to the denaturing of Pakhtoon society by the establishment of a collaborationist class in a hierarchy of 'Big' and little Khans for managing this 'restive' population.[75]

A series of encounters with heavy handed British actions in the Frontier ensured that Khan had not even the residual amount of veneration for the civilizational superiority that the British claimed over the natives.

Khan would later recount a conversation with a British police officer as betraying the rot at the heart of colonial rule:

"Why did you arrest me?" Khan asked the British commissioner.

"I was investigating your case," the commissioner replied briefly. He was writing a report and did not bother to look up.

Khan persisted. "Why didn't you investigate my case before you had me arrested?"

"I decide whether to investigate first or to arrest first."[76]

Like many others across the sub-continent, Khan's direct encounters with the colonial apparatus of rule was indicating to him it's fundamental lawlessness. Not only was the racialized rule of difference the problem, but additionally, the system of rule itself, with its interlocking maze of prohibitions was alienating in its logic and oppressive in function.

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[74] Banerjee, *The Pathan Unarmed* (n 19) 53.
[75] Banerjee, *The Pathan Unarmed* (n 19).
[76] Eknath Easwaran, *Nonviolent Soldier of Islam: Badshah Khan, A Man to Match His Mountains* (Nilgiri Press, 1999) 82.

Khan's confoundedness at the system of rules that the British operated was noted by a prominent lawyer employed for his defense after an instance of being arrested, some months after the delivery of a speech in which Khan presented a call for the British to cease their occupation of India. Bhulabhai Desai relays Khans reaction to his arrest:

The first question after his arrest that he asked me as counsel was, "If truth can be a defence to the charge I am quite prepared to stand the trial and prove every single statement that is made in that speech." And indeed it amazed an honest Pathan to be told that he could not, that he might bring the Government into contempt and redicule even if he told the barest truth. [77]

Desai relayed both the colonial states particular antipathy[78] for Khan and Khan's bemusement at British law on the floor of the Central Legislative Assembly of which he was a member. The topic being debated was Section 124A of the Indian Penal Code, increasingly up till the end of formal colonialism, the mechanism for suppressing dissent.

It was in 1929 that Khan and several others founded the Khudai Khidmatgar (servants of God). In contrast to the rampant stereotyping of the Pakhtun as fierce, atavistic and as bound to Islamic orthodoxy, the most potent political force to rise in the Frontier in the lead-up to Partition was dedicated to non-violence, self-reform and an ethic of renouncing all forms of collaboration with foreign rule, all in an Islamic idiom. With a cross-section of support amongst peasants as well as the small urban intelligentsia, the Khudai Khidmatgars, would enter into alliance with the Congress from the start and their leader, Abdul Ghaffar Khan, come to be known throughout India as Frontier Gandhi. [79]As the leadership was well-known to the British, they were regularly subject to prosecution and incarceration. The rank and file were subjected to extreme forms of violence when, while staging a non-violent sit-in in support of Gandhi's salt marches they were fired upon in Peshawar's Kissa Khawani bazaar in

77 Speeches of Bhulabhai J Desai, 1934-38 (GA Natesan & Co, 1938) 101-103.

78 Ibid. In his speech, Desai refers to the 'double misrepresentation' of the British that Khan and the Khudai Khidmatgar revealed. The first, the representation to the Pathans that if they were not protected by the British, they would be swamped out by "Hindu Raj" and the second to "the rest of the Indians" who were told that "if the strong hand of Britain is not here (sic), the uncivilised Pathans would swamp you". (p-103)

79 *See generally* Gandhi, *Ghaffar Khan: Nonviolent Badshah of the Pakhtuns* (n 27). Also Banerjee, *The Pathan Unarmed* (n 19).

1930. This act of official state violence took the greatest number of lives of any incident since the Jallianwala Bagh massacre of 1919.

Due to choice of uniform party members were called the red shirts and have often for this and other reasons been lumped with other leftists and communists. However, there was a great deal to distinguish the party from communist orthodoxy; there was no simple class struggle at play and certainly not one in which nations would wither away. On the contrary, Khan and the Khidmatgars sought inspiration from within lost traditions of more egalitarian social organization within Pakhtoon history. Even his non-violence was inspired by seeking to undo the particular divisions and ascriptions onto Pakhtoon life that he faulted the British for having enforced. Nothing the spirals of intra-communal violence that had taken many lives in the province, his counsel was for the Pakhtoon to disavow older as well as new customs based on honour and revenge. It was, moreover, by recognition of the fact that for the British, a non-violent Pathan was more dangerous than a violent one that the principle of non-violence came to be more firmly avowed.

Writing about the more famous prophet of non-violence, Uday Mehta and Faisal Devji both offer assessments that emphasize the centrality of 'not fearing death' and 'refusing to treat life as an absolute value' in Gandhi's political philosophy. For Mehta this is Gandhi's "most radical intervention into Indian modernity"[80] and for Devji this allowed Gandhi to "accomplish his aim and spiritualize politics".[81] While there are distinct resonances in Khan's political practices, the references to Islam and to the Pakhtoon nation cannot be dismissed as mere idiomatic translations of these shared core values. In fact, whereas Gandhi's life and politics do not survive long after partition, Bacha Khan's encounter with independent nationhood is the plank for a more fleshed out political thought in which, counter to Gandhi's creed, security of life is a central tenet. Also, in contrast to an assessment of Gandhi's ethic which has been studied more often by privileging the "the so-called principled, ideological stance on nonviolence over the actual, physical acts of nonviolent protest" the "the risky and contradictory realities of protest and

[80] Uday S. Mehta, 'Gandhi and the Burden of Civility,' (2014) Raritan: A Quarterly Review 33, 37–49
[81] Faisal Devji, *The Impossible Indian: Gandhi and the Temptation of Violence* (Cambridge, MA: Harvard University Press, 2012)

mass mobilization" particularly in the terrain that Khan operated are thereby ignored.[82]

Frontier governmentality's allowance for disproportionate force to be exercised is the unreceptive terrain which Khan's form of non-violence was articulated. It was in the aftermath of the Peshawar Bazar massacre that the KK found ever-more supporters. The extent of support surprised even Gandhi, who, on one of his trips to the Frontier, could not suppress his skepticism as to whether the Pakhtoon were in fact capable of maintaining a fidelity to non-violence.

Khan and his brother would however feel themselves betrayed by the Congress party when they were counseled to accept the holding of a referendum in which the option of an independent Pakhtoonistan was not offered. Congress maintained support in the province, especially as Dr. Khan Saheb, Ghaffar's brother, was Chief Minister at the time of the referendum even as the provincial party no longer functioned as an offshoot of the national Congress in India.

In September of 1947, just a month after Pakistan's birth Bacha Khan and his affiliates met near Peshawar to swear allegiance to the new nation and, on Jinnah's invitation, he also attended an early session of the Constituent assembly where again he publicly swore oath to Pakistan. Khan refused however Jinnah's invitation to the join the ML.

Khan's few recorded speeches to the Constituent Assembly as well as the response they engendered start to hint at the logic of the Pakistani state in undertaking to silence him. While these geo-political dimensions are discussed further below, these tracts betray seamlessly the manner in which the Pakistani state played its role in "the emergence of particular 'regimes of truth' concerning the conduct of conduct, ways of speaking the truth, persons authorized to speak truths, ways of enacting truths and the costs of so doing"[83], made all the more apparent because the rejoinders to Khan are all the more vociferous where distinct imaginaries about sovereignty and the border are invoked.

Ghaffar Khan on 5th March 1948 spoke at length on a cut motion introduced by a minority member of Assembly from East Bengal, Mr. Direndra Nath Datta, to

[82] Bala, 'Waging nonviolence' (n 48) 133.
[83] Jeremy W Crampton, and Stuart Elden (eds), *Space, Knowledge and Power: Foucault and Geography* (Routledge, 2016). Here quoting Nicholas Rose.

reduce expenditure on Cabinet. (Datta again would try to move a motion for Khans arrest to be discussed in the Assembly in December of that year) Datta shared much with Khan, having himself been an educationist and dedicated to social welfare early in his public life. Interestingly, in concluding his speech Datta says "I must express my feeling that persons at high level who are responsible for the efficient administration of the country are driving the country to such a condition that the lot of the common man is becoming more miserable every day. I am afraid it will soon reach that stage when the limit of patience will be reached and the people will rise in revolution."[84]

Khan, when he spoke, started by saying that he does not mean "by this motion to run down the Government of Pakistan, nor to pick holes in it".[85] Instead, he desires to "throw some light on and remove the misunderstandings created against me and my group by responsible men of this Government"[86]. As he proceeds, this early distanciation does not fully modulate the rest of his speech. However, whereas in Datta's speech he had repeatedly spoken of the ill-treatment of Hindu's, Khan here speaks of having recently counselled his fellow Pakhtoon to 'let' the government of Pakistan function as, in comparison with the 'the foreign yoke' of the British it is now preferable that the "Muslims have their own Government".[87] However, the crux of his speech many paragraphs later is to say "For about seven months I have been watching the administration of Pakistan, but I could not find any difference between this administration and that of the British".[88] The vices that could be forgiven foreigners, states Khan, are harder to forgive for Muslims – corruption, flamboyance and repression are what he refers to repeatedly.

The counter for Khan is the lived example of Islam's early rulers who purportedly displayed the frugality and humility that befits Muslims. The grandeur of an early Islamic empire is related to its internal management in which the basis of inclusion was the acknowledgement that "the physical wants of all are alike".[89] It is

[84] Pakistan National Assembly Debates, 1st Parliamentary Year, 1st Session, 5th March 1948, pp 238-243, 238.
[85] Ibid.
[86] Ibid.
[87] Ibid.
[88] Ibid 239.
[89] Ibid 242.

to this that he ties the question of civilization and culture, so that collectivities must also be at par in the union.

Bacha Khan, unlike many other of the key figures in the movement towards independence was not a lawyer, nor was he earlier ever an avowed politician. In his clarification of the misunderstandings that plagued his movement, he noted in his speech the compulsion by which his foray into politics was undertaken: Who was responsible for converting this social movement into a political one? The British. Who associated us with the Congress? The British. The two rhetorical questions are intriguing as not only the fora of struggle but also the choice of alliances that were entered are tied to the pervasive repression of the British in India. While Khan's early emphasis on self-discipline and self-improvement survived into the formation of the KK, as betrayed in the oath that members swore, Khan's commitment to politics throughout the post-independence era can be seen as tied to a more integral view of a correct politics.

There are two quick rejoinders to Bacha Khan's monologue at the constituent assembly that bring us back to his relationship with the state and also to the broader theme of the state's knowledge of its population. The first, as Bacha Khan is speaking about the rising provincialism amongst different ethnicities, including but not limited to the Pakhtoon, he asks the question "who created these conditions and why?" He pushes further by saying "In this world one thing is a cause, the other is effect. It is the law of nature that nothing comes into existence without a cause".[90] At this point the PM interjects to say "They have been created."[91] Liaquat's statement is in no way exceptional; statist logic frequently have resisted recognizing these multiple, entangled identities, instead promoting specific state-driven identities.[92] Yet, the fact that the constructedness of one identity, that tied to ethnicity, was apparent to Liaquat whereas the other, the definition of a state subject was already somewhat naturalized provides an opening to reflecting the multiple modalities of bordering and the mode of their apprehension. In the first instance, for Liaquat to respond 'they have been created' in the first instance is to disavow a historical claim of separation, of particular exploitation and of filial

[90] Ibid 240.
[91] Ibid.
[92] Elisabeth Leake and Daniel Haines, 'Lines of (In) Convenience: Sovereignty and Border-Making in Postcolonial South Asia, 1947–1965' (2017) 76(4) *The Journal of Asian Studies*, 963.

knowledge amongst the Pakhtoon. It is therefore a technique of disabling certain forms of knowledge from any official recognition.[93]

John Torpey famously investigates the modularity of a statist expropriation of the 'legitimate means of movement' of the population as a concomitant feature of drawing borders.[94] This is also, in turn an expropriation of all other identities, or at the very least their demotion in favour of a more singular identity as residents or citizens of that state. Yet, such a determinate relation ascribes singularity insofar as the purely instrumental connection between a state and a territory is identified.[95] It does not identify, from the perspective of a wider set of actors either the complex temporalities associated with bordering as per Adrian Little[96], nor the 'imaginaries and autochthonous practices of space' that Achille Mbembe highlights as accounting for the lived experience of borders.[97]

Throughout Bacha Khan's life he clung to an indelible belief in the virtue of an ancient Pakhtoon race and culture, when divested of the corruptions that had been wrought by foreign influence, "We are one people and ours is a land"[98] he states here. Khan is not here nor anywhere denying that there is an ahistorical unity to the Pakhtoon nation. By situating them in a circuit of decline and revival, he is also thereby investing them with a particular agency but one that is forged not in reference to a juridico-legal construction of sovereignty. Rather, it is borne out of an everyday participation in the customs and rituals of a community. His Catholic adherence to Islamic rituals has been noted by commentators as the grounds from which he derived a sense of religious universalism.

When later asked by Liaquat in the Assembly, "Is Pathan the name of a country or that of community?" He answers "community" but immediately also says "we will name the country as Pakhtoonistan".[99]We can of course surmise that first limb of his answer was acceptable to Liaquat but that Khan's seeming insistence on

[93] Pakistan National Assembly Debates (n 86) 240.
[94] John Torpey, 'Coming and going: On the state monopolization of the legitimate means of movement' (1998) 16(3) *Sociological theory*, 239.
[95] JA Mbembé, and Steven Rendall. 'At the edge of the world: Boundaries, territoriality, and sovereignty in Africa' (2000) 12(1) *Public culture*, 259.
[96] Adrian Little, 'The Complex Temporality of Borders: Contingency and Normativity' (2015) 14(4) *European Journal of Political Theory* 1.
[97] Mark Beissinger and Crawford Young, *Beyond State Crisis? Post-Colonial Africa and Post-Soviet Eurasia in Comparative Perspective* (Woodrow Wilson Center Press, 2002) 56.
[98] Pakistan National Assembly Debates (n 86) 241.
[99] Pakistan National Assembly Debates (n 86) 241.

giving it determinate political possibility necessitated a labelling of equal valence, of being subversive and disruptive of a political order – eventually, it was the secessionist 'threat' that the state would replay in court and in public propaganda to keep Khan interned. While there is no determinate answer of how Khan could have meant something other than that the Pakhtoon were seeking status as members of a sovereign state, there is a glimmer of possibility that the contingency of borders themselves is what he references here.

Khan rapidly goes on to suggest that an ahistorical unity has been forged amongst Musalmans from Khyber to Chittagong by those who would use Islam but know nothing of it. For him, once again, the incompletion of the project of sovereignty is in both seeking to tie together different communities but betrayed by commonalities that leaders could have availed, if manifest in practice. This recalls in a manner the exercise that Jayan Nayar invites the reader to engage – of thinking through the ways in which "to be human…does not require ontological birth into the bordered biopolicial diagram of the political in order to flourish".[100] Like Nayar who sees possibilities "that are grounded in the pasts and presents of (extra)ordinary everydayness of survival and being together'[101] Khan too is invoking the possibility of seeking to contest the imposition of borders not as fact but perhaps as transitions that must of necessity be "simultaneously backward and forward looking"[102]

Nonetheless, the urgency of the state in its drive to implant control was so great, that a further appropriation was markedly underway – so that when Khan rhetorically poses the question of "how far is it against Islam…constituting a belt of all the Pathans who were disunited".[103] Two cabinet ministers together counter "This is against Islam!"[104] And "you will join Afghanistan". Khan's response is to say "we can only join you and not Afghanistan. You have greater claim on us than Afghanistan."[105]

These exchanges coincided with an official approach by the Afghans, armed with a treaty demanding "autonomy for Pakistan's Afghans" and repudiating the

[100] Nayar, 'On the elusive subject of sovereignty' (n 8) 138.
[101] Ibid 138-139.
[102] Adrian Little, 'The complex temporality of borders: Contingency and normativity' (2015) 14(4) *European Journal of Political Theory* 1, 4.
[103] Pakistan National Assembly Debates (n 86) 240.
[104] Ibid.
[105] Ibid.

validity of the Durand Line[106]. While holding firm on the legality of the Line, the Pakistani government at the level of inter-state dialogue signaled an intent to negotiate further towards allowing some limited autonym for the population within its borders that straddled the Durand line.

What bore out in actions directed against Khan particularly was that the state was unwilling to accord any space of maneuver or allowance for negotiation with the Pakhtoon population itself. The least implication of self-determination was a problem – a problem for waging the war in Kashmir and for repelling Afghan claims on the territory and on a population. The frailty of the Pakistan project that Khan indicted was itself reflected in the state's willingness to maintain the space of the Frontier as an exception. However, in the juridico-legal terrain, the retention of the FCR as well as the separation of settled and tribal areas within the territorial expanse of the Frontier province suggested that it was a contest not in terms of normative understandings of place, but of the political implications that flowed.

For Khan, his testimony about the nature of political change that Partition had wrought, clearly did not accord with the truth that the state was seeking to impart. In June 1948, while travelling through the province to counsel acceptance of the Pakistani state amongst the populace, he was arrested and charged with sedition and "intended collaboration with the hostile Faqir of Ipi", Badshah Khan said he was not guilty but did not offer a defence. Ten months after the departure of the British, Badshah Khan was sent to Montgomery Jail in West Punjab for three years' rigorous imprisonment.[107]

His incarceration itself was not thought enough for restraining Khan's challenge to the state. In a file titled "Detention of Khan Abdul Ghaffar Khan" a cabinet decision dated duly 21'st 1948 declares that Khan "who is at present lodged in the Rawalpindi jail" should be transferred to "a jail in East Bengal".[108] The letter addressed to Iskandar Mirza goes on to clarify that "the proposal is, of course, conditional upon our being able to find suitable means of sending him to East Bengal" and whether in fact he might travel from "Karachi to East Bengal by the sea route in a

[106] Ibid.
[107] Gandhi, *Ghaffar Khan: Nonviolent Badshah of the Pakhtuns* (n 27).
[108] Government of Pakistan, Cabinet Secretariat, Karachi, *Proposal to transfer Abdul Ghaffar Khan* (23 July 1948), Retrieved from: National Documentation Centre, Islamabad.

troop transport". [109] Whether or not travel contingencies were at play is unknown but a further decision from the end of August of the Cabinet determines that Khan should in fact be transferred to Baluchistan. However shortly after that an "office Memorandum" accepts the chief Commissioner of Balochistan's concerns that "there is danger of NWFP and transborder tribesmen infiltration" into Balochistan if that were to be the site of his further incarceration.[110] Seemingly Khan had already been transferred from Rawalpindi to Montgomery and that is where he continued to be for the remainder of his three-year spell of incarceration". His spells of incarceration would extend much longer than this; in 1962 Amnesty International would name him political prisoner of the year.[111]

Having in any case faced much meddling in its workings, Jaffar Khan's government was dissolved in the NWFP shortly after the referendum. In his place, Abdul Qayyum Khan, a recent recruit to the ML formed a cabinet and ruled for the next 6 years. Qayyum succeeded in assaulting the KK to such an extent that it could never thereafter be revived in its initial form. It is said that this as well as his institution of a ban on a book he himself wrote in 1945 eulogizing Bacha khan and the KK are his most notable legacies. The book ban remains in place to date. [112]

VI. International Alliances

In a letter from Prime Minister Clement Attlee to Liaquat Ali Khan, the former refers to "another Iron Curtain" being imposed in the world, this time in India. Further, behind the curtain, "evil forces which were responsible for genocide in East Punjab, Delhi and the surrounding areas" are now being let loose to undertake atrocities against Muslims in other parts of India. [113] He also writes that this,

[109] Ibid.
[110] Government of Pakistan, Cabinet Secretariat, Karachi, *Office Memorandum: Internment of Khan Abdul Ghaffar Khan* (1948), Retrieved from: National Documentation Centre, Islamabad.
[111] Amnesty: An international movement for freedom of opinion and religion (1963) Journal of the Amnesty Movement 1. Available online: https://www.amnesty.org/download/Documents/204000/nws210011963en.pdf.
[112] Manzoor Ali, 'Gold and Guns: Abdul Qayyum Khan's Journey to the Centre of the Frontier', *The Express Tribune* (online, 1 August 2014) https://tribune.com.pk/story/742763/gold-and-guns-abdul-qayyum-khans-journey-to-the-centre-of-the-frontier/.
[113] Government of Pakistan, Correspondence with the High Commission of the UK, *Clement Attlee's letter to the PM* (File No 14(4) PMS/48–I, 30 October 1948), Retrieved from: National Documentation Centre, Islamabad.

happening within a Commonwealth member state, is "in the eyes of all who look upon the Commonwealth with the hope of peace and freedom in the word, tragic indeed."[114]

This charged letter by Atlee in October of 1948 signals in some ways the fulcrum of Pakistan's efforts to destabilize India's claims at exercising a more legitimate sovereignty in the world community. Between Liaquat Ali and his advisers, it was a serious concern that that the Indians are "active and serious, whereas we are verbose and inactive", like a "car stuck in sand".[115] These words of the Agha Khan, one of the original founders of the Muslim League were a part of a package of advice to Liaquat that Nehru's decisive and serious declaration of intention to become a republic and remain neutral in case of further world war necessitated Pakistan's drawing closer to Western powers while the country remained scientifically and economically underdeveloped. This is advice that the Pakistani government seriously entertained, although its mode of accomplishing it was not bereft certain forms of intermediation and maneuvering as will be shown in the following part.

Once again, not only India, but also the Afghans were perceived as necessitating this form of extraversion into the system of alliances especially as the Afghan King, Daud followed a line of publically fomenting irredentist claims in the North West Frontier province amongst ethnic Pashtun along the Pakistani side of the Durand Line.[116] This was of great consequence to Western powers. The imperial Great Game had long seen the British and Czarist Russia engaged in battle along a moving frontier for control of Central Asia including Afghanistan, always somehow explained as arising from the Russian drive to secure access to warm water ports in the Indian Ocean. This game was willed into continuing existence even with the withdrawal of the British from India. Although the United States in some ways took over manning the region against Soviet expansion, it had neither the surveillance

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[114] Ibid.

[115] Government of Pakistan, Cabinet Secretariat, Karachi, *M.A.H. Isphahani writing from Washington regarding communism in Asia* (20 June 1949) Retrieved from: National Documentation Centre, Islamabad.

[116] United Nations. Mr. Hosyan Aziz, the Afghan representative to the U.N. General Assembly said: "This unhappy circumstance is due to the fact we do not recognise the old North West Frontier Province as Part of Pakistan so long as the people of the North West Frontier Province have not been given as opportunity free from any kind of influence to determine for themselves, whether they wish to be independent or to become a part

Surendra Chopra, 'Afghan Pakistan Relations: The Pakhtoonistan Issue,"' (1974) 35 The Indian *Journal of Political Science* 312. Hafizullah Emadi, 'Durand Line and Afghan-Pak Relations' (1990) 25(28) *Economic and Political Weekly* 1515.

apparatus on the ground nor other tools of diplomacy to devise a coherent early policy. It seemed to rely exclusively upon the British for its knowledge of these regions.

While the US extended recognition to the Durand Line, it was unwilling to alienate the Afghan government for fear of driving them to seek a closer relationship with the Soviets. The US's ambivalence towards Pakistan's overtures was traceable to this uncertain relationship and it was already providing far greater aid to the Afghans than the Pakistani's could secure until much later.[117]

American's had shown themselves to be somewhat ambivalent about the disorders of decolonization and the status of newly independent states[118]. The earliest US impressions of Pakistan were of a state struggling to control a disparate population; it is interesting that in retrospective accounts of diplomats as well as in the cables that are housed in the Pakistani archive, the impact of elite conviviality seems to have borne fruit for the Pakistani side. For Pakistani elites alliances with foreign powers other than the British signaled arrival on the world stage and were imagined with the guarantees that formal sovereign equality conferred. At Partition, the formal relationship with Britain had grown fraught; this had both internal and external dimensions, many stemming from the division of territory and assets at Partition, which the British had overseen.

However, the conflict which took off with 'tribal fighters' being deployed to join in indigenous Muslim Kashmiri resistance to the accession was the testing ground for British interest in the region. Eventually opinion was settled on supporting Pakistan. The opinion was now formed that India had not 'played fair' in the division of assets between the two countries. [119] Additionally, the British from the perspective of a great power seeking to retain other imperial possessions, particularly in the

[117] Elizabeth Leake "The Great Game Anew US Cold-War Policy and Pakistan's North-West Frontier, 1947–65" (2013) *International History Review*.
[118] They had earlier happily prosecuted a range of freedom fighters, many of them of the Ghaddar movement who were long settled on American soil. Doing so also engendered protest and resistance from local anti-imperialist forces who were quick to remind the US of its own historical legacy of freeing itself of the shackles of foreign domination.
[119] Ayesha Jalal, *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence* (Cambridge: Cambridge University Press, 1990), 47. Only 17.5% of assets of undivided India went to Pakistan

Middle East, understood that support for a Muslim nation was the preferable of the two options[120].

The British enlisted Pakistan in a Joint Intelligence Sharing community centred upon the British and the Americans. Although the Pakistani's were receptive to this inclusion and eventually the contours of the Inter-Services Intelligence Agency were borne out of this alliance, the Pakistani's were shut out of intelligence sharing on the other side, by the Americans.[121] That the Pakistani's are quite aware of being left out of Category A sharing is betrayed in some of the files and in the increasingly terse treatment meted out to British army officers within Pakistan's employment.[122]

However, as was the case for many post-colonial countries that gained their independence in the conditions of the cold-war, the brokering that Pakistan engaged was in threatening to ally themselves more closely to the Russians. In a letter by Pakistan's first High Commissioner to the UK, Habib Rahimtoola to Liaquat, he conveyed that he had been questioned by members of the British Cabinet about Liaquat's impending visit to Moscow. While replying that it was "a normal part of our policy of friendliness towards all Nations" he also suggested that it was up to Her Majesty's Government to demonstrate "the value of remaining as strongly allied to the Western Powers."[123] Directly to Attlee, the High Commissioner communicated "that if the U.K. did not feel like giving us the necessary military equipment and stores, we may be forced to obtain such supplies elsewhere, and even from Moscow, because the existence of Pakistan over-rule all other considerations".[124]

The maintenance of the frontier with Afghanistan was a tricky part of this combination. The need to retain 'our tribals' as loyal to Pakistan was woven through with a particular inherited knowledge of tribal culture and characteristics, at odds with

[120] Foreign and Commonwealth Office (FO 371), Retrieved from: National Documentation Centre, Islamabad.
[121] Owen L Sirrs The perils of multinational intelligence coalitions: Britain, America and the origins of Pakistan's ISI, (2018) 33(1) *Intellegence and National Security* 36.
[122] Ibid 42. While Sirrs notes that US documents reveal that the Pakistani's were prone easily giving over sensitive information, this was not what I discovered in the course of my research. For instance, in a Letter from Office of the High Commissioner for the UK to PM Liaquat dated 4'th April 1949, he requests the Pakistani's to share any information on the 'communist menace'. On the back of the letter in a handwritten note indicating that the letter had been directed to the Intelligence Bureau and the following written: "HPM may wish to acknowledge HE's letter. No promise of information to be supplied by us in return should, in my view, be made to H.C. IB note authored 14/4/4
[123] Government of Pakistan, PM Office, Karachi, Letter of Habib Rahimtoola (June 1949), Retrieved from: National Documentation Centre, Islamabad.
[124] Government of Pakistan, PM Office, Karachi, Letter of Habib Rahimtoola (4th November 1949), Retrieved from: National Documentation Centre, Islamabad.

what Bacha Khan was representing as Pakhtoon character. The armed Pathan, as governmental members insisted on using the designation of the British, was one that could be productively employed by the state in these early years. The notion of their valour in repelling foreign occupation entailed that the tribal customs which purportedly fostered their readiness to fight not be diluted with proximity to other normative systems. Whereas the forward policy of the British had dictated heavy military presence, the Pakistani state in these early years withdrew heavy army garrisons from the tribal areas. This freed up potential for the 'tribal fighters' to join their Muslim brethren in the Kashmir fight. [125]

In fact, it was in early 1950 when thousands of fighters were returning, disillusioned, from the Kashmir conflict that the state confronted the fact that a population and not simply a few leaders had to be managed. In quick succession a set of proposals, including conscription for the purposes of having them join the impending war in Korea and thereby alleviate "the economic problem of the tribal territory" were advanced. Army recruitment in any case had a long history in these parts through the colonial era. [126] The provincial government, for its handling of Bacha Khan had attracted the "odium of the Red Shirts' and thereby it was not trusted to be the vehicle by which the regions difficulties could be managed. The fear was expressed not due to the inefficacy of its repressive apparatus but because the Afghan government and 'it's proteges' might extend their position through its administrative apparatus. [127]

One suggestion from the Governor of the North West Frontier Province to Prime Minister Liaquat was that territories from other provinces might be annexed so as to ensure that the 'people' of other provinces would exert a stabilizing influence on the Pakhtoon.[128] Of course, the idea of joining provinces gained speed and all of West Pakistan was amalgamated in 1954. The territorial remapping, the effacement of borders that more or less signified ethnic affiliation was to conduce to the central

[125] Elizabeth Leake "The Great Game Anew US Cold-War Policy and Pakistan's North-West Frontier, 1947–65" (2013) *International History Review*.
[126] Government of Pakistan, Cabinet Secretariat, Karachi, *Correspondence with the Governor NWFP* (PM Office File II Chundrigar, 5th May 1950), Retrieved from: National Documentation Centre, Islamabad.
[127] Government of Pakistan, Cabinet Secretariat, Karachi, *Correspondence with the Governor NWFP* (PM Office File II Chundrigar, 15th April 1950), Retrieved from: National Documentation Centre, Islamabad.
[128] Ibid.

bureaucratic managers having a more direct relationship to the population of the whole of Pakistan.

Also, repeatedly there is a suggestion for the institution of cultural policies to distinguish the two populations. As illustration, the governor of West Punjab in a letter to the Prime Minister months after Partition suggested "as soon as possible, Pakistan should change its rule of the road from traffic keeping left to the traffic keeping right" for the primary reason that this "will bring out more prominently the fact that India and Pakistan are two different countries on the same sub-continent. This feeling and impression are excellent from the psychological point of view."[129]

Of course, this is perhaps only the most bizarre of the suggestions to be tabled, others that come into view include changing the script of the Bangla language to the Arabic script so as to purge it of its 'brahmanic' inspirations. Altogether, the preoccupation with distinguishing the populations included a proposal to rename the currency at which point it was stated that "Our men and women and particularly the younger generation must be made to feel that they are a different nation and India is as foreign to them as are Afghanistan and China. [130]

In a way that statement forms an irony at the heart of the account that preceded. By referencing Afghanistan as a country which typified the completion of the project of differentiating nationalisms, the state was in fact naming one of its greatest anxieties. Much of this had to do with the porosity of the border between the two states and much in addition with the fact that Afghanistan had both retained its independence from colonial rule and sustained a longer and more uniform relationship to Islam. In fact, as the Hijrat movement had shown, the possibilities of Jihad had come late to Indian Muslims. What the case of Afghanistan indicated was that the retention of Muslim lands as free from foreign occupation could be seen as a measure of authentic faith.

[129] Government of Pakistan, Cabinet Secretariat, Karachi, AR Nishtar's Letter (Page 82 of the File, 21st October 1947, Retrieved from: National Documentation Centre, Islamabad.
[130] M.A.H. Isphahani, Ambassador to the USA Letter to Liaquat (20th June 1949), Retrieved from: National Documentation Centre, Islamabad.

Chapter 6: Conclusion

Why this project?

There are two routes of enquiry that led to my settling on a study of the early Pakistani state as a sufficient topic in itself for further investigation. In fact, one led straight to the other, insofar as I was initially interested in understanding the profoundly troubling phenomenon of the post-9/11 Pakistani state gathering and storing personal and biometric data of all Pakistan's residents in a vast bureaucratic agency accorded unchecked powers and seemingly limitless resources. The National Database and Registration Authority ('NADRA') is also the responsible agency for the issuance of a National Identity Card to all Pakistani citizens. Its operationalization in the service of security and surveillance has been an apparent but little spoken of means for tying Pakistan into the still unfolding war on terror. As I was aware that there had been precursors to NADRA in Pakistan, it was in search of a record of the kinds of domestic rationalities had been deployed in the construction of the earlier data and informational regimes that I set out to find records of those agencies. In that somewhat limited endeavour I discovered a vast store of recently declassified official files housed now in a small library deep in the heart of the federal government's cabinet and interior secretariats. With proof of institutional affiliation and subject to the approvals of the bureaucrats who attend to the library, a slightly mediated but still fairly open access to governmental files dating to the earliest days of Pakistan's founding can be secured.

Thus, starting from the point of wanting to see how the state viewed its citizens, I had, all of a sudden, a view as a citizen into the workings of the state. With little fanfare but considerable background lobbying, the 'right to information' had been incorporated into Pakistan's Constitution in 2010. Thereafter, legislation had been passed to ensure that the right extended to the workings of government broadly and also that there would be sufficient opportunity for some bureaucrat, somewhere, to compromise access when it was sought. There is a small research community of mostly historians who have been seeking and gaining access to this centre of documentation and thereby there is hope that time does not have to stand still for me

every time that I enter the library, that the collective effort of unearthing will make some aspects of our shared past accessible.

The unmediated access to me as a citizen, that the state had gained and the limited, cumbersome way in which I could gain access to it produced a deeply felt point of contrast when I compared my forays into the library with the workings of NADRA. I had given over information organized into 32 categories, a photograph and digital fingerprints of all ten digits, with the knowledge that the database in which they were stored was searchable, was supplemented in fact with facial recognition and other technologies and yet I had never heard an account of why it was necessary. That there was mostly silence and quiet acquiescence in the social sphere about NADRA only increased the sense of discomfort. On the other hand, by some operations of the state, it had not only kept its operations from public view but had also reduced the knowledge of its own past workings to a small repository of faded sheets and non-serialized catalogues.

As research projects are themselves a combination of fortuitous discovery and of only partially realized hunches, the endeavor to secure greater information to feed into my NADRA research opened up other discoveries, even as the contemporary evidence of the growing uses of NADRA as a node in policing and surveillance increased. Through access to these files, the words and acts of early state functionaries were building a master frame for viewing what, from a present view of the state, seem like relations of domination and exaction that are incapable of remediation. My initial assertion, or the topic of this research project, that the Pakistani state has a demonstrably authoritarian character which owes its shape and operations to the organization of administrative government at the time of its founding was contrived thus with the evidence of the multiple files and documents I was viewing at the time.

Which State?

While I have taken liberally from Faisal Devji through this thesis, one assertion that grounds his work on Pakistan is both problematic, and representative of a view that is shared by a number of scholars of the Pakistani state. Devji significantly understates the disruptions that the Partition caused in the state structure when he

notes: 'Pakistan's radical beginning obviously had nothing to do with the juridical and administrative machinery of the new state, all of which had been inherited from British India".[1] This was perhaps a view I shared until I had access to the files. However, my view of the extent of the disruption was also affected by undertaking a more detailed study into colonial administration and state forms. While variously described as 'paper' or 'bureaucratic' Raj, the period of colonial rule is often conceived as one in which an impermeable logic of rational administration was embedded.[2] In contrast though, it seemed to me that there was significant disruption in what was otherwise considered the steel frame for domination. Historical studies indicated the flux and contestation that led to the early development of the services, as well as a range of deep divisions in the ways that Indians were perceived and described, ranging from the view that they were capable of moral reformation to the idea that they were hopelessly lost to history. Altogether though, it was the fact that strategies and techniques of governance were forged from the ways that Indians were known, catalogued, counted and described, that seemed to upset the idea of a singular rational structure of rule.

If only because the British colonial state had built itself incrementally over the base logic of the East India Company's mercantile activities in India and then engaged the dual logic of ruling while seeking either to disguise its rule or to efface its violence, its forms of rule were very much generated through its encounters with Indians. There was no reconstruction here of a governmental order conceived elsewhere even as the experience of global empire would ensure certain transfers between India and other places as direct colonial rule matured. Given the breadth and profitability of its sub-continental holdings, maintaining them either for exactions through the Company or in turn directly as a colonial possession, was worth the price of learning about the population sufficiently to ensure collaboration where it could be engaged, and quelling dissent through military means where that was required. Over time, a combination of accommodation and pacification came to define colonial rule.

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[1] Faisal Devji, *Muslim Zion: Pakistan as a Political Idea* (Hurst Publishers, 2013) 90.

[2] Such views of 'rationalization' are subject to critical scrutiny in an increasing array of works investigating bureaucratic artifacts from the time. See, Mathew S Hull, *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan* (University of California Press, 2012); Akhil Gupta, *Red Tape*: *Bureaucracy*, *Structural Violence and Poverty in India* (Duke University, 2012), especially Part Three: Inscription; See also See also Indrani Chatterjee, 'Testing the Local against the Colonial Archive' (1997) 44 *History Workshop Journal* 215.

However, the understructure of that was that colonial administrators and masters developed various means of knowing the population. Such knowledge was structured both by available technological means as well as by the objectives of rule in particular regions. It shape-shifted as a consequence of changing logics that moved the enterprise from seeking expansion to merely retaining their colonial holdings.

In succeeding configurations, the combination by which administration, law and militarism came into play were related always to the ways in which the population was being mapped, enumerated or described. Importantly, as a more equal law was being promoted through practices of codification and by the merger of territories into a singular national jurisdiction, administration was being undertaken in a more deeply regional and local way. District level governance became the hallmark of direct rule in the sub-continent representing a duality that then was then worked through the organization of nationalist thought. While the middle-classes started to apprehend their place in national spheres of government and economy, the tensions that that excited were replicated in more discrete ways in localities, now through relations of patrimony and community. The distinct brands of nationalism that grew up in the subcontinent worked through the forms of identity that had been conferred on communities, particularly caste based and religious 'communities', whose sense of being a community was in determinate ways tied to the homogenizing logic of census enumeration. This is not however to suggest that this was the only site for defining varying brands of nationalism or the relationships within and between communities. In fact, that there was no easy correspondence of support between Muslims and the party that was claiming to represent their interests. This was betrayed in the existence of a much more fractured landscape where Congress enjoyed support in Muslim minority and majority areas and where the spokespersons of Islamic religious parties were against the Muslim League's demand for a separate territorial state for Muslims.

While those tensions have been accounted for in a range of historical studies, it is the form of the Muslim League's search for unity above other markers of social difference and its adherence to an arithmetic logic in constitutional negotiations that is the inheritance I have investigated in this thesis. However, as others have noted, such a logic was forged not only from within the territorial borders of the Indian state but rather was founded within the expanse of a global imperium wherein different

formula for the reconciliation of community and nation were still on offer.[3] The configuration of the party itself, determinately led by a single spokesperson and oriented to the recognition of the nation was also, nonetheless, at this time capable of accommodation of alternate life-worlds, formulae of understanding or perceiving the distinction of nations and strivings for national expression. Partition marked a distinct terminus to such fluidity and opening and in its place the rush to establish and express sovereign control was marked through with the aggregations of power in distinct offices.

While the second chapter takes us as far describing the interplay of rule and information in the colonial state, charting the transitions cited above, it also incorporates an account of the events leading towards Partition. The third chapter starts with the moment of founding with significant attention paid to the distinct values conferred on the regulatory orders of the new states, the potential for incorporating or recognizing difference by the spokespersons of the newly founded authority. However, in the structure of the thesis, the discussion of the founding of the state precedes a detailed discussion of the Muslim League's ideological program, which is situated in the fourth chapter. Additionally, the territorially bounded nature of a colonial governmental configuration in the North-West, although related to the broader colonial transitions in forms of governance, is described in greater detail in chapter 5.

In the following part I wish to suggest how the analytical relations that I had charted in the introduction were carried through the project to piece together an indicative profile of the early state's tendencies towards administrative authoritarian consolidation. If I were to carry this through to the present, there would be links to be drawn between the genesis of the early state's configuration, not only to the behemoth of occlusive power that is NADRA but to the operations of many sites of repression and exclusion through the discourse of state and internal security. However, in spite of the inspiration for undertaking this project from the vantage of the current moment,

[3] While a great deal of literature about developing nationalism is surveyed in Chapter 2, the following is a representative sample of work looking particularly at how calculative practices under colonial rule intersected with identity formation: Charlotte Sussman, 'The Colonial Afterlife of Political Arithmetic: Swift, Demography, and Mobile Populations' (2004) 56 *Cultural Critique* 96; U Kalpagam, 'Colonialism, Rational Calculations and Idea of the Economy' (1997) 32(4) *Economic and Political Weekly* PE-2.

the files and surrounding literature that aids in unpacking the strands of state-making at this particular juncture provide more than adequate material for the present to remain only a gesture from that time.

The introduction listed four specific sites through which the consolidations of the authoritarian administrative state would demonstrated, which ran through the chapters as a whole. Here, I will briefly account for how these sites have been elaborated through the thesis but in addition, how their salience can be accounted for in further developments of the Pakistani state.

A: The appropriation of colonial governmental forms and technologies.

As already indicated, to ascertain the shape of colonial governmental forms and technologies required a fairly detailed exposition of developments through the long history of colonial rule in the sub-continent. Particularly important to the account that I provided was the interplay of information in the establishment of population and rule. However, that the administrative structure is itself branched out to institute rule at the local level and effect policy at the national level is a distinct inheritance that the state carries forth. What is also carried forth are the protocols for effecting policy, for the sharing of information, for the making of memos and for the demonstration of process. However, the infrastructure for carrying out these activities is shaken at Partition, with the personnel evacuated, new buildings required for housing what is being reconstituted and importantly, with none or very few of the files and information that the previous office holders would have had, to carry on the enterprise of being anonymous administrators. While that anonymity was itself always a fiction (the colonial administrator was keen on reputation) the gaping holes in information were consequential in how the role of the administrator came to be defined.

Writing in 1965, Albert Gorvine refers to the sustaining myth of the administrators of an early Pakistani state "that they represented the people" and that the "myth and the people who held it are at the heart of much of the achievements of Pakistan and of many opportunities lost".[4] As noted by one conservative political

[4] Albert Gorvine, 'The Civil Service under the Revolutionary Government in Pakistan' (1965) 19(3) *Middle East Journal* 321, 322.

theorist of the 20th Century, "[i]t would have been ridiculous of the British rulers of India and Egypt, or of the Dutch rulers of the East Indies to claim that they 'felt' with their subjects; while their successors confidently, constantly and most profitably use the rhetoric of the heart".[5] This is an aspect that was clear in Jinnah's exhortations described in Chapter 3, and while the interface of such sentiment is somewhat less stark when informing the members of the bureaucracy and government after Jinnah's demise in September 1948, it is nonetheless a force by which their actions can be somewhat explained. To schematize what flows out of a convergence between the sentiment of governing and feeling themselves as one with the people, requires being attentive to the haste with which problems were cited, diagnosed and operated upon. The problems that I refer to and which are mentioned throughout Chapters 3 to 5 are ones that demonstrate such haste. One mechanism is by flattening out the transitions of colonial rule. There is no discernment shown about why particular enactments of colonial governance were discarded or amended or more importantly, how they were challenged by the growing nationalisms that upended colonial rule altogether. They were simply appurtenances to be employed for achieving national unity or increasing order. That this included a range of laws that had been aimed at quelling nationalist protest or a set of classifications that had fed the colonial army was itself inconsequential in certain instances of pressing need.

However, as a part of a political sphere in which alternate voices were also being sounded out, there was a mediation of action and a drive to understand the population in aggregates. The dropping away of a civilizational discourse had specific impact, for making the population of Pakistan a secular, albeit initially only notionally Muslim entity to be acted upon. While this thesis indicates how the selective appropriation of certain colonial categories and technologies were deployed, the limitations of the population that was being thus identified belies thereby the intense assimilationist logic that was being used to draw bounds around a greater Pakistani population.

[5] Elie Kedourie, 'Revolutionary Nationalism in Asia and Africa' (1968) 3(4) *Government and Opposition* 453, 454.

B: The promotion of aspirations related to a dominant Muslim nationalism and the quelling of other ideological programs.

Attention to the Muslim League's brand of nationalism suggests that it was a secular nationalism. It thereby drew its adherents into a program tending towards the realization of a state without burdening the movement with promises of a religiously sanctioned law. Additionally, however, it did not seek or promise to deliver any other social or distributional goals. The arithmetic, constitutional logic of the pre-partition period was carried through after Partition by continuing to be oriented to a coming constitutionalism. However, this necessarily entailed a determinate relation to the present that would be controlled and in which the domination of the executive needed to be demonstrated. This was the plane on which a future order could unfold. Its logic was to extinguish both past associations and future aspirations that did not coalesce with the singular strivings of fortifying the state.

For instance, for Jinnah, this is the ground in which nationalism and nationalist sentiment can be identified as a chief encumbrance against the realization of the state's relation to a civil order. Freed from the specter of Hindu majoritarianism, the citizens of Pakistan are asked to feel and act as Pakistani's and disavow ties of language, religion and ethnicity. The state as the realization of concrete freedom is not capable of accommodating the particularisms that he diagnoses, rightly, as rife in the state of Pakistan at its founding.

In Chapter 4, that the multiple temporalities of communist ideology and critique were cast as a threat sufficient to lead to their excision from the social body is recounted in some detail. A specific attention to conditions of inequality, by non-state actors is seen thereby to be upsetting the ground on which a formative relationship between state and society can be built. Underlying this are surely a number of class alliances between state functionaries and capitalists in the new state so that the disruptions, particularly in the form of industrial action, are specifically the site that awakens anxiety about the future strivings of communists. However, without seeking confirmation in evidence of class affiliation, it is possible to see that the discourse of state security that is formed is itself a significant source of authorization for the high functionaries of the state to engage surveillance, information and other resources

towards a bolstering of their own positions as the rightful inheritors of the Muslim Nationalism that birthed Pakistan. It is also again by control of the temporal order through the dominant strand of Muslim nationalism that Bacha Khan's historical ties to Pakhtoons across the border and into Afghanistan awakens anxiety and leads to his prolonged periods of internment.

C: The alignment of territory and population to enable a concurrence between them in reference to identity and ideology;

The manner by which the colonial knowledge order founded a population that was understood by its very diversity is in many ways undone in these early days of the Pakistani state. Given the uncertainty of borders and the vast migrations of Partition, the ethnographic certainties that had flowed from territorial fixity no longer had much application. Additionally, as noted earlier, by both being Pakistani and governing Pakistanis, the necessity of a scientifically certain appreciation of the governed also seemingly falls away. However, an ostensible abandonment of the objectifying gaze of the colonial administrator does not forestall the application of what were in fact, some of the most threadbare of the categories that the colonists deployed.

Where and to what use were these categories deployed indicates a re-zoning in aggregates. The biggest aggregation was in West Pakistan, or for much of it, by the merger of four pre-existing populations with special exemptions for tribal areas located in the North West Frontier and in pockets of Balochistan. This happens in 1954, although some of what is studied here indicates that the assimilation that was being sought had earlier expression. In the formal sphere of power sharing, it was indicated by the disqualifications and demotions of provincial governments. These are maneuvers that are described in this thesis. They operate in the terrain of privileging the federal government's ability to know. Again, the individual surveillance file becomes a vital link for the centers ability to diagnose problems and to sanction policing and control even where provinces hold tight to their closer knowledge of the subjects.

All the while, the information about subversives in the East is finding other expression, in mass resettlement campaigns to dilute pockets of Hindu

majoritariansim in the East and also, as indicated in the text, to enable the state to engage in a kind of cultural reconditioning of the population. That this was a secular reconditioning, operationalized in line with the growing discourse of internal security concerns is something that indicates the multiply layered configurations of control that are securing the administrative state. Of course, the Hindus of Bengal had been most ardently distrusted by the British because many of the earliest and in some cases the most violent strains of anti-colonial nationalism had been developed there. More than a relation of opposition founded on communal grounds, their repeated castigation as being disaffected and insatiable is amongst the selective appropriations from colonial rule.

Most emblematic however of the ways in which fluid identities created pockets of threat to the state was the person of Bacha Khan. Having fostered and sustained a movement of non-violent resistance against the British occupation of the subcontinent, his non-conformism with the view of the Pakhtoon as inherently martial and as loyal to sovereign control tested the colonial state's ability to rely the North West as a recruiting ground for the imperial army. The techniques of governance that the British had forged in the North West were replicated in great part by the Pakistani state from the start. This was not however without its own mediations to do with the specific ways in which sovereignty had been conferred.

D: The management of Pakistan's relations with other states to bolster the powers of certain offices and officeholders

This analytical point is indicated in all of the operations that have preceded because the base conditions for entry into a system of sovereign equality between states required the exercise of control over a territory and a population. However, given the uncertainty of borders at the earliest stages, the priority of fixing such borders also brought with it, an urgency to define a system of relations and alliances with foreign powers. In that Pakistan was aided by the ready system of alliances that were being fostered by the Anglo-American bloc for curtailing communist influences in the sub-continent. However, importantly, these early maneuvers do not wholly explain the ways in which Pakistan was incorporated into the US sphere of influence.

In fact, the files I have studied show that the Pakistanis were wary of the US and the British when it came to waging their campaigns against the communists. In fact, what is more indicative of the ways in which a firmer alliance was drawn is indicated by the support that the UK and the US extend slightly after Partition, to the Pakistani state in reference to their campaigns in Kashmir and also therefore in quelling dissent in Pakhtoon areas. That the British were hoping for Pakistani assistance in retaining their colonial holdings in the Middle East, and were trading intelligence and information with the Pakistanis here was much more important. What I have attempted to show in Chapter 5 is that the modes of knowing a population in these areas indicated both the transfer of colonial knowledge systems and a preference for intelligence over other informational forms. However, altogether, the extraversion onto the international plane and the priority accorded to marking borders influenced the state's relationship to population in a manner that could not brook relationships to place that transcended borders, is also shown up in the state's relations to Bacha Khan.

Concluding Thoughts:

This thesis has set out to investigate a somewhat ignored aspect of what is perhaps the most momentous partition of the 20'th Century. Thankfully, an increasing number of studies have laid bare the trauma and the vicissitudes of fortune for those caught up in these events, often by studying the literary texts that were produced at the time. Such studies are a necessary antidote to the nationalist histories that have anointed the emergent states of South Asia as legatees of their populations' true desires. This thesis offers another form of corrective to such nationalist histories at the same time that it opens up different sites for future study about the nature of state formation, in the throes of such disruption.

In conclusion then, it is perhaps best to encapsulate this project in reference to Foucault's last words in the study of state and society. In Society Must be Defended Foucault investigates the mechanisms by which a "juridico-legal theory of sovereignty", one in which a legitimate authority exercising power upon and on behalf of a nation emerges over and subsumes alternate forms of historical knowledge

immanent to those societies.[6] In doing so, he also provides a certain periodization in about the ways in which the founding of such a sovereign order was made seamless between monarchical and popular forms of sovereignty, erasing the brute force and domination of battles and conquest between peoples and races. Further, he suggests that "the democratization of sovereignty was heavily ballasted by the mechanisms of disciplinary coercion".[7] This included importantly the "the disciplinarization of polymorphous and heterogeneous knowledges' which includes for him "whole series of knowledges that have been disqualified as nonconceptual knowledges, as insufficiently elaborated knowledges: naive knowledges, hierarchically inferior knowledges, knowledges that are below the required level of erudition or scientificity." [8]

What has been demonstrated in this thesis is that in the early years after Partition, the Pakistani state could only accommodate the most parsimonious forms of knowledge about the territory and the populace that were refounded as Pakistan and as Pakistanis respectively. The birthing itself had propelled a certain class to world-historic importance as themselves crafters of this new terrain, members of the high executive and bureaucracy. Available technologies of classification were partly appropriated to a discourse of sovereign order that allowed these actors to operate upon entities that had previously only been apprehended in a non-territorial sphere. This in turn impelled certain categorical fixities to be forged for identities and ideologies within Pakistans territory and thereby subsumed alternate forms of knowledge and alternate vista's of aspiration. By studying the ways in which the manifold operations of this sovereign consolidation operated, this thesis also attempts to act as a mechanism for retrieval; by identifying the threat that was posed to the knowledge order of the new state, alternate ways of knowing that had to be circumscribed and controlled are also made apparent.

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[6] Such a theory "assumes the existence of three "primitive" elements: a subject who has to be subjectified, the unity of the power that has to be founded, and the legitimacy that has to be respected. Subject, unitary power, and law: the theory of sovereignty comes into play, I think, among these elements, and it both takes them as given and tries to found them" Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France, 1975-1976* (New York: Picador, 2003) 44. See also Andrew W Neal, 'Cutting Off the King's Head: Foucault's Society Must Be Defended and the Problem of Sovereignty' (2004) 29(4) *Alternatives: Global, Local, Political* 373.
[7] Foucault, *Society Must Be Defended* (n 7) 37.
[8] Ibid 7.

Bibliography

Books/Articles/Reports

Agnew, John, 'Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics' (2005) 95(2) *Annals of the Association of American Geographers* 437
Afary, Janet and Kevin B Anderson, *Foucault and the Iranian Revolution: Gender and the Seductions of Islamism* (University of Chicago Press, 2005)
Agamben, Giorgio, *State of exception*, tr Kevin Attell (University of Chicago Press, 1st ed, 2005)
Agamben, Giorgio, *Means Without End: Notes on Politics,* tr Cesare Casarino and Vincenzo Binetti (University of Minnesota Press, 2000)
Ahmad, Aijaz, *Lineages of the present: Ideology and Politics in contemporary South Asia* (Verso, 2000)
Ahmad, Qazi Shakil, 'Pakistan-India Relations: Some Geostrategic Considerations' (2014) 57(3) *Pakistan Horizon* 13
Akhtar, Aasim Sajjad, *The Overdeveloping State: The Politics of Common Sense in Pakistan 1971–2007* Unpublished Ph.D. thesis (SOAS University of London, 2008)
Akhtar, Aasim Sajjad, *The Politics of Common Sense: State, Society and Culture in Pakistan* (Cambridge University Press, 2018)
Alatout, Samer, 'Towards a bio-territorial conception of power: Territory, population, and environmental narratives in Palestine and Israel' (2006) 25(6) *Political Geography* 601
Alavi, Hamza and Teodor Shanin (eds), 'State and Class under Peripheral Capitalism' in *Introduction to the Sociology of Developing Societies* (Basingstoke: Macmillan, 1982)
Alavi, Hamza, 'The State in Post-Colonial Societies: Pakistan and Bangladesh' (1972) 74(1) *New Left Review* 59
Ali, Amir, 'Evolution of Public Sphere in India' (2001) 36(26) *Economic and Political Weekly* 2419
Ali, Athar, 'Towards an Interpretation of the Mughal Empire' (1978) (1) *Journal of the Royal Asiatic Society of Great Britain and Ireland* 48
Ali, Imran, 'Malign Growth Agricultural Colonization and the Roots of Backwardness in the Punjab' (1987) 114 *Past & Present* 110
Ali, Imran, 'The Sinews of Governance: Bureaucracy, Narrative, and Power under Colonialism and Independence' (2006) 45(4) *Pakistan Development Review* 1255.
Ali, Kamran Asdar, 'Communists in a Muslim Land: Cultural Debates in Pakistan's Early Years' (2011) 45(3) *Modern Asian Studies* 501
Ali, Kamran Asdar, *Surkh Salam: Communist Politics and Class Activism in Pakistan, 1947-1972* (Oxford University Press, 2015)
Ali, Tariq, *'The Colour Khaki'* (2003) 19 *New Left Review* 2
Ali, Tariq, *A Local History of Global Capital: Jute and Peasant Life in the Bengal Delta* (Princeton University Press, 2018)
Allen, Dennis W, 'Rtmark: Viral Activism and the Meaning of 'Post-Identity'' (2003) 36(1) *Journal of the Midwest Modern Language Association* 6

Amin, Shahid, *Event, Metaphor, Memory: Chauri Chaura, 1922-1992* (University of California Press, 1995)
'Amnesty: An International Movement for Freedom of Opinion and Religion' (1963) *Journal of the Amnesty Movement* 1
Amonker, RG, 'Demography: A Case Study of India' (1974) 4(2) *International Review of Modern Sociology* 194
Amoore, Louise, 'Biometric Borders: Governing Mobilities in the War on Terror' (2006) 25 (3) *Political Geography* 336
Anderson, Michael R and Sumit Guha, *Changing Concepts of Rights & Justice in South Asia*, (Oxford University Press, 2nd ed, 2002)
Appadurai, Arjun, 'Number in the Colonial Imagination' *in* Carol A Breckenridge and Peter van der Veer (ed), *Orientalism and the Postcolonial Predicament: Perspectives on South Asia* (University of Pennsylvania Press, 1993) 314-39
Arendt, Hannah, *On Revolution* (Penguin Books, 1990)
Arnold, David, *Science Technology and Medicine in Colonial India* (Cambridge University Press, 2000)
Arnold, David, 'Nehruvian Science and Postcolonial India' (2013) 104(2) *Isis* 360
Attell, Kevin, *Giorgio Agamben: Beyond the Threshold of Deconstruction* (Modern Language Initiative, 1st ed, 2014)
Axmann, M, *Back to the Future: The Khanate of Kalat and the Genesis of Baluch Nationalism, 1915-1955* (Oxford University Press, 2012)
Aziz, Sadaf, *Constitution of Pakistan: A Contextual Analysis* (Hart Publishing, 2017)
Baig, MRA, 'The partition of Bengal and its Aftermath' (1969) 30(2) *The Indian Journal of Political Science* 103
Bala, Sruti, 'Waging Nonviolence: Reflections on the History Writing of the Pashtun Nonviolent Movement Khudai Khidmatgar' (2013) 38(2) *Peace & Change* 131
Balibar, Étienne, *'What is a Border?' in Politics and the Other Scene*, tr Christine Jones, James Swenson and Chris Turner (Verso Books, 2002)
Balibar, Etienne, 'At the Borders of Citizenship: A Democracy in Translation?' (2010) 13(3) *European Journal of Social Theory* 315
Bandyopadhyay, D, 'Is the Institution of District Magistrate Still Necessary?' (2006) 41(47) *Economic and Political Weekly* 4851
Banerjee, Sumanta, 'India's Home Front' (2004) 39(40) *Economic and Political Weekly* 4404
Bannerji, Mukulika, *The Pathan Unarmed* (Oxford University Press, 2000)
Barry, Andrew, Nicholas Rose and Thomas Osborne (eds), *Foucault And Political Reason: Liberalism, Neo-Liberalism and The Rationalities of Government* (Taylor & Francis Group, 2013)
Barua, Pradeep, 'Inventing Race: The British and India's Martial Races' (1995) 58(1) *The Historian* 107
Bayly, Christopher A, *Indian Society and the Making of the British Empire* (Cambridge University Press, 1988)
Bayly, Christopher A, *Empire and Information: Intelligence Gathering and Social Communication in India, 1780–1870* (Cambridge University Press, 1996)

Benton, Lauren, *Law and colonial cultures: Legal regimes in world history*, 1400-1900 (Cambridge University Press, 2002)
Bhabha, Homi K, *The Location of Culture* (Routledge, 1994)
Bhagat, RB, 'Caste Census: Looking Back, Looking Forward' (2007) 42(21) *Economic and Political Weekly* 1902
Bhatt, C, 'Frontlines and Interstices in the Global War on Terror' (2007) 38(6) *Development and Change* 1073
Bhattacharya, Sanjoy, 'The All India Hindu Mahasabha and the End of British Rule in India, 1939–47' (1999) 27(7-8) *Social Scientist* 48
Blackstock, Allan and Frank O'Gorman (eds), *Loyalism and the Formation of the British World, 1775* (Woodbridge: Boydell Press, 2014)
Bose, Sugata and Ayesha Jalal, *Modern South Asia: History, Culture, Political Economy* (Routledge, 3rd ed, 2011)
Bose, Sugata, *His Majesty's Opponent: Subhas Chandra Bose and India's Struggle Against Empire* (Harvard University Press, 2011)
Braibanti, Ralph JD, 'Public Bureaucracy and Judiciary in Pakistan' (1963) *Bureaucracy and Political Development* 360.
Braibanti, Ralph, 'Public Bureaucracy and Judiciary in Pakistan' *in* Joseph La Palombara (ed), *Bureaucracy and Political Development (SPD-2)* (Princeton University, 1967) 360
Braibanti, Ralph JD, *Evolution of Pakistan's Administrative System: The Collected Papers of Ralph Braibanti* (Pakistan Public Administration Research Centre, 1987)
Brass, Paul R, 'Muslim Separatism in United Provinces: Social Context and Political Strategy before Partition' (1970) 5(3/4) *Economic and Political Weekly* 167
Brown, Mark, 'Crime, Governance and The Company Raj: The Discovery of Thuggee' (2002) 42(1) *The British Journal of Criminology* 77
Brown, Mark, 'Ethnology and Colonial Administration in Nineteenth-Century British India: The Question of Native Crime and Criminality' (2003) 36(2) *British Journal for the History of Science* 201
Burns, William E and Suzanne McIntire, *Speeches in World History* (Infobase Publishing, 2010)
Calman, Leslie J, 'Congress Confronts Communism: Thana District, 1945–47' (1987) 21(2) *Modern Asian Studies* 329
Chakrabarty, Dipesh, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton University Press, 2000)
Chandavarkar, Rajnarayan, 'Customs of governance: Colonialism and Democracy in Twentieth Century India' (2007) 41(3) *Modern Asian Studies* 441
Chandavarkar, Rajnarayan, *Imperial Power and Popular Politics: Class, Resistance and the State in India, 1850-1950* (Cambridge University Press, 1998)
Chatterjee, Indrani, 'Testing the Local against the Colonial Archive' (1997) 44 *History Workshop Journal* 215
Chatterjee, Partha, *The Nation and Its Fragments: Colonial and Postcolonial Histories* (Princeton University Press, 1993)
Chatterji, Joya, '*South Asian Histories of Citizenship*, *1946–1970*' (2012) 55(4) *Historical Journal* 1049

Chatterji, Joya, *The Spoils of Partition: Bengal and India, 1947–1967* (Cambridge University Press, 2007)
Chatterji, Roma, Rajni Pairiwala and Meenakshi Thapan, 'Ethnographies of the State: Report of a Workshop' (2005) 40(40) *Economic and Political Weekly* 4312
Chattha, Ilyas, *Partition and Locality: Violence, Migration and Development in Gujranwala and Sialkot 1947-1961* (Oxford University Press,1st ed, 2011)
Chattha, Ilyas, 'Competitions for Resources: Partition's Evacuee Property and the Sustenance of Corruption in Pakistan' (2012) 46(5) *Modern Asian Studies* 1182
Chawla, Muhammad Iqbal, 'The Charismatic Leader: Quaid-i-Azam Mohammad Ali Jinnah and the Creation of Pakistan' (2013) 28(1) *South Asian Studies* 261
Chopra, Surendra, 'Afghan Pakistan Relations: The Pakhtoonistan Issue' (1974) 35(4) *The Indian Journal of Political Science* 310
Choudhury, DK Lahiri, 'The Sinews of Panic and the Nerves of Empire: The Imagined State's Entanglement with Information Panic, India, c. 1880-1912' (2004) 38(4) *Modern Asian Studies* 965
Clark, Christopher, 'Time of the Nazis: Past and Present in the Third Reich' (2015) 25 *Geschichte und Gesellschaft. Sonderheft* 156
Cohn, Bernard S, *Colonialism and its Forms of Knowledge: The British in India* (Princeton University Press, 1996)
Cohn, Bernard, 'The Census, Social Structure and Objectification in South Asia' in *An Anthropologist Among the Historians and Other Essays* (Oxford University Press, 1987)
Collier, Stephen J, 'Topologies of Power—Foucault's Analysis of Political Government beyond Governmentality' (2009) 26(6) *Theory Culture and Society* 78
Connor, Walker, *The National Question in Marxist-Leninist Theory and Strategy* (Princeton University Press, 1984)
Philo, Chris, (2016) 'Bellicose History and Local Discursivities: An Archaeological Reading of Michel Foucault's Society Must be Defended' in Crampton, Jeremy W, and Stuart Elden (eds), *Space, Knowledge and Power: Foucault and Geography,* ed. Stuart Elden (London: Routledge, 2007)
Crampton, Jeremy W, 'The Biopolitical Justification for Geosurveillance' (2007) 97(3) *Geographical Review* 389
Crampton, Jeremy W, and Stuart Elden (eds), *Space, Knowledge and Power: Foucault and Geography* (Routledge, 2007)
Craven, Matt, 'On Foucault and Wolff or from Law to Political Economy' (2007) 25(3) *Leiden Journal of International Law* 627
Daechsel, Markus, *The politics of self-expression: The Urdu Middleclass Milieu in Mid-twentieth Century India and Pakistan* (Routledge, 2006)
Daechsel, Markus, 'Sovereignty, Governmentality and Development in Ayub's Pakistan: The Case of Korangi Township' (2011) 45(1) *Modern Asian Studies* 131
Darling, Jonathan, 'Domopolitics, Governmentality and the Regulation of Asylum Accommodation' (2011) 30(5) *Political Geography* 263
Dean, Mitchell, 'Power at the Heart of the Present: Exception, Risk and Sovereignty' (2010) 13(4) *European Journal of Cultural Studies* 459

Devji, Faisal, *The Impossible Indian: Gandhi and the Temptation of Violence* (Harvard University Press, 2012)
Devji, Faisal, *Muslim Zion: Pakistan as a Political Idea* (Hurst Publishers, 2013)
Dhulipala, Venkat, 'Rallying the Qaum: The Muslim League in the United Provinces, 1937–1939' (2010) 44(3) *Modern Asian Studies* 603
Dillon, Michael and Andrew Neal (eds), *Foucault on Politics, Security and War* (Palgrave Macmillan, 2008)
Dirks, Nicholas, *Castes of Mind: Colonialism and the Making of Modern India* (Princeton University Press, 2011)
Dodge, Martin, and Rob Kitchin, 'Codes of Life: Identification Codes and the Machine-Readable World' (2005) 23(6) *Environment and Planning* 851
Dorsett, Shaunnagh and Shaun Mcveigh, 'Just So: The Law Which Governs Australia is Australian Law' (2002)13(3) *Law and Critique* 289
D'Souza, Radha, 'Revolt and Reform in South Asia: Ghadar Movement to 9/11 and After' (2014) 49(8) *Economic and Political Weekly* 59
Eashvaraiah, P, *The Communist Parties in Power and Agrarian Reforms in India* (Academic Foundation, 1993)
Easwaran, Eknath, *Nonviolent Soldier of Islam: Badshah Khan, A Man to Match His Mountains* (Nilgiri Press, 1999)
Ek, Richard, 'Giorgio Agamben and The Spatialities of the Camp: An Introduction' (2006) 88(4) *Geografiska Annaler: Series B, Human Geography* 363
Elster, Jon, Roberto Gargarella, Vatsal Naresh and Bjorn Erik Rasch (eds), *Constituent Assemblies* (Cambridge University Press, 2018)
Emadi, Hafizullah, 'Durand Line and Afghan-Pak Relations' (1990) 25(28) *Economic and Political Weekly* 1515
Evans, Julie, Ann Genovese, Alexander Reilly, and Patrick Wolfe (eds), *Sovereignty: Frontiers of Possibility* (University of Hawaii Press, 2012)
Fazl, Abul, *Ain-I-Akbari, tr HS Jarrett* (Royal Asiatic Society of Bengal, 1891)
Ferguson, James and Akhil Gupta, 'Spatializing States: Toward and Ethnography of Neoliberal Governmentality' (2002) 29(4) *American Ethnologist* 981
Foucault, Michel, *Society Must Be Defended: Lectures at the Collège de France, 1975-1976* (New York: Picador, 2003)
Foucault, Michel, *The Archaeology of Knowledge and The Discourse on Language,* tr AM Sheridan Smith (Pantheon Books, 1972)
Foucault, Michel, *The Foucault Reader,* ed Paul Rabinow (Pantheon Books, 1st ed, 1984)
Foucault, Michel, *The Order of Things: An Archaeology of the Human Sciences* (Routledge, 1st ed, 2002)
Foucault, Michel, *Security, Territory, Population: Lectures at the Collège de France, 1977-78,* Michel Senellart (ed), tr Graham Burchell (Palgrave Macmillan, 2007)
Franda, Marcus F, 'India's Third Communist Party' (1969) 9(11) *Asian Survey* 797
Franda, Marcus F, 'Communism and Regional Politics in East Pakistan' (1970) 10(7) *Asian Survey* 588.

Franěk, Jakub, ‘Arendt and Foucault on Power, Resistance, and Critique’ (2014) 6(3) *Acta Politologica* 294
Frankel, Rancine R, *Dominance and State Power in Modern India: Decline of a Social Order* (Oxford University Press, 1989)
Frost, Tom, ‘Agamben's Sovereign Legalization of Foucault’ (2010) 30(3) *Oxford Journal of Legal Studies* 545
Fusco, Gian Giacomo, ‘Normalising Sovereignty: Reflections of Schmitt’s Notions of Exception, Decision and Normality’ (2017) 26(1) *Griffith Law Review* 128
Gallagher, John, ‘Nationalisms and the Crisis of Empire, 1919-1922’ (1981) 15(3) *Modern Asian Studies* 355
Gandhi, BM and VD Kulshreshtha, *Landmarks in Indian Legal and Constitutional History* (Eastern Book Company, 2005)
Gandhi, Rajmohan, *Ghaffar Khan: Nonviolent Badshah of the Pakhtuns (*Penguin Books India, 2008)
Gardezi, Hassan and Rashid Jamil, ‘State and Class in Pakistan’ in Hassan Gardezi and Jamil Rashid (eds), *Pakistan: The Roots of Dictatorship, The Political Economy of a Praetorian State* (Zed Press, 1983)
Geller, Ernest, ‘Nationalism’ (1981) 10(6) *Theory and Society* 753
Ghosh, Kaushik, ‘Between Global Flows and Local Dams’ (2006) 21(4) *Cultural Anthropology* 501
Ghosh, Semanti, *Different Nationalisms: Bengal, 1905-1947* (Oxford University Press, 2016)
Gilmartin, David, ‘Partition, Pakistan, and South Asian History: In Search of a Narrative’ (1998) 57(4) *Journal of Asian Studies* 1068
Gilmartin, David, ‘Rule of Law, Rule of Life: Caste, Democracy, and the Courts in India’ (2010) 115(2) *American Historical Review* 406
Golder, Ben and Peter Fitzpatrick, *Foucault’s Law* (Routledge, 1st ed, 2009)
Goodnow, Henry Frank, *The Civil Service of Pakistan* (Oxford University Press, 1969)
Gorvine, Albert, ‘The Civil Service under the Revolutionary Government in Pakistan’ (1965) 19(3) *Middle East Journal* 321
Goswami, Manu, ‘Imaginary Futures and Colonial Internationalisms’ (2012) 117(5) *The American Historical Review* 1461
Goyal, Rajni and Ramesh Kumar Arora, *Indian Public Administration: Institutions and Issues* (New Age International, 1995)
Graeber, David, ‘Dead Zones of the Imagination: On Violence Bureaucracy and Interpretive Labour’ (2012) 2(2) *HAU: Journal of Ethnographic Theory* 105
Graham Burchell, Colin Gordon and Peter Miller, *The Foucault Effect: Studies in Governmentality* (University of Chicago Press, 1991)
Gregor, A James, *Italian Fascism and Developmental Dictatorship* (Princeton University Press, 2014)
Griffin, Roger, ‘Between metapolitics and apoliteia: The Nouvelle Droite's Strategy for Conserving the Fascist Vision in the Interregnum’ (2000) 8(1) *Modern & Contemporary France* 35

Griffin, Roger, 'The Palingenetic Core of Fascist Ideology' in A Campi (ed*), Che cos'è il fascismo? Interpretazioni e prospecttive di richerche* (Ideazione editrice, 2003) 97
Guha, Ranajit, 'The Prose of Counter-Insurgency', in Ranajit Guha and Gayatri Chakrabarty Spivak (eds), *Selected Subaltern Studies* (Oxford University Press, 1988)
Guha, Sumit, 'The Politics of Identity and Enumeration in India c. 1600–1990' (2003) 45(1) *Comparative Studies in Society and History* 148

Habib, Irfan, 'Classifying pre-colonial India' (1985) 12(2-3) *Journal of Peasant Studies* 44
Hacking, Ian, *The Emergence of Probability: A Philosophical Study of Early Ideas about Probability, Induction and Statistical Inference* (Cambridge University Press, 2nd ed, 2006)
Hacking, Ian, *The Taming of Chance* (Cambridge University Press, 1990)
Haithcox, John Patrick, *Communism and Nationalism in India: MN Roy and Comintern policy, 1920-1939* (Princeton University Press, 2015)
Hajari, Nisid, *Midnight's Furies: The Deadly Legacy of India's Partition* (Houghton Mifflin Harcourt, 2015)
Hamzić, Vanja, 'Book Review: Faisal Devji, Muslim Zion: Pakistan as a Political Idea' (2016) 36(2) *South Asia Research* 288
Hasan, Mushirul, 'The Muslim Mass Contact Campaign: An Attempt at Political Mobilisation' (1986) 21(52) *Economic and Political Weekly* 2273
Hasan, Mushirul, Narayani Gupta (eds), *India's Colonial Encounter*: Essays in Memory of Eric Stokes (Manohar Publishers, 1992)
Hashim, Abul, *Let Us Go to War* (Dhaka: Umar Bros, 1945)
Hashim, Abul, *The Creed of Islam* (Dhaka: Umar Bros, 1950)
Headrick, Daniel, 'A Double-Edged Sword: Communication and Imperial Control in Colonial India' (2010) 35(1(131)) *Historical Social Research* 51.
Hegel, GWF, *The Philosophy of Right*, tr SW Dyde (George Bell and Sons, 1896)
Hindes, Barry, *Discourses of Power – From Hobbes to Foucault* (Blackwell Publishers, 1996)
Hironen, Ari, *Policenticity: The Multiple Scenes of Law* (Pluto, 1998)
Honig, Bonnie, 'Between Decision and Deliberation: Political Paradox in Democratic Theory' (2007) 101(1) *American Political Science Association* 5
Honig, Bonnie, *Emergency Politics: Paradox, Law, Democracy* (Princeton University Press, 2009)
Hopkins, Benjamin D, 'The Frontier Crimes Regulation and Frontier Governmentality' (2015) 74(2) *The Journal of Asian Studies* 369
Hull, Matthew S, *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan* (University of California Press, 2012)
Hultin, N, 'Voter registration cards, political subjectivity, and trust in paper in the Gambia," (2008) 1(1) *Journal of Legal Anthropology* 70
Humphreys, Stephen, 'Legalizing Lawlessness: On Giorgio Agamben's State of Exception' (2006) 17(3) *The European Journal of International Law* 677
Hunter, William W, *The Indian Empire: Its People, History, and Products* (Forgotten Books, 2017)
Hussain, Nasser, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (University of Michigan Press, 2003)

Ikramullah, Begum Shaista Suharwardy, *Huseyn Shaheed Suharwardhy* (Oxford University Press, 1991)
Iliopoulou, Despina, 'The Uncertainty of Private Property: Indigenous versus Colonial Law in the Restructuring of Social Relations in British India' (2001) 26(1) *Dialectical Anthropology* 65
Iyer, Samantha, 'Colonial Population and the Idea of Development' (2013) 55(1) *Comparative Studies in Society and History* 65
Jabeen, Fozia, *The Khilafat-, Hijrat- and Gandhi's Non-Cooperation-Movement* (Grin Verlag, 2017)
Jalal, Ayesha, *Partisans of Allah* (Harvard University Press, 2008)
Jalal, Ayesha, *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence* (Cambridge University Press, 1990)
Jalal, Ayesha, *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan* (Cambridge University Press, Reprint ed, 1994)
Jeffrey, Robin, 'The Punjab Boundary Force and the Problem of Order (1974) 8(4) *Modern Asian Studies* 491
Johnson, Richard L, (ed), *Gandhi's Experiments with Truth: Essential Writings by and about Mahatma Gandhi* (Lexington Books, 2005)
Jordheim, Helge 'Against Periodization: Koselleck's Theory of Multiple Temporalities' (2012) 51(2) *History and Theory* 151
Josh, Sanjay, *Fractured Modernity: Making of a Middle Class in Colonial North India* (Oxford University Press, 2002)
Subramanian, KS, 'Intelligence Bureau, Home Ministry and Indian Politics' (2005) 40(21) *Economic and Political Weekly* 2147
Kapila, Kriti 'The Measure of a Tribe: The Cultural Politics of Constitutional Reclassification in North India' (2008) 14(1) *Journal of the Royal Anthropological Institute* 117
Kaur, Ravinder 'Distinctive Citizenship: Refugees, Subjects and Post-Colonial State in India's Partition (2009) 6(4) *Cultural and Social History* 429
Kedourie, Elie 'Revolutionary Nationalism in Asia and Africa' (1968) 3(4) *Government and Opposition* 453
Kennedy, Charles H, *Bureaucracy in Pakistan* (Oxford University Press, 1987)
Khalidi, Omar, 'From Torrent to Trickle: Indian Muslim Migration to Pakistan, 1947-97' (1998) 37(3) *Islamic Studies* 339
Khan, Hafeez-Ur-Rahman, 'Pakistan's Relations with the USSR' (1961) 14(1) *Pakistan Horizon* 33.
Khan, Hamid, *Constitutional and Political History of Pakistan* (Oxford University Press, 2001)
Khan, Iqtidar Alam, 'Tracing Sources of Principles of Mughal Governance: A Critique of Recent Historiography' (2009) 37(5/6) *Social Scientist* 45
Khan, Yasmin, *The Great Partition: The Making of India and Pakistan* (Yale University Press, 2007)
Khan, Yasmin, *The Raj at Wat; A People's History of India's Second World War* (The Bodley Head, 2015)
Kierans, Kenneth 'The Concept of Ethical Life in Hegel's Philosophy of Right' (1992) 13(3) *History of Political Thought* 417

Kiersey, Nicholas J, 'Scale, Security, and Political Economy: Debating the Biopolitics of the Global War on Terror' (2009) 31(1) *New Political Science* 27
Kisner, Wendell, 'Agamben, Hegel, and The State of Exception' (2007) 3(2-3) *Cosmos and History: The Journal of Natural and Social Philosophy* 222
Kokab, Rizwan Uullah, *Separatism in East Pakistan: A Study of Failed Leadership* (Oxford University Press, 2018)
Kolsky, E, 'Codification of Colonial Difference: Criminal Procedure of British India' (2005) 23(3) *Law and History Review* 641
Korbel, Joseph, *Danger in Kashmir* (Princeton University Press, 2015)
Kugle, SA, 'Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia' (2001) 35(2) *Modern Asian Studies* 257
Kulshreshtha, VD, *Landmarks in Indian Legal History and Constitutional History* (Eastern Book, 1968)
Kumar, Sunny, 'Terrorism or the Illegitimacy of Politics in Colonial India' (2016) 44(3/4) *Social Scientist* 41
Kumar, Madhurendra, 'American Strategy in South Asia From Cold War to Post-Cold War' (2006) 67(3) *The Indian Journal of Political Science* 605
Kumarasingham, H, 'The Indian Version of First among Equals — Executive Power during the First Decade of Independence' (2010) 44(4) *Modern Asian Studies* 709
Kuracina, William F, 'Toward a Congress Raj: Indian nationalism and the pursuit of a potential nation-state' (PhD Dissertation, Syracuse University, 2008)
Kuracina, William F, *The State and Governance in India: The Congress Ideal* (Routledge, 2010)
Laclau, Ernesto, 'Universalism, Particularism, and the Question of Identity' (1992) 61 *October* 83
Lal, Sangam, 'The Muslim League and The Constituent Assembly of India' (1981) 42 *Proceedings of the Indian History Congress* 495
Lambert, Richard D, 'Religion, Economics, and Violence in Bengal: Background of the Minorities Agreement' (1950) 4(3) *Middle East Journal* 307
Leake, Elisabeth and Daniel Haines, 'Lines of (In) Convenience: Sovereignty and Border-Making in Postcolonial South Asia, 1947–1965' (2017) 76(4) *The Journal of Asian Studies* 963
Leake, Elisabeth, 'The Great Game Anew: US Cold-War Policy and Pakistan's North-West Frontier, 1947–65' (2013) 35(4) *International History Review* 783
Leake, Elisabeth, 'British India versus the British Empire: The Indian Army and an impasse in imperial defence, circa 1919–39' (2014) 48(1) *Modern Asian Studies* 301
Lerner, Hanna, *Making Constitutions in Deeply Divided Societies* (Cambridge University Press, 2011)
Little, Adrian, 'The complex temporality of borders: Contingency and normativity' (2015) 14(4) *European Journal of Political Theory* 429
Lloyd, Tom, *'Thuggee and the Margins of the State in Early Nineteenth-Century Colonial India'* (University of Edinburgh, 2007) Available online: http://www.csas.ed.ac.uk/mutiny/confpapers/Lloyd-Paper.pdf.
Lund, Christian, 'Rule and Rupture: State Formation through the Production of Property and Citizenship' (2016) 47(6) *Development and Change* 1191

Luther, Timothy C, *Hegel's Critique of Modernity: Reconciling Individual Freedom and the Community* (Lexington, 2009)
Maheshwari, Shriram, 'Administrative Reforms in Pakistan' (1974) 35(2) *The Indian Journal of Political Science* 144
Mahmud, Tayyab, 'Colonial Cartographies, Postcolonial Borders, and Enduring Failures of International Law: The Unending Wars along The Afghanistan-Pakistan Frontier, (2001) 36(1) *Brooklyn Journal of International Law* 1
Malcolm, Noel, *Useful Enemies: Islam and the Ottoman Empire in European Political Thought, 1450-1750* (Oxford University Press, 2019)
Manchanda, Nivi, 'Rendering Afghanistan legible: Borders, frontiers and the 'state' of Afghanistan' (2017) 37(4) *Politics* 386
Mbembe, Achille, *On the Post-Colony* (University of California Press, 2001)
Mbembé, Achille and Steven Rendall, 'At the edge of the world: Boundaries, territoriality, and sovereignty in Africa' (2000) 12(1) Public *culture* 259
McCormick, Ted, 'Political Arithmetic's 18'th Century Histories: Quantification in Politics, Religion and the Public Sphere' (2014) 12(3) *History Compass* 239
Mehta, Uday S, 'Gandhi and the Burden of Civility,' (2014) 33(1) *Raritan: A Quarterly Review* 37
Menon, Nivideta, *'Foucault and Indian Scholarship'* (French Cultural Centre Delhi, 2009) available online at: http://www.academia.edu/8293934/FOUCAULT_AND_INDIAN_SCHOLARSHIP_History_Governmentality_Modernity.
Menon, Vapal Pangunni, *Transfer of power in India* (Princeton University Press, 2015)
Metcalf, Thomas R. *The Aftermath of Revolt India, 1857-1870* (Princeton University Press, 1965)
Metcalf, Thomas R, *Ideologies of the Raj* (Cambridge University Press, 1997)
Mezzadra, Sandro and Brett Neilson, *Border as Method or the Multiplication of Labor* (Duke University Press, 2013)
Misra, Kavita 'Productivity of Crises: Disease, Scientific Knowledge and State in India.' (2000) (43/44) *Economic and Political Weekly* 3885
Mishra, Atul 'Theorising State Sovereignty in South Asia' (2008) 43(40) *Economic and Political Weekly* 65
Mitchell, Timothy, *The Rule of Experts: Egypt Techno-Politics, Modernity* (University of California Press, 2002)
Mookherji, MH, *The Communal Award and Indian Nationalism* (University of Calcutta, 1939)
Moosvi, Shireen, 'Tax and Price Relationship in a Regime of Asiatic Despotism: A Theoretical Exercise' (2009) 37(5/6) *Social Scientist*, 28
Morris-Jones, Wyndraeth Humphreys, 'The Indian Congress Party: A Dilemma of Dominance.' (1967) 1(2) *Modern Asian Studies* 109.
Muhammad, Baz*Constitution Making in Pakistan 1947-1985*, (Royal Book Company, 1995)
Mukherjee, Mithi 'Justice, War, and the Imperium: India and Britain in Edmund Burke's Prosecutorial Speeches in the Impeachment Trial of Warren Hastings' (2005) 23(3) *Law and History Review* 589.

Mukherjee, Mithi *India in the Shadow of Empire: A Legal and Political History 1774-1950* (Oxford University Press, 2010)
Muldoon, Andrew, 'Politics, Intelligence and Elections in Late Colonial India: Congress and the Raj in 1937' (2009) 20(2) *Journal of the Canadian Historical Association* 160.
Murray Li, Tania 'Beyond "the State" and failed schemes' (2005) 107(3) *American Anthropologist*, 383.
Naqvi, Tahir 'Nation, Space, and Exception: Pakistan's Basic Democracies Experiment ' (2013) 22(3) *Comparative Studies of South Asia, Africa and the Middle East, 279*
Nayar, Jayan, 'On the elusive subject of sovereignty' (2014) 39(2) *Alternatives: Global, Local, Political* 124.
Neal, Andrew W. 'Cutting Off the King's Head: Foucault's Society Must Be Defended and the Problem of Sovereignty' (2004) 29 *Alternatives: Global, Local, Political* 373.
Niaz, Ilhan, 'Jinnah on governance: The unheeded advice of Pakistan's Quaid-i-Azam' (2016) 47(3) *Asian Affairs* 406.
Noorani, AG *Indian Political Trial 1775-1947* (Oxford University Press, 2007)
Noorani, AG, *Jinnah and Tilak: Comrades in the Freedom Struggle* (Oxford University Press, 2010)
Norris, Andrew 'Willing and Deciding: Hegel on Irony, Evil, and the Sovereign Exception' (2007) 37(2-3) *Diacritics* 135.
Oldenburg, Philip, 'A Place Insufficiently Imagined: Language, Belief, and the Pakistan Crisis of 1971' (1985) 44(4) *The Journal of Asian Studies* 711.
Ong, Aihwa Ong "Cultural Citizenship as Subject-Making: Immigrants Negotiate Racial and Cultural Boundaries in the United States (1996) 37 (5) *Current Anthropology* 737.
Pahuja, S, 'Letters from Bandung' in L Eslava, M Fakhri and V Nesiah (Eds*), Bandung, Global History, and International Law: Critical Pasts and Pending Futures* (Cambridge University Press (2017)
Pandey, Gyanendra *The Gyanendra Pandey Omnibus* (Oxford University Press, 2008)
Partha Chatterjee, *The Politics of the Governed: Reflections on Popular Politics in Most of the World* (Columbia University Press, 2004)
Passmore, Kevin, *Fascism, a Very Short Introduction* (Oxford University Press, 2nd ed, 2014)
Patrick Simon & Victor Piché Accounting for ethnic and racial diversity: the challenge of enumeration, (2012) 23(8)*Ethnic and Racial Studies*, 1357
Pavlich, George, 'Political Logic, Colonial Law and the 'Land of the Long White Cloud' (1998) 9(2) *Law and Critique* 175.
Payne, Stanley G. *A History of Fascism, 1914–1945* (University of Wisconsin Press, 1996)
Peabody, Norbert, 'Cents, Sense, Census: Human Inventories in Late Precolonial and Early Colonial India' (2001) 43(4) *Comparative Studies in Society and History* 819.
Peltonen, Matti, 'From Discourse to 'Dispositif': Michel Foucault's Two Histories' (2004) 30(2) *Historical Reflections* 205.
Philo, C. '*Bellicose History and Local* Discursivities: An *Archaeological Reading of Michel Foucault's Society Must be Defended*' in J. W. Crampton and S. Elden (eds.) Space, Knowledge and Power: Foucault and Geography (Routledge, 2007)

Philpotts, Matthew, 'Cultural-Political Palimpsests: The Reich Aviation Ministry and the Multiple Temporalities of Dictatorship' (2012) (117) *New German Critique* 207.
Pinch, William R, 'Same Difference in India and Europe' (1999) 38(3) *History and Theory* 389.
Poovey, M. *A History of the Modern Fact: Problems of Knowledge in the Sciences of Wealth and Society* (University of Chicago, 1998)
Povinelli, Elizabeth, *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism* (Duke University Press, 2003)
Prakash, Gyan, 'The body politic in colonial India' *in* Timothy Mitchell (ed), *Questions of Modernity* (University of Minnesota Press, 2000)
Prysor, Glyn 'The Fifth Column and the British Experience of Retreat, 1940' (2005) 12(4)*War in History, 154*
Puckle, Frederick Sir. "The Gandhi Jinnah Conversations" (1945) 23, *Foreign Affairs*, 318.
Puri, Harish K, *Ghadar Movement: Ideology, Organisation, and Strategy* (Guru Nanak Dev University, 1993)
Purushotham, Sunil, 'Federating the Raj: Hyderabad, sovereign kingship, and partition' (2020) 54(1) *Modern Asian Studies,* 157
Qadri, Syed Umer Ahmad, 'A Linguistic Analysis Jawaharlal Nehru's Tryst with Destiny Speech' (2018) 18(3) *Language in India* 327.
Qasmi, Ali Usman and Meghan E. Robb *Muslims against the Muslim League* (Cambridge University Press, 2017)
Qureshi, Saleem MM 'Pakhtunistan: The frontier dispute between Afghanistan and Pakistan'(1966) 39(1/2) *Pacific Affairs* 99.
Rabinbach, Anson and Sander L Gilman (eds), *The Third Reich Sourcebook* (University of California Press, 2013)
Raghavan, Pallavi, 'The Making of the India–Pakistan Dynamic: Nehru, Liaquat, and the No War Pact correspondence of 1950' (2016) 50(5) *Modern Asian Studies* 1645
Rahman, Taimur, *The Class Structure of Pakistan*, (Oxford University Press, 2012)
Raman, Kartik Kalvan, 'Utilitarianism and the Criminal Law in Colonial India: A Study of the Practical Limits of Utilitarian Jurisprudence.' (1994) 28(4) *Modern Asian Studies* 739.
Ramnath, Maia, *Haj to Utopia: How the Ghadar Movement Charted Global Radicalism and Attempted to Overthrow the British empire* (University of California Press, 2011)
Ramnath, Maia, *Decolonizing Anarchism: An Antiauthoritarian History of India's Liberation Struggle* (AK Press, 2012*)*
Raza, Ali, 'Separating the Wheat from the Chaff: Meerut and the Creation of 'Official' Communism in India' (2013) 33(3) *Comparative Studies of South Asia, Africa and the Middle East* 316.
Rizvi, Hasan Askari, *The Military and Politics in Pakistan, 1947-86* (Progressive Publishers: Lahore, 1998)
Robb, Peter *A History of India* (Palgrave Macmillan, 2011)
Robinson, Francis, 'The British Empire and Muslim Identity in South Asia' (1998) 8 *Transactions of the Royal Historical Society* 271.
Roy, A, 'The High Politics of India's Partition: The Revisionist Perspective' (1990) 24(2) *Modern Asian Studies* 385.

Ruppert, E. 'Population objects: interpassive subjects' 2011) *Sociology*, 45 (2): 218-233.
Russell, Malcolm, *The Middle East and South Asia 2013* (Rowman & Littlefield, 2013)
Salim, Ahmed, 'Freedom Movement and Peshawar Conspiracy Cases.' (2004) 21(1) *Pakistan Perspectives* 43.
Samaddar, Ranabir, *The Materiality of Politics: The Technologies of Rule* (Anthem Press, 2007)
Samaddar, Ranabir, 'Governance Structures and the Current History of Peacebuilding in India's Northeast' (2012) 58 *Norms and Premises of Peace Governance* 1.
Śarana, Gopāla and Dharni P Sinha 'Status of Social-Cultural Anthropology in India' (1976) 5 *Annual Review of Anthropology* 209.
Sarila, NS, *The Shadow of the Great Game: The Untold Story of India's Partition* (Harper Collins, 2006)
Sartoni, Andrew, *'The Categorical Logic of a Colonial Nationalism: Swadeshi Bengal*, 1904-1908'(2003) 23(1-2) *Comparative Studies of South Asia, Africa and the Middle East* 271.
Sayeed, Khalid Bin, *Pakistan: The Formative Phase 1857-1948*, (Oxford University Press, 1968)
Sayeed, Khalid Bin, '*The Governor-General of Pakistan'* (1955) 8(2) *Pakistan Horizon* 330, 333.
Sayeed, Khalid Bin, 'Collapse of Parliamentary Democracy in Pakistan'(1959) 13(4) *Middle East Journal* 389.
Sayeed, Khalid Bin, *The Political System of Pakistan*, (Oxford University Press,1967)
Scott, David"*Colonial Governmentality*," . (1995) 43, *Social Text* , 191
Scuccimarra Luca, 'Semantics of Time and Historical Experience: Remarks on Koselleck's Historik' (2008) 4(2) *Contributions to the History of Concepts*
Seal, Anil, 'Imperialism and Nationalism in India'(1973) 7(3) *Modern Asian Studies* 321.
Shafqat, Saeed *Civil-Military Relations in Pakistan: From Zulfikar Ali Bhutto to Benazir Bhutto*, (Westview Press, 1997)
Shah, Aqil, *The Army and Democracy* (Harvard University Press, 2014)
Shah, Sayed Wiqar Ali, 'Ethnicity, Islam, and Nationalism: Muslim Politics in the North-West Frontier Province, 1937-47' (2003) 62(4) *The Journal of Asian Studies* 1301
Shaikh, Farzana *Community and Consensus in Islam: Muslim Representation in Colonial India, 1860-1947* (Cambridge University Press, 1989)
Shani, Ornit, (2017) *How India Became Democratic: Citizenship and the Making of the Universal Franchise* (Cambridge University Press, 2017)
Sherman, Taylor C, William Gould and Sarah Ansari (eds), *From Subjects to Citizens: Society and the Everyday State in India and Pakistan, 1947–1970* (Cambridge University Press, 2014)
Sherman, Taylor C., 'Migration, citizenship and belonging in Hyderabad (Deccan), 1946–1956.' (2011) 45(1) *Modern Asian Studies* 81.
Sheth, Falguni A. "The War on Terror and Ontopolitics: Concerns with Foucault's Account of Race, Power Sovereignty" (2011), o. 12*Foucault Studies*, 51.
Siddiqa, Ayesha, *Military Inc: Inside Pakistan's Military Economy* (Pluto, 2007)
Siddiqi, Farhan Hanif. 'Security Dynamics in Pakistani Balochistan: Religious Activism and Ethnic Conflict in the War on Terror' (2012) 39(3)*Asian Affairs: An American Review*, , 157.
Singh, Chetan, 'Centre and Periphery in the Mughal State: The Case of Seventeenth-Century Panjab. (1988) 22(2) *Modern Asian Studies* 299.

Singha, Radhika, *A Despotism of Law: Crime and Justice in Early Colonial India* (Oxford University Press, 1998)
Sircar, Jawhar 'Ruling the District' (1988) 15(2) *India International Centre Quarterly* 71.
Sirrs, Owen L. 'The perils of multinational intelligence coalitions: Britain, America and the origins of Pakistan's ISI' (2018), 33(1) *Intelligence and National Security* 36.
Skinner, Quentin and Bo Stråth (eds), *States and citizens: History, Theory, Prospects* (Cambridge University Press, 2003)
Skuy, David, 'Macaulay and the Indian Penal Code of 1862: The Myth of the Inherent Superiority and Modernity of the English Legal System Compared to India's Legal System in the Nineteenth Century' (1998) 32(3) *Modern Asian Studies* 513.
Sokoloff, William W, 'Between Justice and Legality: Derrida on Decision' (2005) 58(2) *Political Research Quarterly* 341.
Sparke, M .. "A Neoliberal Nexus: Citizenship, Security and the Future of the Border," (2006) 25 (2) *Political Geography*, 151
Smart, Barry, Foucault, *Marxism and Critique* (Taylor & Francis, 2010)

Stephens, M, *'White without soap: philanthropy, caste and exclusion in colonial Victoria, 1835-1888: a political economy of race'* (2003) (PhD thesis, The University of Melbourne)
Stokes, Eric *The English Utilitarians and India* (Oxford University Press, 1990)
Stokes, Eric *The Peasant Armed – The Indian Rebellion of 1857* (Clarendon, 1986)
Sundar, Nandini 'Mimetic Sovereignties, Precarious Citizenship: State effects in a looking glass world' (2014) 41(4), *Journal of Peasant. Studies*, 469.
Syed, JH, 'The British Advent in Balochistan' (2007) 28(2) *Pakistan Journal of History and Culture* 53, 58.
Talbot, Ian, *Punjab and the Raj: 1849-1947* (Manohar, 1988)
Talbot, Ian, 'Planning for Pakistan, the Planning Committee of the All-India Muslim League'(1994) 28(4) *Modern Asian Studies* 875, 881.
Talbot, Ian 'Punjabi Refugees' Rehabilitation and the Indian State: Discourses, Denials and Dissonances' (2011) 45(1) *Modern Asian Studies*, 109
Tan, Tai Yong and Kudaisya, Gyanesh *The Aftermath of Partition in South Asia*. (Routledge, 2010)
Tanwir, Maryam and Shailaja Fennel.. 'Political Neutrality and the Pakistani Bureaucracy: a mutually exclusive phenomenon?' (2010) 49, No.3. *Pakistan Development Review,* Available online at: http://pide.org.pk/pdr/index.php/pdr/article/viewFile/2713/2677) [Accessed 09/11/12].
Tawil-Souri, H. 'Colored Identity: The Politics and Materiality of ID Cards in Palestine/Israel' (2011) 29(2) *Social Text* 107
Tewari, J. P., 'A class analysis of the prominent rebels of 1857 in Meerut district' (1970) 32 *Proceedings of the Indian History Congress* 69.
Thomas, P.J. 'The Census as an Agency for Economic Planning' (1941) vo. 5(3) *Sankhyā: The Indian Journal of Statistics* 247.
Tilly, Charles, 'Cities and states in Europe, 1000–1800' (1989) 18(5) *Theory and Society* 563
Toor, Saadia, *The state of Islam: Culture and Cold War Politics in Pakistan* (Pluto Press: London, 2015)

Torpey, John, 'Coming and going: On the state monopolization of the legitimate means of movement'(1998) 16(3) *Sociological theory*, 239.
Treat, Payson J. 'The New Indian Councils.' (1915) 5(3) *The Journal of Race Development* 285.
Tudor, Maya, *'The Promise of Power'*, (Cambridge University Press 2017)
Veer, Peter van der *Religious Nationalism – Hindus and Muslims in India* (University of California Press, 1994)
Uberoi, JPS 'Sociology of Commerce and Industry, or the Three Lives of Things' (2008) 57(1), *Sociological Bulletin*, 41.
Washbrook, DA, 'Law State and Agrarian Society in Colonial India' (1981) 15(3) *Modern Asian Studies* 649.
Webb, David, *'The Discursive Regularities' in Foucault's Archaeology: Science and Transformation* (Edinburgh University Press(2013)
Williams, Donovan, 'The Council of India and the Relationship between the Home and Supreme Governments, 1858-1870' (1966) 81(31) *English Historical Review* 56.
Williams, Nick Vaughan, *Border Politics: The Limits of Sovereign Power* (Edinburgh University Press, 2009)
Wilson, Jon E, 'Early Colonial India Beyond Empire' (2007) 50(4) *Historical Journal* 951
Wimmer, Andreas and Yuval Feinstein, 'The Rise of the Nation-State across the World, 1816 to 2001'(2010) 75(5) *American Sociological Review* 764.
Wimmer, Andreas, *Waves of War: Nationalism, State Formation, and Ethnic Exclusion in the Modern World* (Cambridge University Press, 2012)
Zaheer, Hassan, *The Times and Trial of the Rawalpindi Conspiracy 1951: The First Coup Attempt in Pakistan* (Oxford University Press, 1998)
Zaheer, Sajjad, *A Case of Congress-League Unity* (People's Publishing House: 1944)
Zamindar, Vazira, *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories* (Columbia University Press 2010)
Zanotti, Laura, 'Governmentality, Ontology, Methodology: Re-thinking Political Agency in the Global World' (2013) 38(4) *Alternatives: Global, Local, Political* 288.
Ziring, Lawrence and LaPorte, Robert, Jr. "The Pakistan Bureaucracy: Two Views", (1974) 14(12) *Asian Survey* 1086.
Ziring, Lawrence, Baraibanti, Ralph and Wriggings, W. Howard, , *Pakistan: The Long View*, (Duke University Press, 1977)

Primary Sources:

"Agriculture" Friend of India and the Statesman July 15, 1879 pp.612-13
Ahmad, Ishtiaq, 'Splitting India IV' *Friday Times Lahore* (online, 11 October 2013) < https://www.thefridaytimes.com/splitting-india-iv/>

Ali, Manzoor, *'Gold and Guns: Abdul Qayyum Khan's Journey to the Centre of the Frontier'*, *The Express Tribune* (online, 1 August 2014) https://tribune.com.pk/story/742763/gold-and-guns-abdul-qayyum-khans-journey-to-the-centre-of-the-frontier/.
Cowasjee, Ardeshir, (2011) *'A recap of Soviet-Pakistan relations'*, DAWN (online, 12 March 2011) https://www.dawn.com/news/612610/a-recap-of-soviet-pakistan-relations.
Foreign and Common Wealth Office (FO 371)
General CIA Records, The Assassination of the Prime Minister of Pakistan (Document No CIA-RDP79S01011A000500060005-4, 16 October 1951) Available online: https://www.cia.gov/library/readingroom/docs/CIA-RDP79S01011A000500060007-2.pdf
Government of Pakistan, Cabinet Division, Karachi, Action against Communism (File No 108/CF/48), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Division, Karachi, Meeting of the Central Government Ministers and Premiers of Provincial Government (File No 108/CF/48, Copy No 13, 21 July 1948), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Secretariat, Karachi, AR Nishtar's Letter (Page 82 of the File, 21st October 1947, Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Secretariat, Karachi, Correspondence with the Governor NWFP (PM Office File II Chundrigar, 5th May 1950), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Secretariat, Karachi, Correspondence with the Governor NWFP (PM Office File II Chundrigar, 15th April 1950), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Secretariat, Karachi, M.A.H. Isphahani writing from Washington regarding communism in Asia (20 June 1949) Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Secretariat, Karachi, Office Memorandum: Internment of Khan Abdul Ghaffar Khan (1948), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Cabinet Secretariat, Karachi, Proposal to transfer Abdul Ghaffar Khan (23 July 1948), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Correspondence with the High Commission of the UK, Clement Atlee's letter to the PM (File No 14(4) PMS/48–I, 30 October 1948), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Ministry of Interior, Home Division, Karachi, Letter to Cabinet Deputy Secretary (DO No 55/7/48, 8thApril 1948), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Ministry of Interior, Home Division, Karachi, Communism in Pakistan (File No 108/CF/48, Copy No 13, 13 April 1949), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Ministry of Interior, Home Division, Karachi, File on Sobho T Gianachandi, (File No 108/CF/48 Encl 4), Retrieved from: National Documentation Centre, Islamabad.

Government of Pakistan, Ministry of Interior, Home Division, Karachi, File on Jamaluddin Hassan Bukhari (File No 108/CF/48 Encl 1), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Ministry of Interior, Home Division, Karachi, File on Sayyed Sajjad Zaheer (File No 108/CF/48, Encl 10), Retrieved from: National Documentation Centre, Islamabad
Government of Pakistan, Ministry of Interior, Home Division, Karachi, Communism in Pakistan (File No 108/CF/48, Copy No 13, 13 April 1949), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, Ministry of Interior, Information and Broadcasting, Home Division, Karachi, Pakistan Public Safety Ordinance, 1948 (Copy No 13), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, PM Office, Karachi, Letter of Habib Rahimtoola (June 1949), Retrieved from: National Documentation Centre, Islamabad.
Government of Pakistan, PM Office, Karachi, Letter of Habib Rahimtoola (4th November 1949), Retrieved from: National Documentation Centre, Islamabad.
Huq SS, (1940) *'Evolution of Police in India' in Calcutta Police Journal* (PK Chatterjee) I, 176-180. Available through the South Asia Archive at: http://www.southasiaarchive.com/Content/sarf.120294/229573/013.
Jawaharlal Nehru, 'A Tryst with Destiny', The Guardian (online, 1 May 2007) https://www.theguardian.com/theguardian/2007/may/01/greatspeeches.
Letters between Liaquat Ali Khan and Nehru (File No 14(3) PMS/1948), Retrieved from: National Documentation Centre, Islamabad.
Liaquat Rajper, 'A comrade to the Core', *The News on Sunday* (online, 18 February 2018) https://www.thenews.com.pk/tns/amp/564997-comrade-core.
Pakistan National Assembly Debates, 1st Parliamentary Year, 1st Session, 5th March 1948, pp 238-243.
Paracha, Nadeem F, (2014) *'The idea that created Pakistan'*, DAWN (online, 25 December) https://www.dawn.com/news/1153105
Paracha, Nadeem F, (2015) *''The volatile fusion: Origins, rise & demise of the 'Islamic Left''*, DAWN (online, 23 July) https://www.dawn.com/news/1195863.
Quaid-e-Azam Muhammad Ali Jinnah, Address to the Officers of the Staff College, Quetta (14th June 1948)
Security Council of the United Nations, SC Res 47, UNS (01)/R3, 286th mtg (21 April 1948)
Speeches of Bhulabhai J Desai, 1934-38 (GA Natesan & Co, 1938) 101-103