From the holdings of the Department of Special Collections , Princeton University Library, Princeton, NJ

These documents are either in the public domain, or can only be used for educational and research purposes (Fair use) as per U.S. Copyright law (text below). By accessing this file, all users agree that their use falls in the public domain or within fair use as defined by the copyrightlaw. We do not charge any permission or usage fees for the publication of images of material inour collections, including those provided by Princeton University Library, via our website, catalog, or directly from staff.For more information regarding copyright, credit, and citation please review the information onthe Copyright, Credit and Citation Guidelines page of our website.
https://library.princeton.edu/special-collections/policies/copyright-credit-and-citation-guidelines. If you have any questions, including how to order higher-quality images from the collection, contact Special Collections Public Services via our Ask Us! Form. https://library.princeton.edu/special-collections/ask-us

Doctoral Dissertations, 2011-2026 Sociology

2014

Colonial Legacy and Administrative Memory: The Legal Construction of Citizenship in India, Israel and Cyprus

Berda, Yael

Princeton, NJ : Princeton University

http://arks.princeton.edu/ark:/88435/dsp01df65vb07v

U.S. Copyright law: The copyright law of the United States (Title 17, §108, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship, or research. If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of fair use that user may be liable for copyright infringement. This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve a violation of copyright law. https://www.copyright.gov/title17/title17.pdf

COLONIAL LEGACY AND ADMINISTRATIVE MEMORY:

THE LEGAL CONSTRUCTION OF CITIZENSHIP

IN INDIA, ISRAEL AND CYPRUS

Yael H. Berda

A DISSERTATION

PRESENTED TO THE FACULTY

OF PRINCETON UNIVERSITY

IN CANDIDACY FOR THE DEGREE

OF DOCTOR OF PHILOSOPHY

RECOMMENDED FOR ACCEPTANCE

BY THE DEPARTMENT OF SOCIOLOGY

[Advisers Paul J. DiMaggio & Kim Lane Scheppele]

September 2014

© Copyright by Yael H. Berda. All rights reserved.

Abstract

This dissertation explains how British colonial legacies of population classification and surveillance molded the legal construction of citizenship in independent Israel, India and Cyprus. The administrative practices of the colonial state, particularly emergency laws and security measures, created an institutional *iron cage* that shaped the relationship between the state apparatus with national and ethnic minorities, by organizational means.

India, Cyprus, and Israel were part of the British Empire and shared a common legal framework, administrative structures, and toolkit of governance. In each of these territories, the trajectory of partition divided once colonized populations among different states; hence classification of populations into ethnic and religious categories was central to the processes of post-colonial state building. This study examines how each of these states used its administrative inheritance to deal with the movement of populations within new boundaries.

Methodologically, this dissertation investigates regime change, the transition from colonial rule to independence, from a perspective rarely studied: the daily and mundane bureaucratic practices and internal administrative negotiation reflected in administrative minutes, statistical tables and maps, for classifying populations. Drawing upon previously unexplored files from ministries of interior, the concentrated effort on legacies of organizational routines, which I call *administrative memory,* contributes new insights into the making of discriminatory practices of exclusion against minorities employed by democratic states, that is usually justified by a set of particular political, national or religious conflicts that are said to necessitate these practices.

Emergency laws in the colonies gave powers to officers to use extreme measures, but never specified against which populations these tools could be used. In order to turn the emergency laws into administrative practice, population had to be categorized on two axes: demographic traits such as religion, language, gender and class and administrative relationship to the state, namely, patriot, suspect, security threat or enemy-of-the state. Findings explain how practices of classification and data collection about civil populations, employed by modern states, turned into practices of surveillance and monitoring populations according to the level of loyalty to the state. In turn, these classifications based on suspicion, determined the access minorities had to identity documents, freedom of movement and eventually, political membership and rights.

Table of Contents

ABSTRACT ..... **III**

TABLE OF CONTENTS ..... **V**

TABLE OF FIGURES VIII

LIST OF TABLES VIII

ACKNOWLEDGEMENTS ..... **X**

INTRODUCTION **18**

COLONIAL PRACTICES OF SECURITY AND SURVEILLANCE 27

CASE SELECTION: MANAGING POPULATIONS AND THE DEADLINES FOR PARTITION 30

LEGACIES OF COLONIAL LAW AND ADMINISTRATION 46

ADMINISTRATIVE MEMORY 52

BUREAUCRACY AND THE ROLE OF EMERGENCY LAWS IN THE BRITISH COLONIES 54

METHODOLOGY 57

CHAPTER 1 COLONIAL BUREAUCRACY: RACE, LAW AND STRUCTURE IN COLONIAL ADMINISTRATIONS **62**

INTRODUCTION: THE ORGANIZATION OF COLONIAL RULE 62

THE OTHER IDEAL TYPE 70

RACE AND BUREAUCRACY 75

DIFFUSION OF THE BRITISH COLONIAL MODEL OF BUREAUCRACY 82

LORD CROMER AND THE GOVERNMENT OF SUBJECT RACES 94

EMPIRICAL ANALYSIS: THE THREE CHARACTERISTICS OF COLONIAL BUREAUCRACY 97

EFFECTIVE INEFFICIENCY AND THE MANAGEMENT OF SUBJECT POPULATIONS 113

CHAPTER 2 CATEGORIZING POPULATIONS: FORMS, SPACES AND IDENTITIES 122

INTRODUCTION 122

RACE AND BUREAUCRACY: CATEGORIES IN BRITISH COLONIAL ADMINISTRATION 127

MONITORING MOVEMENT, MAPPING IDENTITIES 140

CENSUS AS THE TOOLKIT OF GOVERNMENT 142

CENSUS CATEGORIES: CYPRUS 145

CENSUS CATEGORIES: INDIA 151

CENSUS CATEGORIES: PALESTINE 160

CHAPTER 3 THE BUREAUCRATIC LEGACIES OF VIOLENCE: CIVIL SERVANTS, WOMEN & MINORITIES . 172

CLASSIFICATION OF CIVIL SERVANTS 174

IDENTITY AND LOYALTY: THE MAKING OF POST-PARTITION CITIZENSHIP IN INDIA'S CIVIL SERVICE 176

CIVIL SERVICE: MANDATE PALESTINE 194

CIVIL SERVICE: CYPRUS 208

THE STATUS OF MARRIED WOMEN AS AN ETHNO-NATIONAL PROJECT 220

CONCLUSION: THE LEGACIES OF COLONIAL CATEGORIES IN THE POST-COLONIES 233

CHAPTER 4 CITIZENS AND SUSPECTS: HOW COLONIAL EMERGENCY LAWS SHAPED POLITICAL MEMBERSHIP 239

PART ONE: ORIGINS 241

THE COLONIAL EMERGENCY AND THE ORIGINS OF THE PERMIT REGIMES 246

LEGAL-SPATIAL CONTROL OF MOVEMENT IN COLONIAL INDIA 252

PART TWO: DIFFUSION OF THE LEGAL TOOLKIT FOR MANAGING POPULATIONS 274

PART THREE: LEGACIES 286

THE PERMIT REGIME IN INDIA 287

THE FILE AND THE CHECK POST: THE LABYRINTH OF IDENTITY 294

THE ISRAELI PERMIT REGIME 298

CYPRUS: THE SIEGE AND CONVERGENCE OF IDENTITY AND SUSPICION 306

CONCLUSION: THE ADMINISTRATIVE OUTCOMES OF EMERGENCY 312

APPENDIX 1: MECHANISMS OF CONTINUITY FOLLOWING REGIME CHANGE 318

INSTITUTIONAL INERTIA 319

JURIDICAL MEMORY 320

ADMINISTRATIVE MEMORY 321

NEW INSTITUTIONALISM AND HISTORICAL EMULATION 322

APPENDIX 2: ORGANIZATIONAL CHART OF THE PERMIT REGIME IN ISRAEL 323

APPENDIX 3: SELECTED REPERTOIRE OF BRITISH COLONIAL EMERGENCY LAWS 324

BIBLIOGRAPHY: 326

ARCHIVES 326

BOOKS AND JOURNAL ARTICLES 329

Table of Figures

FIGURE 1: THE PARTITION OF INDIA 21

FIGURE 2: PEEL COMMISSION PARTITION PLAN 1937 23

FIGURE 3: PROPOSED BRITISH PARTITION PLAN DURING THE EMERGENCY IN 1956 36

FIGURE 4: THE COLONIAL TOOLKIT FOR MANAGING POPULATIONS 276

FIGURE 5: INDIA JUST AFTER PARTITION 290

FIGURE 6: MAP OF THE PARTITION PLAN FOR PALESTINE AND AREAS CONTROLLED BY MILITARY GOVERNEMNT 300

FIGURE 7: MAP OF TURKISH CYPRIOT ENCLAVES 1963-1974 309

FIGURE 8: STRUCTURE OF PERMIT REGIME IN ISRAEL 1949-1953 323

List of Tables

TABLE 1: NUMBER OF ADMINISTRATORS TO POPULATION IN BRITISH, FRENCH AND BELGIAN COLONIES IN AFRICA 83

TABLE 2: CIVIL SERVICE STAFF IN THE MANDATE GOVERNMENT OF PALESTINE FOR 1937 195

TABLE 3: POLICE NUMBERS DURING THE EMERGENCY 1954-1959 209

TABLE 4: NUMBER AND PERCENTAGE OF GREEK AND TURKISH CYPRIOTS IN THE CIVIL SERVICE, DECEMBER 1963 216

TABLE 5 : METHODS OF DIFFUSION OF EMERGENCY LAWS IN THE BRITISH EMPIRE 278

Archive Abbreviations

- TNA – the national archives at Kew, UK. CO refers to Colonial Office Documents; FO refers to Foreign Office Documents; WO- War Office documents MED- Mediterranean department of the Commonwealth Relations Office
- IOR – India Office Records collection at the British Library. L/P&J – Political and Judicial, L/P&S –Political & Secret
- NAI – National Archives of India, New Delhi. HD refers to Colonial Home Department; MHA Ministry of Home Affairs; MEA-Ministry of External Affairs; MRR - Ministry of Relief and Rehabilitation
- NMML- Nehru Memorial Museum and Library, New Delhi
- CSA – Cyprus State Archive, Nicosia. SA indicates files from the colonial administration. MI indicates Ministry of Interior files in Independent Cyprus
- TNRC State Archive, Kyrinia
- MASC – Princeton University Manuscript Collection – Nancy Crawshaw Papers CO881
- ISA –Israel State Archive Jerusalem
- IDFA – Israel Defense Forces Archive, Kiryat Ono
- CZA – Central Zionist Archive. S19 indicates files of statistical department of the Jewish Agency

Acknowledgements

Writing this dissertation has been journey, not only of the intellectual kind, in which one makes scholarly and personal discoveries, but it has also been a journey to numerous countries, where I formed friendships and relationships that I believe will last a lifetime. There is no way I could thank all the incredible people that have made this journey possible in these next few pages, but I will try. This dissertation is dedicated to the people working to transform the discriminatory legacies of partition, and shift the trajectories of inter-communal conflict into more livable ones, on both sides of the three conflicts I write about.

First I must thank the members of my committee – dry and bureaucratic words for people that become so significant in one's life. Paul DiMaggio's support of my work, his patience, enthusiasm and brilliance has been a wonderful blessing and also an inspiration for the kind of sociologist, scholar, teacher and colleague I would like to be. I am especially grateful for his openness and wiliness to work on new subjects and materials, and his unbending belief in the project even in the moments when the archives of the India Office Records seemed to lead to dead ends, and the Cyprus Government refused access to files crucial to the research. Besides his generosity with his time, reading revision after revision and listening to practice presentations, I am also very grateful for his help with organization and administration – for it is so rare to find such a superb scholar who is also a fabulous administrator and organizer.

Kim Lane Scheppele is a great friend, teacher and mentor. Besides her support and help with the project, she welcomed me to LAPA, the Law and Public Affairs Program, which became an intellectual home at Princeton, and introduced me to an incredible network of law and society scholars that have become my intellectual family. Learning from her about how to

research, teach and think about law and society has been both inspiring, enriching and challenging to a great extent. She deeply understood the personal and intellectual challenges of translating the real world experience of cause lawyering under extreme conditions in courts into scholarly insights and solid research and coined the term “recovering human rights lawyer”.

Bhavani Raman introduced me to law and society in India, and also embodied a living, breathing example of the power of critical interdisciplinary scholarship. Her insights, combining history, political theory and organizations, have awed and inspired me. Miguel Centeno, besides his extraordinary support and enthusiasm for the project, consistently demanded that I see the big picture, even when the archival discoveries and historical details were most compelling, reminding me to stay true to the principles of comparative historical sociology, so that contributions are solid and significant, both intellectually and politically.

Yehouda Shenhav, my teacher, mentor, friend and colleague, was the person that first interested me in sociology of organizations, and understood my intellectual and personal fascination with the role of bureaucracy and executive power in violations of human rights. His guidance, mentorship and friendship have been pivotal in my life and I hope to have the privilege to continue to collaborate intellectually and politically.

Before thanking my department, the university, fellow students, and faculty, I must first mention the most important people, outside of the university, without whom this project would not have been possible even for a moment: the nannies, teachers, and babysitters of my daughter Romi, who trotted the globe with me during field work, and the people that helped me find them. In New Delhi, Kavita Tak and Anu Anand; In London, Maya Gelman; in Tel Aviv Lia Ariel, Shani Rimon, and the staff at Gan Achva; in Jerusalem, Shula, Meir, and Lili from Kol

Haneshama; in Cyprus Anni, Maria, Eleni Pitsillidou, and Shosh Steinovitz; and finally, in Princeton, Claudia Marcano, Jamie Dorrance, Mrs. Adriano and the staff at the New Horizons Montessori Preschool, Milta Crispo and Dorota from Synergy, Mrs. Seasee and the staff at the University League Nursery School, and the wonderful Lea Bulvik. Josh, Allison and William Schnable were like family to us.

I would like to thank the department of Sociology for welcoming me as part of its extraordinary intellectual community for these past 6 years. Conversations, insights and help from Viviana Zelizer, Delia Baldassarri, Andreas Wimmer, Paul Starr, Bob Wuthnow, Patricia Fernandez Kelly and Janet Vertesi were very important to me. But I learned the most from my fellow students in the department of Sociology, all of whom have turned into bright and brilliant scholars I admire. Conversations with them have shaped the way I think about sociology, politics and also how I experience friendship and community: Rania Salem, Christina Mora, Amir Goldberg, Gregoire Mallard, Hannah Shepherd, Pierre Antoine Kremp, Sophia Apetkar, Jeff Lane, LaTonya Trotter, Allison Youatt Schnable, Angel Christin, Sara Kaiksow, Stephanie Schacht, Elaine Enriquez, Cristobal Young, Maria Abascal, Manish Nag, Rene Flores, Denia Garcia, Yossi Harpaz, Michelle Phelps, Bart Barnikowski, David Pedulla, Mahesh Somashekar, Kyla Thomas, Rachel Ferguson, Erin Johnston, Karen Levy and participants in the seminars of the Center for Social Organization and those in Paul DiMaggio's Seminar on Culture and Cognition. The department's administrative staff has been wonderful in organizing the complex logistics of this project. Thank you Donna DeFransisco, Amanda Rowe, Cindy Gibson and magic grants manager Bobbie Zlotnik – for everything.

I am indebted to the institutions that provided me with funding and affiliations: first and foremost to Princeton University for the 5 years of graduate fellowship, as well as important

childcare benefits. The University Center for Human Values provided me with a fellowship in my 6th year, and the Princeton Institute for International and Regional Studies (PIIRS) provided funding in my 7th year. I deeply thank the Social Science Research Council for the pre-dissertation grant that was pivotal to the project; the National Science Foundation for the dissertation improvement grant (Award # 1061227) that enabled travel to India, Cyprus and the UK as well as translations; to the Princeton University Programs for Hellenic studies and Judaic studies for travel grants for research in Cyprus and Israel respectively. For institutional affiliations, I am thankful to the Van Leer Institute in Jerusalem, the Center for Law and Governance at Jawarharlal Nehru University in New Delhi, and Berg Institute for Law and History at Tel Aviv University's Faculty of Law.

Many of the insights and breakthroughs in the project took place in conversations with LAPA fellows, staff and the fantastic group of LEGS—law engaged graduate students— a funny acronym for the interdisciplinary space where I presented my work over the years, and received crucial feedback and sometimes harsh criticisms that were invaluable facilitated by Kim and Leslie Gerwin. Judy Rivkin, and Jen Bolton were great help. LAPA fellows that read drafts and commented on my work are: Martin Laughlin, Ali Sulzberger, Malcolm Feeley, Teemu Ruskola, Jeanine Bell, Fellow LEGS students became close friends: Rohit De, Arudra Burrah, Kalyani Ramnath, Angel Christin, Intisar Rabb, Sarah Kaiksow, Radha Kumar, Rotem Geva, and Vinay Sitapati.

Conversations with faculty outside my department were important for developing the project. I thank Hendrik Hartog from History, Carol Greenhouse and Elizabeth Davis from Anthropology, Dimitri Gondicas from Hellenic Studies, Ezra Suleiman and Atul Kolhi from

Politics, Anthony Appiah from Philosophy, and Mischa Gabowitsch and On Barak from the Society of Fellows.

My work has benefitted from feedback I received at presentations given at the Law and Society Meetings in 2011 and 2013, especially comments from Binyamin Blum, Jothi Rajah, Sandy Keidar, Itamar Mann, Mitra Sharafi and Marc Galanter; the American Sociological Association meetings in 2009, 2010 and 2012, especially comments from Julian Go, Claire De Couteau, Gurmindar Bhambra, Issac Arielli Reed, and Munira Charrad; Annual Meeting of the society for Law, Culture, and the Humanities in 2013, especially comments from Jeena Lokaneeta, Kalyani Ramnath and Brenna Bhandar; the American Society for Legal History Meeting in 2013, especially comments from Asaf Likhovsky; the Seminar of Middle Eastern Studies at GWU, especially comments from Daniel Nerenberg, Nathan Brown, Ilana Feldman and Harris Mylonas; the workshop for Law and History at Tel Aviv Law School in 2012, especially comments by David Shorr, Roi Kreitner and students; the Legal History Workshop on Israel and India at Stanford in 2010, especially comments from Ritu Birla and Elizabeth Kolsky; the Van Leer Institute research group on partitions in 2012-2013, particularly comments from Ornit Shani, Ayelet Ben Ishai, Mori Ram, Arie Dubnov, Zeela Rubel and the research group on the military government in Israel including Benny Nurieli, Irit Balas, Adel Mana; the Empire research group at PIIRS in 2013; the colloquium at the Center for Law and Governance at JNU in 2011, especially comments from Amit Prakash, Niraja Jayal and Pratiksha Baxi; the SSRC Pre Dissertation (DPDF) workshops on state violence in 2009, with special thanks to Ivan Ermakoff and Stathis Kalyvas who suggested I add Cyprus as a case study. I am also grateful to the collaborative research networks (CRN) of the Law and Society Association, the British Colonial Legalities CRN and the Law in South Asia CRN, that have facilitated a growing international

network of scholarship in these fields. The program on South Asian Studies at Princeton facilitated talks and meetings that were crucial to my work: meeting Vazira Fazila Yacoobali Zamindar in 2008 changed the course of my project and later, Faisal Devji shared with me unpublished chapters of his wonderful book "Muslim Zion" that provided a creative political framework for thinking about partition in a comparative context.

I conducted research in Israel, India, Cyprus and the UK and owe thanks to the archivists and librarians, scholars and friends that helped with research, but also welcomed Romi and myself into their life.

In Israel I am grateful to Helena and Michal at the Israeli State Archive, Batya Leshem at the World Zionist Archive, Yifat at the Israel Defense Forces Archives. I am grateful to the staff that runs the Al Muqtafi database on the Palestinian legal and judicial system at Birzeit University Institute of Law. Conversations with Adriana Kemp, Ronen Shamir, Muhammad Jabali, Ron Harris, Asaf Likhovsky, Raif Zreik, Gadi Elgazi, On Barak, Moshik Temkin, Merav Amir, Eilat Maoz, Hila Dayan, and Rivi Gillis are woven into this text. My close friends gave support and brought joy: I thank Anat Rosilio, Betty Benbenisti, Khulood Badawi, Yulie Chromtzenko, Ronen Eidelman and Lin Chalozin Dovrat.

In Cyprus I thank Effi Parparinou at the Cyprus State Archive, Alexis Rappas for all the wonderful contacts, Avishai Erlich for putting me in touch with scholars, Yannis Papadakis, Nicos Trimikliotis, and Costas Constatinou for sharing their knowledge and razor sharp insights. I also owe thanks to Mete Hatay for all the contacts in North Cyprus and his inspiring work, to George Georgalides for his time and the books on Ronald Storrs, to Diana Markides for pointing to the importance of district commissioners, to Fiona Mullen for setting up interviews

and helping release post independence files at the ministry of interior to Andreas Mavromatis, for his time and knowledge, to Sylvia and Helena, my research assistants, translators and friends, to Mustafa Erogan and the staff at the PIO of the TNRC for helping me find the retired administrators, to Shani Cooper Zubida for her friendship and Help, and to Vathoula and the staff at the Cyprus American Archeological Research Institute where we stayed every trip.

In India many thanks go to Jaya Raman and Mr. Subramanian at the National Archive in New Delhi, to Mahesh Rangarajan and the staff at the Teen Murti Archive, to the Center for Law and Governance at JNU, to Niraja Jayal Gopal and Pratiksha Baxi for their support and insights, to Ujjwal Singh for his brave scholarship, to Besharat Peer, Sanjay Kak, Stephen Legg, Manika Goswami, Collin Gonsalves, Aparna Balachandaran, Rohit De, Arudra Burrah and family, to the Vajpeyi family, to Achia Anzi and Chana Zalis for their friendship and help, to Khinvraj Jangjid for being amazing, to Murad Khan, Ratika Kapur and Kisho, Shreyasi Jha and Aarohi for being our playmates, and to Aarti Bartholomew and Anita Balachandaran for lovely times.

In London**,** many thanks are due to staff at the National Archives at Kew, and to Elian Weizman, Laleh Khalili, Dimi Reider and Nataly Ohana Ivri.

I am grateful to my friends in Princeton who have become like family: Rania Salem, Ronny Regev, Yiftah Elazar, Kalyani Ramnath and Hannah Lousie Clark, Amir Goldberg and Gi-li Vardi, Cristina Mora, Gregoire Mallard and Eleanore Lepinard, Allison Schnable, Judith Mennasen Ramon, and Maya and Naftali Meshel.

My teacher, Joanna Macy is my greatest inspiration, alongside Anita Barrows, whose love, poems, and beloved safe house in Berkeley are a blessing.

Finally, I would like to thank my parents, Elayne and Henri, for being very special people and for their big love. I also thank my sisters Tal and Tamar that are a gift, and I thank my partner Tomer and my daughter Romi, the best travel companion and my personal sunshine. Their love and support make my life hopeful and full of surprises (and challenges) everyday, and remind me of my commitment to making another world possible at these times of uncertainty.

Introduction

Independence, particularly the transition from colonial rule to independent state, is the telos of historical development for the nation state. It is a dramatic moment in which the relationships among population, authority and territory are remade. It is a moment in which people transform, overnight, from subjects of a colonial state to citizens of their own nation. Thus goes the narrative of change and opportunity that India's first Prime Minister, Jawaharlal Nehru, conveyed to the Constituent Assembly on the eve of India's Independence, late on August 14, 1947:

> At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom. A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance.[1]

A few months later, a day after Israel's declaration of independence following the UN General assembly's adoption of the partition plan for Palestine, Israel's Prime Minister made a speech. The ongoing civil war between Palestinians and Jews was turning into an international conflict. David Ben Gurion declared,

> Something unique occurred yesterday in Israel, and only future generations will be able to evaluate the full historical significance of the event. It is now up to all of us, acting out of a sense of Jewish fraternity, to devote every ounce of our

---

[1] Prime Minister of India, Jawaharlal Nehru, speech on the granting of Indian independence. August 14th, 1947. http://www.fordham.edu/halsall/mod/1947nehru1.html. Retrieved April 1, 2014.

strength to building and defending the State of Israel, which still faces a titanic political and military struggle.[2]

Both Nehru's and Ben Gurion's speeches were pronounced as masses of people fled the waves of violence brought on by partition: the partition that established the states of India and Pakistan, and the intended partition of Palestine that resulted in an independent Israel and the flight of over 700,000 thousand Palestinian refugees.

Independence was a moment in which new citizens harbored great hopes of change, liberation, self-determination and new horizons. But when it came to running the state and the nitty-gritty of management that was still embedded in the habits and repertoires of colonial rule, how much change was possible? How did officials and administrators translate the new dawn of the nation into daily practices of statecraft?

Colonial administrative practice was a great political burden, not only in Israel and India, but in Cyprus as well, where independence was met with cautious acceptance. A series of international treaties[3] formed the basis for a Cypriot constitution that sought to steer between calls for independence (and partition) on the part of Turkish Cypriot minorities, and the goal of

---

[2] Prime Minister of Israel, David Ben Gurion, in a broadcast to the nation, May 15th, 1948. http://www.mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook1/Pages/6%20Broadcast%20to%20the%20nation%20by%20Prime%20Minister%20Ben-Gu.aspx. Retrieved April1, 2014.

[3] The republic of Cyprus was founded on the basis of three international treaties that supplemented the Zurich-London Agreement, signed on February 19th, 1959, which were the basis for the drafting of Cypriot constitution. Greece, Turkey, Britain and the US signed the treaties. http://www.cyprus-conflict.net/Treaties%20-1959-60.html. Retrieved on April 1, 2014.

Enosis (unification with Greece) on the part of Greek Cypriot nationalists. In 1963, the republic collapsed and entered into low-grade civil war, in which Turkish Cypriots retreated into enclaves and set up a separate Turkish Cypriot administration. In 1974, the Turkish Army invaded, creating the partition of the island that had been envisaged by the British colonial government in the 1950s.

The present-day nations of India, Israel and Cyprus were all formerly British-controlled territories in which the occupying governments conceived of partition as a territorial solution to inter-communal conflict. Partition, whether it remained at the level of planning or was fully implemented, perpetuated horrific violence and produced human suffering on a scale that was unanticipated even by its most astute critics. Even opponents to the concept of partition did not foresee the transnational trajectories of conflict, dispossession and exclusion that would continue to affect millions of people more than half a century after the enactment of partition.



Figure 1: The Partition of India[4]

Thus an administrative solution for inter-communal conflict turned into the dark side of independence. Waves of violence and subsequent massive involuntary population movement and displacement (estimated at 14 million in India and Pakistan,[5] 700,000 in Israel/Palestine[6] and

---

[4] Image by the MightyQuill/CC Licensed. Online. Postcolonial Studies at Emory Pages. Internet. 17 Apr. 1998. Available: http://www.emory.edu/ENGLISH/web.html

[5] In India and Pakistan, the statistics on forced migration and displacement controversial. Vazira Zamindar claims that 12 million persons were displaced in Punjab alone, and nearly 20 million across the subcontinent (2007) Research on migratory flows comparing the Census of India of 1931 and the Census of 1951, posits that 14.5 million experienced forced migration in the years 1947-1951. (See Bharadwaj,

250,000 in Cyprus[7]), meant that for many former colonial subjects, independence did not mean citizenship in a newly mapped territory. Rather, it marked the moment in which they became foreigners, refugees, intruders or stateless people. New maps of the nation were born, and these people were officially outside its borders. As "the soul of the nation" awoke and found utterance, they were voiceless. And as the violence subsided, they came to be classified by lists, identity documents, questionnaires and executive regulations: landscapes of paper that would shape their daily lives, the spaces and communities to which they belonged, or those to which they could not return.

P., Khwaja, A., & Mian, A. (2008). The big march: migratory flows after the partition of India. *Economic and Political Weekly*, 39-49.)

[6] The number of Palestinian refugees in 1948 was 726,000 according to the *Final Report of the United Nations Economic Survey Mission for the Middle East* published by the United Nations Conciliation Commission, December 28, 1949 A/AC.25/6/Part.1 p. 21. UNRWA, the United Nations relief agency and work for Palestinian refugees in the near east, declared that it was serving 750,000 refugees in 1950. Today, nearly five million refugees are eligible for UNRWA services.

[7] While numbers of refugees, displaced and persons that migrated involuntarily are both politically controversial and difficult to research, these figures enjoy a relatively stable agreement as to their accuracy. For Cyprus the figures are based on the estimates of the UN high Commission for Human Rights and the United Peace Keeping Force in Cyprus and the internal displacement-monitoring center. http://www.internal-displacement.org/europe/cyprus retrieved on April 1, 2014.



Figure 2: Peel Commission Partition Plan 1937

It was the administrators in the ministries of interior, district commissioners and border police who determined the official relationships between people, nation and territory, by negotiating practices and policies in the midst of uncertainty and emergency. But this work of

classifying populations began long before independence during colonial rule, before partition was introduced as a solution to communal conflicts that colonial governments had failed to manage. This dissertation is about the practices, documents and regulations that determined the relationship between people, territory and authority in three twentieth-century colonial states, and the legacies of colonial administrative scripts and routines that shaped political membership after their independence.

Political membership lies at the heart of the conflicts experienced by these post-colonies. In the case of modern states, we tend to think that legal categories of political membership are constructed according to the decisions of political leaders or reflect a national imagination (Anderson 2006; Brubaker 1992; Peled 1992; Bloemraad 2004). Scholarship that critiques this view (Joppke 2005; Shachar 2009), or offers alternative accounts of post-national and supra-national citizenship, also grapples with the imagined boundaries of the nation (Soysal 2004; Ong 1999; Balibar 2009).[8]

Turning to post-colonial states, the predominant view holds that categories of identity were shaped by the divisive rule of colonial powers, which empowered one community over the other; the resulting boundaries of belonging are thus in essence the legacies of colonial decisions.[9] However, these accounts of a political membership determined in the metropole and

---

[8]For an innovative departure from a national imagination of citizenship see Blank, Yishai. "Spheres of citizenship." *Theoretical Inquiries in Law* 8.2 (2007): 411-452.

[9] Niraja Jayal Gopal seems to agree with Mamdani's framework concerning the impact of indirect rule on political membership in her legal history of citizenship in India. Jayal, Niraja Gopal. *Citizenship and Its Discontents: An Indian History*. Harvard University Press, 2013.

of its post-colonial instantiations overlook the role of bureaucracy in forging the categories that define one's relationship to the state. If nationalist ideologies depend upon systems of classification that define insiders and outsiders, and state bureaucracies apply these systems in everyday practice in the form of legal categories (Herzfeld 1992: 109), then one must ask, what is the role of administration in constructing the boundaries of political membership? How did administrative practices and routines shape categories of political status and belonging? How did administration classify citizens, residents, refugees and infiltrators?

I argue that administrative practices and technologies and their (epistemic and practical) effects are not only the outcomes of political decision-making. They are more than the means, procedures, and institutional arrangements according to which modern states manage populations. Administrative practices have an important role in shaping legal categories of belonging. Technologies of rule are the way the state apparatus uses laws, artifacts, and personnel to control population, and as such they can and do shape categories of political membership.

Administrative practices and routines are particularly important in times of crisis, when emergency laws are used and the scope of executive power expanded to enable the state (usually in transition, through revolution, occupation or decolonization) to manage population in times of uncertainty. During emergencies, legibility[10] of the population is critical to the state's ability to

---

[10] Legibility of population is a concept first introduced by political scientist James Scott in "Seeing like a state", as a condition for administrating infrastructural projects in the modern state. Making society more legible is "to arrange population in ways that simplified classic state functions such as taxation,

establish and maintain its control. In these episodes, the administrative scripts of the state can and do shape the content and meaning of political membership. When the emergency subsides, the categories, forms and protocols are institutionalized into regular administrative practice.

Population management is central to the administration of the modern state, which monitors borders and controls of population movement (Giddens 1987:257; Mongia 1999), negotiates classification of subjects and segregation of groups, and issues identity cards, turning classifications of identity into material documents. The spatial-legal[11] practices of monitoring the entry of foreigners, that is, processing passports, visas, and travel documents, have become indicators of state capacity and penetration (Soysal 1994; Caplan and Torpey 2002). These activities, as well as the technologies and rights they affect, are a growing concern in an era of a global mobility regime that monitors movement based on a trinity of threats: terrorism, immigration, and crime (Shamir 2005). Former British colonies are an exemplary site for studying the legal construction of political membership in the context of transnational population movement, because of their centrality to the third wave of globalization (Kennedy 2003; Merry 2003).

---

conscription and the prevention of rebellion." Scott, James C. *Seeing like a state: How certain schemes to improve the human condition have failed*. Yale University Press, 1998 p. 2.

[11] The spatial-legal practices that regulate movement and their effect have been called "nomosphere" and they are of increasing interest to legal geographers. See Delaney, David. *The spatial, the legal and the pragmatics of world making: nomospheric investigations*. Taylor & Francis, 2010. Also see Kedar, forthcoming.

Scholarship from various legal fields has drawn attention to the materiality of law: technicalities (Riles 2005) and administrative procedures; and the way technologies (Viseman 2008), artifacts, and practices, play a dominant role, along with that of administrators, in shaping or mediating[12] institutions (Dotan 2013) and legal categories in international law (Koskenniemi 2007; Benvenisti 2009) in the study legal diffusion and transplantation, and in new legal histories of administration (Raman 2012, Hull 2012). I contribute to this scholarship with an analysis of how a set of technologies of rule diffused across the British Empire to shape the content of legal categories of belonging – determined by degrees of loyalty to the state – and the legacies of these technologies of rule in the independent states.

Colonial Practices of Security and Surveillance

We associate practices of surveillance of population with modernity, and the intensification of practices of security within the last decade with the "Global War on Terror." I argue that these practices of surveillance of civilian population began in the colonies and intensified with de-colonization and immigration in the second half of the twentieth century. I suggest that situating the sociological study of security within the global and transnational histories of empire (Go 2008) provides a fruitful nexus for understanding the effects of technologies of surveillance on global economies of goods and populations.

Under colonial regimes, direct violence proved ineffective against subjects able to flee from the control of the state, so more sophisticated forms of control through documentation and

---

[12] Dotan investigates the role of government lawyers who negotiate the liminal space between government ministries and Supreme Court. See Dotan, Yoav.

surveillance were developed (Scott 2009). Particularly in British colonies, a plethora of surveillance methods were established to monitor "dangerous populations" (Kemp 2004): travelling passes, distinctive zones and permit regimes in Egypt (Mitchell 2002), post-partition India and Pakistan (Zamindar, 2007), South Africa (Evans 1997) and Israel (Shenhav and Berda 2009). These methods were enacted through a massive set of emergency laws and regulations, justified by the perpetual state of emergency in the colonies. Indeed, as we shall see, emergency was a foundational element of colonial and post-colonial bureaucracy.

Histories of the surveillance of movement in North America and Europe have shown their fundamental ties to the making of citizenship (Zamindar 2007). However, in the colonies and post-colonies these technologies were perpetuated in order to control the displacement and exclusion of those classified as refugees (Zureik 2011), intruders, illegal aliens, and migrant workers. The shift from securing territory to monitoring population occurred in the colonies. When colonial powers seized political sovereignty over territories for purposes of extraction or strategic power, they treated subject populations as fundamentally inferior (Steinmetz 2008). Colonial state administrations used two sets of laws and practices, a practice defined as "the rule of colonial difference" (Chatterjee 1993): laws for the rulers, and laws for the subject populations. Continuous violence and extraction methods exacerbated the hostility of local populations who were, in turn, officially viewed as suspect and dangerous.

Michele Foucault omitted the administrative history of the colonies when he posited the shift from Westphalian sovereignty to practices of governmentality, defined as "power that has the population as its target, political economy as its major form of knowledge and apparatuses of security as its essential technical element" (Foucault 2007: 108). In the colonies, as managing population movement within the state became the major concern of colonial rule (Legg 2011),

the security apparatus went from being a technical branch of administration to constituting the very way the colonial government defined the population and its relationship to the state. Therefore, practices of security and surveillance were no longer separate from the political economy and bureaucratic administration.

States of emergency in the colonies were used as an elastic category that could stretch to encompass the preservation of colonial capitalism as well as to crush riots and insurgencies. Eventually emergency was used in "situations of danger that can never be exhaustively anticipated or codified in advance" (Hussain 2003: 19). Legal emergency was institutionalized and became the practical foundation of colonial government.

Governing through emergency laws was a central and essential feature of colonial rule. Emergency laws allowed officials and officers to suspend rights, promulgate decrees, restrict movement in closed military zones, and grant impunity to military personnel operating within the civil population in "dangerous" and "disturbed" areas. The justification for using emergency powers stemmed from the rule of colonial difference: drastic measures were necessary "where a handful of white people need to maintain themselves against lawless, sometimes violent people," in the face of subject populations perceived as hostile.[13]

These emergency laws rarely specified the identity of the people for which they were intended; instead, they were worded to endow universal authority upon government officers. However, emergency legal tools were mostly used to control minorities, and since the laws did not specify the conditions of their use or their target populations, administrative directives and

---

[13] Home Member Srinivas quoted in Ujjwal Singh. 2007, p.56.

regulations were imperative for their implementation. Emergency laws used against colonized populations were later used against minorities in the post-colonial state.

I suggest that colonial rule classified population according to an "axis of suspicion", constituted by administrative and internal regulations, departmental directives, official recommendation forms, home department circulars, and intelligence reports. Persons or communities placed on this axis were defined according to degree of loyalty, on a continuum that included loyal subjects, subjects of doubtful loyalty, suspicious subjects, minor security threats, threats to the state, and enemy agents. Coupled with colonial classification according to demographic characteristics, the axis of suspicion formed a matrix of classification that conflated a person's race, religion, region, or caste with the security threat they posed to the state. This matrix of classification-by-suspicion led to the application of differential legal and administrative practices to individuals and communities that, in turn, led to disparities in access to rights guaranteed by the state.

Case Selection: Managing Populations and the Deadlines for Partition

India, Cyprus, and Israel were part of the British Empire and as such shared a common legal framework, administrative structures, and toolkit of governance. In each of these territories, the trajectory of partition divided once colonized populations among different states hence classification of populations into ethnic and religious categories was central to the processes of post-colonial state building. My study examines how each of these post-colonial states used its administrative inheritance to deal with the movement of populations within new boundaries, and

how these legacies shaped practices related to the construction of difference classes of political membership: citizens, residents, refugees, and intruders.

The concept of partition was first introduced and justified by Lord Curzon, then Viceroy of India, in 1905 as an administrative necessity to organize the province of Bengal. Partition was envisaged as an extreme tool of controlling and managing population. As with most stories of conflict, and particularly those conflicts that led to the creation of nation states, public and scholarly interest in partition has focused on understanding the intentions and constraints of political leaders, and the role of ideologies and interests, and perhaps also finding where to point the finger of blame.

Decades of historiography have been devoted to arguments about the origins and "smoking guns" of the ideas of partition (Chatterji 2009), division and exclusion of native minorities from citizenship, which has been central to the experience of post-colonial state building. For some, the British are at fault; others blame elites from majority communities, such as the upper cast Hindus in Bengal (Chatterji 2002) or the Palestinian leadership (Mattar 1992). Others focus on the role of religious and national ideologies such as Zionism (Khalidi, 2010), the irredentist Megali idea of Hellenic power in Cyprus (Peristinianis 2006; Loizides 2007), Palestinian Christian sectarianism (Robson 2011), or religious political convictions in India and Palestine (Devji 2013).

In the 1990s studies of partition in India, suspicious of official sources, privileged oral history and memory studies over administrative files. Yet, these sensitive narratives mirrored the tendency of the subjects of research to look back at partition as a history of an "inexplicable catastrophe" (Chatterji 2009). In the last decade, studies of partition (Khan 2007; Ansari 2005;

Zamindar 2007; have focused on its aftermath and combine an approach that takes into account the narratives of individuals and communities as well as the political elites, in shaping political trajectories of nationalism and citizenship.

Motivated by these studies, I suggest the salience of focusing on the administrative repertoire of classification of population, specifically the range of colonial tools developed to manage populations and monitor movement across territories. I investigate how these tools developed for the purposes of maintaining colonial rule, and how, when this rule culminated in partition plans, they shaped political membership in the post-colonial states. This approach contributes to recent law and society scholarship that has shifted its focus from courts and legislatures to executive power and administration, since these have become sites where law is modified, elaborated, and enforced through administrative operations (Suchman & Edelman, 1996). Studying the "daily life" (Sarat & Kearns, 1993) of administrative practices and procedures reveals how legacies persist (or not) from previous governments: something much harder to see if one examines only formal policies and intended goals (Bourdieu, 1998).

I explore the ways in which legal and administrative legacies shaped the transition from the colonial to post-colonial periods in Israel, India and Cyprus. The core of the study revolves around these questions: How much of prior administrative practices do states carry over from their colonial past, and how much do they break with these legacies? How have colonial administrative legacies shaped the objective possibilities of democratic administration in the early years of post-colonial states?

I use the comparative history of administrative practices in the three colonies and the subsequent independent states as the "parallel demonstration of theory" (Skocpol & Somers

1980: 176). I do this to persuade the reader that the model of colonial bureaucracy that I propose in chapter 1, and the construct of the axis of suspicion that I outline in chapter 4, explain the particular administrative legacies that have had similar careers in all three states. I argue that their historical differences are primarily contextual, and that their particularities only serve to highlight the generality of the processes of administrative continuity in former British colonies burdened by communal conflict and partition.

A Very Brief History

The British Mandate in Palestine lasted three tumultuous decades and saw the transformation of Palestine from a dusty yet peaceful corner of the Ottoman Empire into Israel, a Jewish state and struggling democracy in a permanent state of war. The British were rather ambivalent toward the Jewish population in Palestine. The League of Nations granted Britain the mandate to rule Palestine in September 1923.[14] The mandate system was established to administer the territories of the defunct Ottoman Empire "until such a time as they are able to stand alone[15] The Mandate for Palestine incorporated the declaration made by British Foreign

---

[14] The British had governed Palestine and Transjordan as a military government since their conquest from the Ottoman Empire in 1917. The Middle East was divided into three Occupied Enemy Territory Administrations. the Southern OETA extended from the Egyptian border of Sinai into Palestine and Lebanon as far north as Acre and Nablus and as far east as the River Jordan. A temporary British military governor administered this sector.

[15] Article 22 of the charter of the League of Nations. http://avalon.law.yale.edu/20th_century/leagcov.asp#art22 Retreived on April 1, 2014.

Secretary Arthur Balfour that gave official recognition to the Zionist movement to build a Jewish National Home in Palestine:

His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.[16]

The legal text of the Mandate would later become a major political obstacle for British rule in Palestine, because it divested it of the legal power to enact the one policy that could appease the Arab population: stopping Jewish Immigration.

In 1922, when the High Commissioner attempted to enact limited self-rule and establish a legislative council within the Executive government, to be comprised of 12 elected members (8 Muslim Arabs, 2 Christian Arabs and 2 Jews), the Arabs objected to their underrepresentation: at the time, they comprised 88% of the population.[17] The Arab population boycotted the elections, so an advisory council was established that held little sway with the Mandate government.

---

[16] The Balfour declaration was incorporated into the Sevres Peace Treaty in August 1920 between the Allies and the Ottoman Empire and was subsequently incorporated into the Mandate for Palestine.

[17] In 1922 there were 589,000 Muslims, 71,000 Christians and 83, 000 Jews in Palestine. By 1936, the population nearly doubled to 859,000 Muslims, 77,000 Christians and over 400,000 Jews. Statistics are based on the Peel Commission report in 1937, quoted in Shamir 2005: ix.

British interests in Palestine and in other parts of the colonized Arab world were best served by restraining Jewish demand to open the colony to massive Jewish immigration and settlement. Such Jewish settlement, the British feared, would commit the British government to invest heavily in Palestine, on the one hand, and would generate a growing Arab resistance in Palestine and in other parts of the Middle East, on the other (Shamir 2000; Shenhav & Frenkel 2003). British colonial rule saw ethnic conflict between the Arabs and Jews of Palestine turn into a nationalist struggle. The maps and administration of partition were imagined and established [by British commissions, setting both Jews and Palestinians on a trajectory of inter-communal violence that affects international politics to this day.

The island of Cyprus was occupied by the British and given protectorate status in 1878; in 1925 it was annexed as a crown colony. Cyprus was the first colony in which communal representation was first formalized (Peristinianis 2008), a decision taken after intense debate among senior officials of the Foreign and Colonial offices. In response to strong worries that a communal approach to representation within a legislative council would divide the two ethnic groups, this approach prevailed on the grounds that "history, custom and language" had already done that (Hall 1937: 245).

In 1931, political riots that came to be known as "the Clashes" in Cyprus revealed the depth of fault lines between Greek and Turkish Cypriots, culminating in the burning of Government House. The violence was a reaction to high-handed colonial rule and to Greek Cypriot demands for autonomous government through *Enosis* - unification with Greece –, which engendered Turkish Cypriot retaliation, and demands for *Taksim* (partition). The British administration's inability to cope with the violence turned into a harsh rule of emergency and martial law, which would come to shape the legal repertoire of the colonial state and the

trajectories of the republic. The clashes planted the idea of partition, a solution that had been imagined decades before in the Indian Raj.

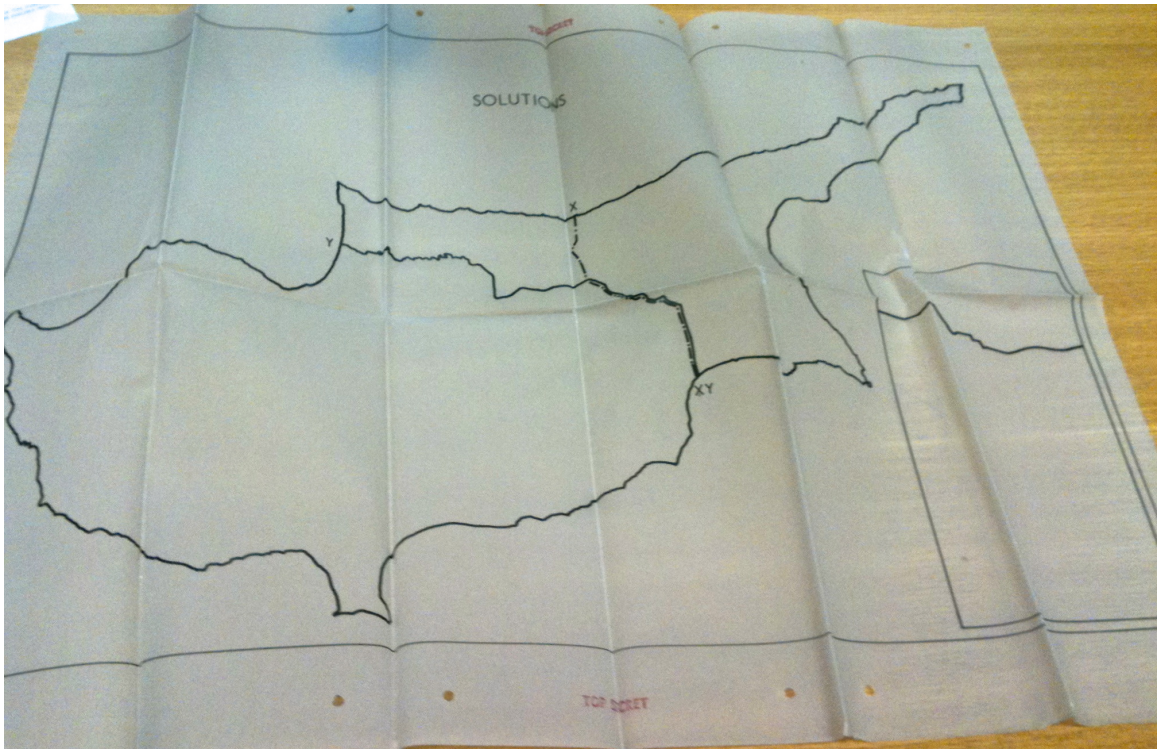


Figure 3: Proposed British Partition Plan during the Emergency in 1956[18]

Partition was first practiced by Viceroy Curzon, who divided Bengal in 1905[19] after the attempt to rule over a diverse population of nearly fifty million proved an onerous task. The founding of the Indian National Congress in 1886 instigated the process by which the Muslim community shifted gradually from a religious to a political minority (Devji 2013: 53). A year following the partition of Bengal, the All India Muslim League was founded in 1906, the political institution that would, decades later, advocate for the creation of Pakistan. In 1912, Bengal was reunited, but seven years of administrative separation had sown seeds of segregation

[18] TNA CO/ 926/ 546 p. 107

[19] Chatterji, Joya. *The Spoils of Partition*. Cambridge University Press, 1947. P 10.

between Muslims and Hindus. Partition became politically salient again in 1940, when Muslim leadership called for a separate Muslim nation, and with the partition of India that brought to an end over two centuries of British rule of India.

Structurally, India under British rule was not a single political unit but comprised a number of different administrative jurisdictions. British India was directly ruled by the colonial state. Princely India was composed of hundreds of states ruled indirectly, bound by treaties to the East India Company. The tribal territories of the North East and North West frontiers formed another jurisdiction (Devji 2013: 50). As we shall see in Chapter 1, this complex legal structure contributed to the formation of the Indian model of colonial bureaucracy that later diffused to the rest of the British Empire.

The Case for Comparison

Israel, Cyprus and India differ in their resources, languages, demographics, religious practices, history and political conflicts. They were also ruled according to different colonial structures. These differences may seem to present an insuperable obstacle to comparison, which may explain why there is hardly any research that considers the three countries in tandem.[20] But from a socio-legal point of view, the similarities swamp the differences.

---

[20] Studies that compare Israel, India and Cyprus have been limited to research of democratic models and ethnic conflicts (See Harel-Shalev, A. (2010). *The challenge of sustaining democracy in deeply divided societies: Citizenship, rights, and ethnic conflicts in India and Israel*. Lexington Books; Smooha, S., & Hanf, T. (1992).. The diverse modes of conflict-regulation in deeply divided societies. *International Journal of Comparative Sociology*, *33*(1-2), 1-2. ; See Bose, S. (2007). *Contested Lands: Israel-Palestine,*

All three countries inherited a common method of population management and a legal framework of emergency regulations that were nearly identical in scope and authority. Therefore, while the content of the political conflicts differed, the bureaucratic tools that accompanied them, such as population registration forms, demographic battles over the census and the structure of administrative offices were similar. All three states underwent partitioning, a condition that created conflicts, which in turn generated administrative practices to sort populations by means of documents and border controls, permit regimes and regulations to control "dangerous" populations.[21] Classification of populations in the census, and administrative decisions regarding the fault lines that should constitute divisions between populations (religion, language, ethnicity or nationality) played a central role in preparations for partition. In particular, the classificatory

---

Kashmir, Bosnia, Cyprus, and Sri Lanka. Harvard University Press.) ; Compared issues in Constitutional law (see Lerner, H. (2011). *Making constitutions in deeply divided societies*. Cambridge University Press; Shany, Y. (2005). How Supreme Is the Supreme Law of the Land-Comparative Analysis of the Influence of International Human Rights Treaties upon the Interpretation of Constitutional Texts by Domestic Courts. *Brook. J. Int'l L.*, *31*, 341.); or focused on multiple jurisdiction of State, Personal and religious law (See Galanter, M., & Krishnan, J. (2000). Personal Law and Human Rights in India and Israel. *Isr. L. Rev.*, *34*, 101; Liviatan, O. (2009). Judicial Activism and Religion-Based Tensions in India and Israel. *Ariz. J. Int'l & Comp. L.*, *26*, 583.; Shachar, A. (1998). Group identity and women's rights in family law: the perils of multicultural accommodation. *Journal of Political Philosophy*, *6*(3), 285-305.)

[21] Kemp, Adriana. 2004. Dangerous Populations: State Territoriality and the Constitution of National Minorities, in Boundaries and Belonging States and Societies in the Struggle to Shape Identities and Local Practices, Joel Migdal, ed. Cambridge University Press.

categories of colonial-era civil servants shaped the organizational capacities, routines and claims to legitimacy of administrations in the early years of independence.

In the aftermath of partition and independence, both Israel and India established permit regimes to control the movement of Muslim refugees and returnees that had fled in the wake of partition. These spatial-legal systems of surveillance and control, established at a time of emergency, acted as institutional mechanisms that shaped boundaries of belonging by administrative means. The permit regimes instituted 1) the category that the state assigned people, that of citizen, resident, intruder or refugee; 2) the identity document a person carried; and 3) the physical location of a person on the crucial date of partition that determined one's legal status. The permit regimes also gave rise to ad hoc administrative structures and practices, such as forms and internal regulations, which were intended to be temporary. However, as we shall see, temporary emergency measures would become the permanent foundations of new state bureaucracies.

In Cyprus, a different regime monitored the movement of the Turkish Cypriot minority. Three years after independence, during the constitutional collapse, inter-communal violence erupted throughout the island. The Turkish Cypriot leadership left their posts, and were later declared rebels by the Greek Cypriots and prevented from returning to their positions in government. The Cypriot Attorney General [22] declared this decision constitutional, by advocating a doctrine of necessity, which was later upheld by the Cypriot Supreme Court.[23]

---

[22] CSA/MI/ 337/60/1 p. 33. Note of Attorney General of the Republic of Cyprus, Criton Tornaritis, March 27, 1964.

[23] Ibrahim Aziz v. the Republic, case No. 369/2001 European Court of Human Rights.

From 1963 to 1968, Turkish Cypriots lived in enclaves, with severe restrictions on their movement enforced by Greek Cypriot forces. Unlike the permit system in India and the permit regime in Israel, the siege of Turkish Cypriots was military in nature, and the state was not concerned with enumeration, surveillance, and degrees of classification whatsoever. I attribute the lack of mechanisms for monitoring the minority populations in Cyprus to the fact, that unlike Israel and India, Cyprus has not retained the colonial emergency laws formally, but justified the suspension of civil rights through a judicial doctrine of necessity. The absence of statutory emergency laws that served as justification and legitimation for the existence of elaborate administrative apparatus for managing populations within a democratic framework, led to the military nature of the measures taken against Turkish Cypriots in the enclaves from 1963-1968.

After Partition

After partition, at which point Israel, India and Pakistan became ethno-democracies[24] to some extent, land belonging to the new minorities was expropriated to house members of the majority group. Before partition, both majority and minority groups were subjects of the colonial state. After independence, new categories of citizens, refugees or intruders applied to these populations, each with strong material implications.

In the new state of Israel, land owned or in the possession of Arab-Palestinian citizens (some of them internally displaced persons at this point) was nationalized in various ways and

---

[24] An ethnic democracy is a polity combining "the extension of political and civil rights to individuals and collective rights to minorities with institutionalized dominance over the state by one of the ethnic groups" (Samooha, 1990).

later allocated almost exclusively to Jews. Concomitantly, an immigration policy encouraged Jews' immigration while barring the return of Palestinian refugees (Saban 2011). Legal files relating to the military government that ruled over Palestinians within Israel from 1949 to 1966 evince that the military requested delay of legislation of a citizenship law that would include Palestinians who had not fled during the war. In this way, the military government insured the expropriation of the private land of Palestinians' present in Israel before these people could claim citizenship and prevent the expropriation by legal means.[25]

In India a similar process took place, in which houses vacated by fleeing Muslim refugees were used to house incoming Hindu refugees. The expropriation of titles was legalized by the declaration of laws on absentee property, based, once again, on colonial emergency laws. This process was similar to that in Israel except for one important difference: because the planned partition of Palestine never took place, refugees who fled Palestine could not claim lands on the other side of the border, whereas in India, partition created a semblance of formal symmetry between the treatment of Hindus in Pakistan and Muslims in India. The absentee property law in Israel was drafted using the evacuee property law in Pakistan as a template (Keidar, forthcoming).

Once again, population categories were a prerequisite for this redistribution of resources. While populations that underwent expropriation and redistribution of housing did not have formal legal status, their classification was at the core of administrative practice. Classification was not only a method of administration, but also the main justification for the categorical

[25] Israel Defense ministry archive, file 66/55 – 81.

exclusion of certain groups from statuses of citizenship and residency, usually administered through cut off dates that determined their status quite arbitrarily.

In Cyprus, the settlement of absentee property of those who were displaced in the partition of 1974 has been and remains a central obstacle in peace negotiations.

Contention and Continuity Between Political Leadership and Bureaucracy

After independence, tensions between the national political leadership and the administrators who had served colonial governments created ambiguous relationships that influenced how civil servants themselves were classified. In Israel the Zionist leadership, who believed in an ethic of labor and agriculture, was inherently suspicious of clerks and administrators, who were urban elites (De Vries 1997). In India a similar tension brewed between Gandhi's followers who believed that India's economic power lied in the self-reliance of her villages, and rejected the administrators who were culturally more British than Indian.

Prime Minister Nehru harbored an overarching suspicion of civil servants that almost amounted to contempt.[26] An ongoing debate between Nehru and Sardar Vallabhabhai Patel, India's first Minister of Home Affairs, revolved around these tensions: on the one hand the importance of administrators to the nation-building project, and on the other, the wish to distance the new independent state from the colonial government, its bureaucrats and its political culture. Patel gave his full political support to civil servants, who worked feverishly in difficult

---

[26] Interview with Dharma Vira, joint secretary to the Indian Cabinet in 1947. Cambridge Center of South Asian Studies Audio recordings, Interview 215, May 1976.

http://www.s-asian.cam.ac.uk/archive/audio/vira.html retrieved April 1, 2014, p. 59.

conditions. Dharma Vira, India's first Cabinet Secretary, recalls that senior civil servants did not mind working around the clock as long as they secured the support of the political leadership, "because we knew we were all engaged in a very exciting phase of work in independent India…we all felt very enthusiastic about it and a certain amount of understanding and help [from Patel] certainly added to the dedication of the services."[27] Gradually, Nehru trusted senior civil servants to a greater extent, but in those first years of independence, the classification and scrutiny of civil servants affected the administration a great deal. Chapter 3 demonstrates the practices of classification of civil servants according to communal identity and degrees of suspicion and loyalty.

No figure embodied the structure of colonial rule more than the District Commissioner. In Cyprus, Israel and India, independent administrations faced a dilemma whether to retain the expertise and practices of the colonial government, or attempt to create more democratic, less authoritarian administrative structures. The administrative officer of the Ministry of Interior in Cyprus explained the role of the colonial district commissioner:

> The district officer is under the minister of the interior and holds a variety of executive and judicial powers in connection with district administration. He more or less represents the central government and is chairman of local bodies and committees. As chairman of the district coordination committee composed of district representatives of all government departments, he coordinates activities at

[27] Interview with Dharma Vira, p. 33.

> district level and pursues development projects in all fields of government activity.[28]

During colonial rule, the commissioners were the personal representatives of the governor in the districts. After independence in Cyprus and Israel there was an attempt to shrink their authority to that of representatives of the Ministry of Interior.[29] In Israel, the question of the role of district commissioners turned into a heated debate that reflected the rivalry between the democratic administration that governed the Jewish citizens of Israel and the authoritarian military government that ruled the Palestinian minority from 1949 to 1966 through emergency laws. In the territories controlled by the military government there was "not really a defined boundary between military law and civil law and there is a danger that the military will gain control over pure civil authorities where the boundaries," one district commissioner warned.[30] The Ministry of Interior consistently attempted to control the military government through district commissioners, at first with little success. The Minister of Minorities, Bechor Shitrit, was adamantly opposed to maintaining the authority of the district commissioners:

> Every administration is connected to governmental tendencies. Despite the fact that the government that we had in our country was called a mandatory government, it was a colonial regime and its tendencies were particular and steady

---

[28] CSA/ SA1/1903/1959/2 p. 3-1. Note prepared by A K Anastasiou, administrative officer of the ministry of interior, March 13th, 1961.

[29] CSA/MI/ 1903/ 1959/1.

[30] ISA G/ 2201/ 6. Memo from the District Commissioner of the Galilee, Haim Barkay, September 21, 1948.

> to establish and carry out an administration that suited the tendencies of British colonial rule.
>
> We have been liberated from the mandatory government and have entered an independent democratic regime and we have the power to establish an administration suitable to the new life.[31]

District Commissioner of the Galilee Haim Barkay advocated to retain the authority of district commissioners and warned against what would become a major feature of Israel's population management policy:

> Security forces are saying that we are living in exceptional times, in a state of emergency, but the problem is, that these temporary arrangements take hold and remain. Impediments of civil rights and civil issues very quickly become a custom. The district commissioners can be different and act as liaison between the military and the civilians, and where the ministry of defense does not have representatives, we can represent them. [32]

In chapter 3, I elaborate upon the role of district commissioners and the debate between those advocating for continuity, on the basis of the expertise to be gained by maintaining colonial practices, and those that demanded an administration that would reflect the democratic values of

---

[31] ISA G/ 2201/ 6. Letter from Behor Shitrit to ministers (MA/MZ/69), October 1948.

[32] ISA G/ 2201/ 6. Memo from the District Commissioner of the Galilee, Haim Barkay, September 21st, 1948.

the new state and remove the legacies of colonial administration, with both sides caught in the bind of emergency rule and martial law that governed the Palestinian minority.

Legacies of Colonial Law and Administration

Research on the impact of colonial law has demonstrated variations in the ways law was adopted, appropriated and imposed in colonial situations (Cohn 1996; Comaroff 2001; Mandani 1996; Shamir 2000). Social scientists have explored the impact of colonial legacies and explored how colonial regimes have shaped trajectories of development in terms of democratization, economic growth, rule of law, and gender equality (Mahoney 2003; Iyer 2010; Lange 2009; Halliday et al 2012; Levine 2004).

I concentrate on the relationship between bureaucratic practices and their outcomes in the early years after independence. Using colonial emergency laws as a point of departure, I trace the practices of population surveillance and classification from their origins in colonial states to their impact on the making of citizenship in the post-colonies. This time frame allows a distinctive view of the classification of political membership in the period of emergency and necessity that accompanied the institutionalization of new states, before their crystallization and legitimacy in the form of statutory laws of citizenship.[33]

---

[33] In India, the Citizenship Act was enacted in 1955. In Israel a trio of laws defined the range of political membership: the Citizenship Law of 1952, the Entry into Israel Law of 1952, as well as the Law of Return, enacted in 1950, that defined the right of those of Jewish descent to gain citizenship in Israel. See Peled 1992: 435.

However, some scholarship on colonial legacies has been accused of exaggerating continuities between the colonial and post-colonial, without pointing to the specific colonial practices that haunt the post-colonial states (Hull 2012:5). Following the lead of anthropologist Mathew Hull, and historian Bhavani Raman, I do not assume the existence of colonial continuity. Instead, I concentrate my efforts on tracing the minute contours of colonial institutional legacies and the new ways they operate in the post-colonial era. By tracing how they are transmitted in daily and mundane acts of administration, I show how this legacy is translated and innovated upon in the political context of the independent states. My comparison of India, Israel and Cyprus facilitates the tracing of legacies and generalizing them on a broader scale than research that focuses on the transition of colonial rule to independent state in one location.

We know many of the ways in which the use of law and administrative practice in the colonial state affected colonial subjects in the British Colonies (Cohn 1989; Mamdani 1996; Cooper & Stoler 1997; Benton 1999; Shamir 1999). We know too about the impact these tools of governance had on populations and communities in the colonies and the post-colonies. More recently we learned about their gendered (Butalia 2003; Singha 2003) and marginalizing effects (Chatterjee 2004; Zaminder 2007). Nasser Hussain's (2003) work established the centrality of emergency laws to colonial rule. Recent work has focused on the resistance of colonial subjects to legal and administrative practices of oppression and discrimination, and the way that resistance has formed new political identities and alliances in the post-colonies (Given 2002; Bryant 2006; Legg 2011; Mawani 2009; Go 2009).

But until the last decade, scholars had attended very little to the way the colonial state, with its particularities and obsessive classification, shaped daily and mundane administrative practices in the post-colonial states. A growing literature on practices of order, administration

and policing in the colonial and post-colonial states [34] has motivated me to study the origins of the long-term impact of colonial rule on daily administrative practice in post-colonial states. What impact did the routine practices of colonial administration, which diffused throughout the British Empire, have on state institutions and organizations in post-colonies after independence? How did bureaucracy impact the construction of citizenship in the post colony? In chapters 2, 3 and 4 I show how colonial practices of population classification shaped categories of political membership in the new states.

Nation, Identity and Administration

Several authors have suggested ways to approach the study of nation and nation state building that avoid reproducing the nationalist assumptions about the social world that are the objects of study. Brubaker focused on nation "not as substance but as institutionalized form; not as collectivity but as practical category; not as entity but as contingent event" (1996:13). Mara Loveman connected the definition of a nation to the work of institutionalization of population categories undertaken by the state: "through practices of classification, codification, and regulation, modern states not only naturalize certain distinctions and not others, but they also help constitute particular kinds of people" (Loveman 2005: 1655); and Paul Starr showed how,

[34] Mathew Hull's *Government of Paper on Bureaucracy* in Pakistan in 2012; Bhavani Raman's *Document raj* on writing and scribes in early colonial south India in 2012; Steinmetz's *Devil's Handwriting* about the German Colonial state (2008); Thomas' *Empire of Intelligence* in 2008; Lazreg's *Torture and the twilight of Empire* in 2008; Go's *Patterns of Empire* in 2011; Shira Robinson's *Citizen strangers* on the Military Government in Israel in 2013.

"social categories ... are shaped, manifested and entrenched through the state" that in turn harnesses their power for the formation of collective identities, groups or other potential bases of political mobilization.

John Torpey argues that an inherent part of modern state building was "monopolization of the legitimate means of movement through documents" (1998), and that in order to do so effectively, the nation state had to determine who belonged within it and who was an intruder. The monopolization of the means of movement and classifications of belonging created various documentary regimes: passports, internal passes and identification cards.

Since the Second World War, all modern states have been engaged in the classification and surveillance of population movement to varying degrees. The difference between these practices in modern states and in colonial states is that in modern states, persons are classified as either belonging to the state or not, and freedom of movement and surveillance flow from those classification. In the colonial state, it was surveillance and monitoring of movement that created classifications of persons – information obtained from methods of surveillance and intelligence was applied to determine one's political membership. I argue that this difference persists in post-colonial states and is a central legacy of colonial administration that affected minorities to a great extent in Israel and India.

The classification of population based on suspicion and surveillance was central to the practices of colonial administrators and the fact they ran bureaucratic endeavors in a perpetual state of emergency, a political-legal condition I elaborate upon in the section below. Ann Stoler writes how central the anxiety about determining identity in the colonies was to the epistemological world of colonial administrators, whose

> Projects and policies were based at once on patent visual proof and latent intuitions when they sought, for example, to specify how to know who was a true European and who was not. …What concerned them most—who might become recalcitrant and subversive and what clusters of comportments, cultural competencies, and affective allegiances might adequately index and, most critically, anticipate inchoate threats.... Expressions of sentiment depended on situated knowledge, where and to whom one displayed one's feelings was part of the epistemology of race (Stoler 2008:359)

Documents, regulations and forms were central to this process of identification and classification under colonial rule. These inscriptions comprised a particular set of administrative technologies with which to rule and control populations, and particularly, population movements.

Administrative Technologies of Rule

The centrality of paper and documents to the construction of bureaucracy has recently caught the attention of legal anthropologists, historians, and scholars of science and technology. Their insights significantly contribute to the study of organizations, as processes of documentation gain prominence in the age of information. Documents are central to the development of knowledge and memory in organizations. I use institutional theory on diffusion to investigate ways in which colonial emergency laws and practices were adapted by the administrations of the independent states, and their effects.

I focus on practices and technologies, rather than content or meaning alone, because "taking on the technicalities" (2005:976), as Annelise Riles suggests, reveals both how legal adaptation works and its relationship with administrative practice. Legal theorist Cornelia

Vismann showed how, over time, administrative files enabled governments to detach administration, the nitty gritty of legal life, from abstract laws. The shorthand markings of scribes and protocols tell us the history of the law, by revealing decisions made at a particular time (Vismann: 2008:8). The technical adaptation of legal forms is not just a procedure, it reflects legal and political ideologies, and exposes the role of administrators as technicians of law. Focusing on administrative technologies of rule is especially fruitful in order to detect mechanisms of continuity and change in state organizations.

Elsewhere (Berda, forthcoming) I develop four mechanisms of administrative continuity to show the various ways institutional routines persist in new states (See summary in Appendix 2). I argue that while sociological institutional theory provides us with concepts for understanding the homogeneity of organizational practices (DiMaggio and Powell 1983) and political science explains how institutional functions and design affect state interaction in a given regime (Martin 1999; Immergut 2006), a lacuna exists in the scholarship regarding how continuity occurs at the inception of an organization, including new states. I explore the institutional conditions for transplantation of administrative practices using two criteria: 1) the juridical framework existing at the time of transition and how it shapes and influences the new regime, and 2) the administrative personnel and their fate in the new regime. The full range of mechanisms of continuity (see appendix 3) are beyond the scope of this project, except for the mechanism I call "administrative memory", which provides a useful conceptual framework for understanding bureaucratic legacies of managing populations.

Administrative Memory

What I call administrative memory is the dynamic agglomeration of processes, templates of classification, and strategies of action in an organization, that can be traced back to a previous regime in a specific locale.

Collective memory or "social mnemonic practices" (Olick and Robbins 1998), in which individuals remember historical events, or in which agents (education systems, media, political movements) deliberately shape events to be remembered or to be condemned to collective amnesia is mostly an orchestrated process. Administrative memory involves automatic cognition, which is less deliberative and more directed by schemas and scripts that exist within the organization. Levitt and March (1988) write about organizational learning and memory:

> Routine-based conceptions of learning presume that the lessons of experience are maintained and accumulated within routines despite the turnover of personnel and the passage of time. Rules, procedures, technologies, beliefs and cultures are conserved through systems of socialization and control. [...] These organizational instruments record history and shape its future path, which depends on the processes by which the memory is maintained and consulted (326).

Administrative memory fits instances in which political transition occurs through revolution, liberation or occupation, when the juridical framework of the regime is overturned but the administrative staff is retained. The concept is particularly useful in the case of transition from colonial to post-colonial rule in order to detect the specific practices that carried over from on regime to another, without assuming *a priori* that practices were inherited and transmitted.

To explore administrative memory and documentary technologies of rule, I use administrative minutes and internal correspondence between officials as my data. The minutes of administrators provide an opportunity not only to investigate an unchartered history of administration but also open a window into understanding the organizational structure and the interplay between organizational constraints and political considerations. Investigation of minutes has enabled me to depict how recording methods and files contribute to the production of administrative memory and cognitive processes within the organization, in the context of bureaucracies in which writing and paper were not only recording devices, tools of instrumental reason and storage (Raman 2012:14), but also generative of structure and authority themselves. Writing was such a critical element of British colonial rule that John Stuart Mill described it in 1852 as the basis of the good government in India:

> The whole government of India is carried on in writing. All the orders given, and all the acts of the executive officers is sent to the home government; so that there is no single act done in India, the reasons for which are not placed on record. This appears to me a greater security for good government than exists in almost any other government in the world, because no other probably had a system of recordation so complete (cited in Moir 1993:185)

While one can dispute Mill's judgment on the good government of India, scholars agree that "papereality" (Dery 1998; Raman 2012; Kim 2011) shaped colonial bureaucracy.

The range of types of "Graphic artifacts" (Hull 2012: 15) I investigated in the archives included minutes, office registers, organizational charts, statistical tables, maps, laws,

regulations, standing orders and reports. Minutes are a particular feature of British colonial administrations:

> Almost the entire routine of the colonial office consisted in the circulation of paper among its officers in strict hierarchical sequence, each person recording his – it was usually his – opinion in minutes... minuting enables the colonial office to function efficiently as a memory system of storage and retrieval, as hard working officials recorded the reasoning behind the decisions and made themselves able to give expert opinion or draft appropriately worded dispatches reasonably quickly, make precedents available and warn politicians of actions already proven futile" (Hyam 1999)

In my study, minutes provided the epic narrative with which to connect other types of documents and situate them within the organizational and political context. Colonial rule was performative as well as functional – it involved a repeated articulation of justifications and explanations for the constant use of emergency laws – and so learning how to write and reason was part of colonial bureaucracy. I use these materials to construct institutional portraits and trace the practices within and across state organizations.

Bureaucracy and the role of Emergency Laws in the British Colonies

A common feature of British colonial bureaucracy in Israel, India and Cyprus was the recourse to government by emergency laws and the legal "state of exception" (Schmitt 1922). Carl Schmitt defined the sovereign "as he who decides on the state of exception" (Schmitt 1922/1985:5) and pointed an accusing finger toward liberal political theory that allegedly incapacitated the sovereign by forcing him to rely on and be restricted by the legal rule of law. A legal state of

exception occurs in crisis situations in which the executive branch of the state suspends the law for the purposes of dealing with an emergency. In liberal political thought, emergency has been treated as a state of exception that is normally time-bound. There is law for "normal" times and law for "exceptional" times, justified by a set of circumstances such as war, disasters and uprising when an emergency is declared (Lazar 2006).

In the aftermath of 9/11, the paradigm of state of exception proliferated as a primary explanation within critical scholarly circles for the rise of executive power and use of emergency and state violence in Western democracies. Scholars of law and society in colonial and post-colonial states followed Nasser Hussain's (2003) suggestion that "colonialism is the best historical example for any theoretical study of norm and exception, rule of law and emergency." Research showed that previous understandings of the colonial state as simply despotic or zones of lawlessness (Thomson 1989) had been wrong, because the colonies were full of laws, regulations, and administration. Some scholars turned their attention to understanding sovereignty and emergency in the colonial context (Legg 2008; Mawani 2009); others drew from imperial case studies to understand contemporary formations of executive power of governments and multinational corporations (Steinmetz 2003; Hansen 2006).

The growing body of scholarship on law and colonialism shows that states of exception were ubiquitous in the colonial territories. A patchwork of laws diffused throughout the British Empire. Imperial bureaucrats such as Warren Hastings, Lord Curzon in India, Lord Charles Somerset in the Cape colony, Sir Harry Smith in South Africa, Sir George Grey in New Zealand and Lord Lytton in Afghanistan, created a new political *nomos* that produced partial models of sovereignty in which ruling was based on a legal patchwork and consistently *ad hoc* arrangements (Shenhav & Berda 2009:347). This resulted in endless negotiations and

disagreements between local colonial governments and the colonial and India offices in London, between colonial officials and the subject constituencies, and between the legal departments and administrators.

I argue that the use of the notion of state of exception to explain legal differences between the metropole and colony is an obstacle to rigorous examination of the mechanisms at work in the administrative systems of the post-colonial state. The view of the colonial state as a state of exception prevents us from understanding the function of the colonial state, which was not lawless, but rather full of decrees and rules *of a different nature*, because of the rule of the colonial difference.

I believe the concept of the state of exception gained scholarly traction because colonial administrations have been judged through the lens of rational legal bureaucracy founded on liberal political theory. The studies cited above have failed to take into account that colonial administration is founded on a permanent emergency, precisely because the doctrine of exceptionality creates a binary between times of emergency and times of normality. In the British colonies, from the private corporate sovereignty of the East India Company to the proliferation of Defense of the Realm Acts across the British Empire during the First World War, there was rarely a moment that did not warrant an exception, because the colonial state was in a perpetual crisis of authority and legitimacy. Indeed, the distinction between "legitimate violence" and "illegitimate violence" that characterized the architecture of the model European state becomes blurred in the colonial context (Fanon 1965:35). Through the lens of bureaucratic rationality, these systems were classified as despotic, lawless, or indeed, in a legal state of exception. In chapter 1, I offer an alternative model of colonial bureaucracy, the other ideal type, to suggest that if one we look beyond the legal situation in the colony, one of permanent

exception, into the structure of the administration where race and suspicion were categories of practice, we can better understand how the colonial and post-colonial state operated.

Methodology

Unlike legal transplants, administrative practice traveled independently of directives from the colonial office or India office, following different networks. Administrations exported and imported different types of expertise as and when they were relevant in each colony. I examined the way the files, documents and classification technologies of colonial administration instructed and informed the administrative outcomes of political membership in the post-colonial context.

I focused on the comparative organizational practices, laws, procedures and routines in the Home departments in Mandate Palestine, India and Cyprus as well as the effects of bureaucratic legacies in the administration of population management during first decade of independence. Partition plans served as a scope condition that created both an administrative focus and a deadline for colonial governments to engage in classification of the population: ultimately for the purposes of organizing populations across the divided territories of the partition plan. I explored the practices in three stages: In the first stage, I examined the practices and classification systems of the colonial state in the various home departments, including departments of immigration and statistics. This stage included study of the negotiation and rivalry among the colonial office, high commissioners and border police during the years in which partition was introduced. In the second stage, I examined the period of transition from colonial state into independent state, focusing on decisions taken by interim governments regarding population management. In the final stage, I explored administration in the first years of the newly independent states and the systems they developed to deal with population management.

I constructed portraits of the administrative departments in the colonial and post-colonial states and compared them, in order to trace legacies of administrative continuity and sites of change. I identified the routines of population classification (forms, evidence and documents demanded from the applicant, decision making processes) practiced in the initial phase of independence in India, Cyprus and Israel in the ministries of interior and offices of district commissioners and subsequently sorted their similarities and difference from the colonial practices of distribution of identification documents. Tracing the political negotiations and controversies regarding population management practices within the bureaucracy, and between administrative officials and political leadership led me to highlight three domains of administrative activity that exemplify the way administrative memory was transmitted from the colonial administration to the independent administration. While the inter-communal conflicts and internal negotiations within the administrations differ in each case, I found that a similar corpus of population management technologies and templates of action emerged in all three cases even when the political and historical conditions were significantly different. One of these findings, detailed in chapter three, was the practices of classification of continuing civil servants, that had served the colonial governments, after independence.

Research in Israel

In Palestine from 1937 to 1947, partition was introduced as a solution to the conflict. I collected correspondence from this period related to the Department of Immigration and statistics with the High Commissioner of Palestine, the General Secretary, the Border Police and the Office of Passport Control. For the period 1947 to 1952 that marked the transition from British mandate to the enactment of citizenship laws, I collected documents from the interim government decisions on immigration and population classification (until 1949), files from the

Ministry of Interior-Central Office (until 1952) and the Ministry of Minorities (until 1949) on citizenship and residency status, intruders, aliens and immigrants. For the years from 1952 to 1956, I concentrated on Ministry of Interior central branch files related to immigration, residency and suspicious persons. I also investigated correspondence between the Ministry of Interior and the military government that ruled the Palestinian citizens of Israel during the years from 1949 to 1966.

Research in Cyprus

For the colonial period from 1950 to 1960, I collected correspondence in the files of the Administrative Secretary, the Secretary for Immigration, the Statistical Officer, and District Commissioners' files relating to classification of persons. I obtained access to Ministry of Interior files from 1960 to 1964, the period of independence, inter-communal violence and the collapse of the republic's constitutional arrangements. For the years from 1963 to 1974, culminating in the Turkish invasion, partition and creation of the TRNC, I did not have access to official correspondence, and what little access I had was limited to materials on Greek Cypriots, because during this period Turkish Cypriots were governed by their own administration. I conducted six structured interviews with former members of the Turkish Cypriot administration, and used secondary sources and conversations with legal scholars and anthropologists to reconstruct the administrative history for this period.

Research in India

For the period of the transfer of power from 1942 to 1947, I collected documents of the Home Department (until 1946). At the India Office Records in the British Library, I collected documents from legal advisors' records and the political and secret document collection of the India office. From 1952 to 1956, the years in which the formal citizenship laws were enacted, I

collected documents from the ministries of Interior and External Affairs related to population classification, civil servants and border control.

In each case, I used my administrative portraits of the colonial and post-independence departments to trace the legacies of organizational practices in order to understand which colonial practices were incorporated and which were excluded.

Organization of the Dissertation

This dissertation constitutes an invitation to reconsider the central role of administration and bureaucracy in shaping the inter-communal conflicts and regimes of political membership in three post-post-colonial states impacted by partition.

Chapter 1 offers a theoretical model of British colonial bureaucracy as an alternative ideal type to Max Weber's formulation of legal-rational bureaucracy in the modern state. Outlining five organizing principles of colonial bureaucracy – racial hierarchy; flexibility; personalism; administrative exceptions and secrecy – I argue that this model offers a new analytical frame for understanding the administration of post-colonial states.

In Chapter 2, "Categorizing Population – Forms, Documents and Identities," I explore how classifications within the census and other administrative forms both structured the colonial administration and affected inter-communal conflicts.

In chapter 3, "The Bureaucratic Legacies of Violence: Civil Servants, Women and Minorities," I demonstrate how the legacies of colonial regimes of classification shaped two fields of administrative activity after independence: the classification of civil servants according to their communal identity and their perceived loyalty to the state, and the exclusion of women

who married outside their religious communities of political membership. In chapter 4, “Citizens and Suspects: How Colonial Emergency Laws Shaped Political Membership,” I show how colonial emergency laws that created classification according to degrees of loyalty and suspicion, as well as governing practices of monitoring population movement, were used to exclude minorities from citizenship after independence in Israel and India. I demonstrate the critical role of emergency laws in the administration of post-colonies, and how bureaucratic practices used to implement these laws affected citizenship.

Chapter 1 Colonial Bureaucracy: Race, Law and Structure in Colonial Administrations

Scholars of the British Empire emphasize the centrality and importance of British colonial administrative activities and their effects on subject populations (Mongia 2000), yet we know very little about the organizational structure and practices of the British colonial administration.[35] In this chapter, I offer an organizational model of British colonial bureaucracy. My goal is to provide an analytical framework with which to study governmental administration in British colonies and the post-colonial states that succeeded them. This framework represents a theoretical model of colonial bureaucracy in the British Empire. It may be generalizable to other empires, but that is beyond the scope of this research.

Introduction: The Organization of Colonial Rule

Weber's ideal type of rational-legal bureaucracy has become pivotal in contemporary research of bureaucracy. When faced with conditions that do not conform empirically to the ideal type, researchers have often considered them as aberrations or pathologies. Even studies of post-colonial societies that criticize the ideal type of rationality often use it as a yardstick to measure deviations (e.g., Fallers 1965; Singhi 1974; Farazmand 2009; Abdel-Basset 2009) or to reject it altogether (e.g., Appiah 1991). These analyses are based upon a narrow interpretation of Weber's bureaucracy, focusing solely upon legal domination as a monopolistic source of control.

---

[35] Some exceptions include Bahavani Raman's Document Raj, 2013; Joseph Massad's Colonial Continuities, 2001; Mahmoud Mamdani's Citizen and Subject, 1996; and Timothy Mitchell's Rule of Experts and Colonizing Egypt.

Weber also offered an ideal type of "patrimonial bureaucracy," prevalent in the old empires, that was based upon traditional and personal methods of domination (Weber 1968: 646). I capitalize upon Weber's model of patrimonial domination, as well as recent literature criticizing the bifurcation of 'the patrimonial' and 'the rational' into incommensurable bureaucratic settings (Charrad and Adams 2011: 7; Ermakoff 2011), in order to offer a synthetic ideal type of hybrid bureaucracy. Hybrid bureaucracy mixes the two types—the legal-rational and the patrimonial—and offers an objective possibility of studying the fusion of domination methods, not only in old empires as Weber suggested, but also in the European imperial rule of the colonies. Bureaucracy is defined as 'hybrid' when it prescribes a mix of domination methods (legal, traditional/despotic and personal) in different degrees of combination and magnitude.[36] So far, I clearly follow Weberian methodology, as hybrid bureaucracy is a possible outcome of his mixed types.

I emphasize the centrality of race in imperial bureaucracies, which Weber otherwise rejected as an insignificant variable (see also Nkomo 1992). The British imperial experience provides a locus for the analysis of bureaucratic domination and coercion, outside the context of western states and outside the European rule of law—where race was a central category of action. Exercising wide discretion and power in comparison with other European bureaucrats, the

---

[36] Courpasson and Clegg (2006), among others (e.g., du Gay 2000; Ashcraft 2001; and Courpasson and Dany 2003), had already suggested the label of 'hybrid bureaucracy.' They refer to empirical works on bureaucracies, and point to hybrids as 'deviations' from the ideal typical model. Coupasson and Dany (2003) also refer to the 'hybridity' of democratic and bureaucratic modes of coercion. So far, this is in line with my argument, but their analysis pertains solely to bureaucracies that adhere to the 'rule of law.'

British had a greater influence on the shaping of bureaucracy, which, despite their critics, was developed and systematized to justify the necessity of racial hierarchies.

Using primary and secondary sources, I identify a British model of imperial bureaucracy which was first developed in India (hence the Indian model) and innovated upon in Egypt, later culminating in the writings of a contemporary of Weber: that of Lord Cromer, General Consul of Egypt, in his essay "On the Government of the Subject Races" (1908).

In this model, race was not only a category of representation, but also a category of action, justification and critique (see also: Bivona 1998, Mbembe 2001). Cromer and his compatriots brought forward separate administrative practices, regulations and possibilities for racial groups that were formally defined as 'subject races.' They legitimized their despotic methods and outright breach of principles of the rule of law in the colonies through concepts of racial inferiority of colonized peoples, who were not considered full-fledged citizens and to whom different rules and practices applied. I do not consider this model to be a deviation from the European legal model; rather, it was developed as an alternative model for the management of the colonies, which complied neither with the legal-rational model accepted in liberal societies, nor with the patrimonial model accepted in the old empires. The most striking feature of British colonial rule is not the violence and oppression it employed against its subjects, for that was a common feature of all empires. Neither was it extraction of resources and labor, so central to the political economy of imperial expansion. As Britain established its supremacy over areas of the globe with non-white populations, it established racialized political systems in which there was “no question of signifying consent through electoral processes, [as] legality became the preeminent signifier of state legitimacy and of ‘civilization,’ the term that united politics and morality” (Hussein 2003: 4).

British colonial rule developed a particular form of administration to control its subjects by bureaucratic means. Government by rule represented the basis of moral legitimacy within the realm of British colonial power. Lord Cromer, consul of Egypt, called it "sane imperialism."[37] Cromer believed:

> Once we have to draw the sword, not merely to suppress some local effervescence, but to overcome a general of people of subject races, goaded to action either by deliberate oppression or by unintentional misgovernment, the sword will assuredly be perilous to defend this for long, and the days of our Imperial rule be numbered (Cromer 1969: 125).

The only way to rule such a massive population was through a powerful bureaucracy developed to cope with the predicament of colonial rule. Cromer laid out his organizing principles of colonial administration in his essay, "On the Government of Subject Races." The model of bureaucracy he suggested was thoughtful and complex, yet very different from Max Weber's ideal bureaucracy as described in *Economy and Society*. From the viewpoint of a modern liberal administration, a colonial bureaucracy would seem deviant or dysfunctional: instead of the rule of law, colonial bureaucracy is ruled by decree. Stability, predictability and hierarchy of command are replaced by administrative flexibility and secrecy; the clear boundaries of jurisdiction, discretion, and systematic, abstract guidelines are replaced by wide discretion and personalism.

---

[37] Evelyn Baring Earl of Cromer. (1912). *Speeches and Miscellaneous Writings, 1882-1911*. R. & R. Clark, Limited. 125.

Weber's ideal bureaucracy was consistently contested in the study of organizations, and was all but discarded. DiMaggio and Powell's revisit of Weber's "iron cage" (1983) marked an era of new institutionalism that revived the Weberian theory of social action and ideal bureaucracy (Clegg 1994) to the forefront of institutional theory, sociology of organizations, and economic and political sociology. Weber's theory of bureaucracy returned to the scene of organizational inquiry, but the empirical study of colonial and post-colonial state bureaucracies remained out of its purview.

Weber was the first to offer a systematic account of bureaucracy's ideal type, arguing that precision, speed, predictability, coordination, and reduction of friction raised efficiency to its optimal level, and that pure bureaucratic organizations were expected to function according to universal considerations of competency in order to achieve the "very calculability of results" (Weber 1946).

I argue that the liberal features of Weber's ideal type remain insufficient to explain the inner workings of contemporary bureaucratic violence as it emerged in the context of the imperial and colonial rule of European powers. Colonies were used as the "laboratories of mankind" (Pinney 1990) for experimentation with modern projects of classification, social ordering, the expertise and technologies of rule, and the relationship between free markets and human rights (Stoller 1995; Mitchell 2002; Anghie 2007; 2012). These modern projects of state building in the colonies privileged a radically different model of state bureaucracy. The clusters of organizations ruling the colonial state were not deviant or dysfunctional administrations, but remnants of a different model of bureaucracy that had been developed in the British colonies. These organizations gradually developed and adapted to govern subjects for the purpose of extraction, or to secure it on the basis of racial differentiation. Colonial bureaucracies followed a

distinctly different set of principles and structures, namely because they developed in a specific legal environment of emergency within the political and economic conditions of the colonial state (also see Steinmetz 2008).

Modern state bureaucracy, based upon rational-legal domination, serves as a paradigmatic model for examining the contours of modern democracy in the social sciences. State administrations are measured against the Weberian ideal type and its variations: both western liberal-democratic states and post-colonial, post-communist state administrations are studied through the epistemological and analytical lens of rational-legal bureaucracy. Bureaucracies that do not fit this model are described in the literature as aberrations or deviations, yet the rational-legal ideal is of limited scope when understanding bureaucracies in which the universalistic nature of the law does not define the relationship between authority and population, as was the case in modern colonial states.

I argue that administrations in colonial states are organizations fundamentally different from state bureaucracies in liberal democracies. The organizing principles of colonial bureaucracy have shaped the particular, peculiar ways in which post-colonial states have structured political membership and practices of governing population. British colonial bureaucracy fashioned the modes of discrimination and oppression of minorities in the post-colonial states by administrative means. Following independence, the administrative toolkit of colonial bureaucracy served as template for interior ministries and security forces to launch bureaucratic civil war, the goal of which was the exclusion of unwanted communities from political membership.

My objective is to describe the genealogy of this colonial model of bureaucracy, and to suggest that it serve as the proper framework against which colonial situations should be

measured and compared. Such a model provides new analytical tools for understanding the administration of former colonies, particularly in the fields of national security and political membership. I invoke an alternative ideal type of bureaucracy, developed by Lord Cromer during British rule in Egypt. Cromer's bureaucracy acted as a sovereign organ in the colonial territories, creating law, practices, and administrative structure to manage subject races.

This model stands in counter-distinction to the liberal model of state bureaucracy, which follows Weber's rational-legal domination: "If a rule of law was the settled theoretical standard of colonial politics, the institutional practices of the colonial state constantly fell short of such a standard" (Hussain 2003:6). Rather than subscribing to the rule of law, colonial bureaucracy created a political *nomos* in which European liberal law was suspended. This political nomos was founded upon a tapestry of European laws, local traditional laws, rules, and decrees, allowing for the administered discretion and constant decisionism in which administrative officials made the law. Colonial state bureaucracy was a fount of sovereignty, autonomous machinery carrying the prerogative to exercise real and symbolic violence. It employed race as an explicit category for action and differentiation between populations, and also created and altered racial distinctions to serve its purposes. All in all, it appeared to the subject races as a phantom organ that manufactured miraculous decisions, but concealed the locus of the decision-making process, the workings of its machinery, and its criteria for judiciousness.

Three major distinctions between the colony and the *metropole* differentiated between colonial bureaucracy and rational-legal bureaucracy. The first was a rupture in sovereignty: in the colonial state, political sovereignty had been seized by a foreign political power (Steinmetz 2008: 591). This distinction has been characterized as dominance without hegemony (Guha 1997), in which the power of the colonial state did not rely upon the persuasion of the population

through representative or other institutions of modern liberal states. The power of the colonial state was based upon coercion and the fear of physical violence or "withheld violence" (Azoulay & Ophir 2009: 101), which defined relations between organizations of the state and its subjects. The second distinction was governance through emergency law. Imperial occupation of territory and population, along with an absence of mechanisms of representation, created a crisis of legitimacy, perpetual negotiation between political exigencies, and rule-based law (Hussein 2003: 7). Colonial government relied upon state violence, and not upon the self-disciplining mechanisms of the European states. Governors and high commissioners ruled British colonial states through laws that allowed them to enact executive decrees. Government by decree has also been called "civil martial law" (Low 1977) or, as British Prime Minister Ramsey Macdonald called it, "government by ordinance" (Kalhan 2006:129). The third distinction was the rule of colonial difference (Chatterjee 1994; Steinmetz 2008). Perhaps the most significant feature of the colonial state was that race determined the relationship between the individual and the state in every interaction with administration.

In this chapter, I briefly review critical studies of Weber's ideal type that have overlooked the colonial experience. I elucidate distinctions between the colonial state and its modern European counterpart, sovereignty and representation, and explain how rule through emergency laws, using race as the differentiating element in government, shaped very different organizing principles of state bureaucracy. I then offer a model of state bureaucracy in the British colonies, which, based upon the writings and practices of colonial officials, diffused across the British Empire, relying particularly upon the writings of Lord Cromer in Egypt.

The Other Ideal Type

Weber formulated his legal-rational model in relation to liberal European societies that had experienced historical processes of "rationalization" (*rationalizierung*) in which the rule of law was increasingly considered a fundamental definer of legitimate rational action (Kalberg 1980). Rationalization has also promoted the sovereignty of the modern bureaucratic state, in which citizenship has become a formal category of membership (Bendix 1962: 422). When faced with bureaucracies that do not conform to the ideal typical model, sociologists have considered them as aberrations or deviations from the ideal type.

In this chapter, I examine British imperial bureaucracy in India and Egypt, delineating specific instances of the colonial bureaucracy that diffused throughout the rest of the Empire. I use the case of Egypt to construct my theoretical model, because the richest descriptions of systematic colonial bureaucracy in the British Empire can be found in the accounts of officials who served in Egypt—primarily Lord Cromer. In chapters 2, 3 and 4, I will use the theoretical analysis from this chapter to explain and demonstrate colonial legacies of administration in Israel, India and Cyprus. Relying upon primary and secondary sources, I show that imperial bureaucracy differs from the ideal type of bureaucracy, in theory and practice, on at least three prescribed principles:

(1) *Law and Domination.* Imperial bureaucracy offers a mélange of legal, traditional and personal methods of domination, rather than exclusively legal means.

(2) *Race*. Imperial bureaucracy is legitimized by racial definitions of membership rather than by a single category of citizenship.

(3) *Structure*. Imperial bureaucracy featured formal rules blended with flexible and invisible authority structures.

These principles do not constitute deviations from the rational model, but represent an alternative and explicitly prescribed model of bureaucracy, as made apparent in the writings of imperial bureaucrats. I will show how five elements of colonial bureaucracy differ from Weber's six characteristics of rational-legal bureaucracy. This model holds fundamental implications for the way we understand organizational theory, and also for the relationship between race and bureaucracy in contemporary western organizations.

Deviations from the Ideal Type

Organizational theory has enjoyed impressive theoretical growth during the past sixty years, yet the epistemology of bureaucracy has remained intact in most canonical texts (e.g., March and Simon 1958; Blau and Scott 1962; Thompson 1967; Pfeffer 1982; Perrow 1986; Morgan 1986; Scott 2003). Early studies of bureaucracy have found that actual bureaucratic practices differ from the principles offered by the Weberian rational model, but these differences have been attributed to "unintended consequences of action," "informal structures," "dysfunctional bureaucracies," (e.g., Blau 1955, Gouldner 1954; Crozier 1964) and differences in "degree of bureaucratization" (Hall 1963). Subsequent literature adopts the same interpretation of bureaucracy, and attributes "deviations" between theory and action to "organizational loose coupling" (e.g., Weick 1976; Orton and Weick 1990), "bounded rationality" (March and Olsen 1976), "organizational dissonance" (Aschcraft 2001), and "knowing-doing gaps" (Pfeffer and Sutton 2000). This epistemology has spilled over into organizational stratification studies that focus on the construction of formality and examine "deviations" from legalization in matters of

placement, remuneration and employment relationships (e.g., Baron and Bielby 1986; Pfeffer and Davis-Blake 1987; Reskin and McBrier 2000; Kelly and Kalev 2006).

Even staunch critics of this epistemology, which places the rational model of bureaucracy within historical and cultural context, remain anchored in western assumptions about the rule of law as the definer of legitimate action. Among these postulations, one may find: (1) neo-Marxists (e.g., Braverman 1974; Edwards 1979; Burawoy 1979; Clawson 1980), who study legal-rational rule as a means of labor control and the resistance it entails; (2) neo-Institutionalists (e.g., Dobbin 1994; DiMaggio and Powell 1991; Scott and Meyer 1994; Friedland and Alford 1991; Adler and Borys 1996), who examine ceremonial and institutionalized sources of rational-legal bureaucratic rule; (3) proponents of post-bureaucracy (e.g., Ouchi 1980; du Gay 2000; Aschcraft 2001; Courpasson & Clegg 2006; Harris, Hopfl, and Clegg 2010; Kalev 2009), who examine changes in the form of bureaucratic flux in contemporary societies; (4) Holocaust researchers (e.g., Horkheimer and Adorno 1944; Browning 1983; Kelman 1973; Kuper 1981; Feingold 1983; Bauman 2000; Clegg 2009), who attribute atrocities to a rational-legal bureaucracy gone astray when driven by a strong culture of "instrumental rationality;" (5) post-structuralist critics (e.g., Burrell 2003; Tsoukas and Knudsen 2003; Shenhav 1999), who deconstruct bureaucratic rationality, yet continue to adhere to western assumptions about the rule of law; and, lastly, (6) studies of bureaucracy in post-colonial societies (e.g., Fallers 1965; Singhi 1974; Farazmand 2009; Abdel-Basset 2009) that criticize the legal-rational ideal type, but at the same time use it as a yardstick for analysis. Eventually, these studies, despite their criticism, canonize and reify the ideal type of bureaucracy under legal-rational domination, positioning it as historical and universal (see also: Courpasson and Clegg 2006).

These analyses of bureaucracy are based upon a one-dimensional interpretation of Weber, focusing solely on legal domination as a monopolistic source of control, whether it promotes efficiency or class interest, or manifests as substantive, decoupled, goal-oriented or instrumental. Ultimately, the structure and epistemology of this explanation remains anchored in European liberal assumptions about governance and the rule of law (or about unintended deviations from the law) as the finest possible form of modern political rationality. All of these avenues of study fall short in examining bureaucracy in non-western societies that have not experienced clear processes of rationalization. In particular, they fail to consider an alternative ideal of bureaucracy, which was formally prescribed and theorized by imperial bureaucrats.

I argue that the rational-legal model bears limited relevance to European imperial bureaucracies in the colonies. In imperial bureaucracy, legal domination is amalgamated with traditional/patrimonial methods and charismatic personalism. These do not constitute unintended consequences or deviations, but are rather theoretical principles of domination. Imperial bureaucrats, and often the subject races they ruled, legitimized these methods through the perceived racial inferiority of colonized peoples, who were not considered full-fledged citizens to whom the rule of law applied.

Imperium: Theorizing Bureaucracy in Colonial Contexts

The difference between the legal-rational model of domination and that of 'hybrid domination' resides in the type of society, social membership, and methods of rule. Weber treats bureaucracy as an organizational apparatus that enables a system of domination. Every discussion of bureaucracy should therefore address the issue of domination as the ability to coerce people into behaving in a certain way. The European imperial experience provides a locus for analysis of

bureaucratic domination and coercion outside the context of western, formally rationalized societies. Imperial history clearly suggests that imperial bureaucrats offer a mélange of legal and non-legal methods of domination.

Indeed, Weber did not develop a consistent theory of imperialism or imperial bureaucracy (Mommsen 1980); yet in his sociology of law, he devoted much attention to the concept of "imperium," which denotes authoritarian power held by, for example, a prince, the master of a household, magistrates, or bureaucratic officials (Swedberg 2005: 123; Weber 1968: 839). In his analysis, focusing on pre-modern empires, Weber presents an “objective possibility” for an "ideal typical" model of hybrid domination, and insists that it continues to prevail, to some extent, in all modern bureaucracies. Colonial hybrid domination fuses legal domination, in which "norms are established rationally, appeal to the sense of abstract legality, and presuppose technical training" (Weber 1968: 1006), with traditional domination, in which "norms derive from tradition, where the master wields his power without restraint, at his own discretion and, above all, unencumbered by rules" (Weber 1968: 1006-7).

Weber argued that imperium has always incorporated "the power to punish" and "crush disobedience, not merely through the direct application of force, but through the threat of detriment as well" (1968: 651). Weber thus refers to a wide range and amalgamation of domination methods. He also explains that there exists a variety of "intermediate situations" that may be found between the "manipulation of the law by Western military dictators" and "the manipulation of the law by Oriental patrimonial princes" (Weber 1968: 843). Weber emphasizes "the power of imperium is heightened where the existing law can be changed directly by means of princely decrees of equal validity with that of the common law" (Weber 1968: 842). In the absence of a coherent liberal rule of law, administrative power is operated "through decrees or

commands issued by the lord to his subjects" (Weber 1968: 646). These verdicts may be fully arbitrary and inconsistent over time. This arbitrariness is characteristic of colonial domination, in which law-like public decrees are issued by virtue of the power of the patrimonial, or seemingly patrimonial, rulers; not only in pre-modern times, but also in modern bureaucracy (Bendix 1962: 404).

Imperial history shows how colonial rulers created new political arrangements to manage legally inferior racial populations, producing diverse models of sovereignty and a blend of coercive methods of domination (Mitchell 1988; Hussain 2003; Steinmetz 2008). Domination was based upon personalism, legal patchwork that was made up of laws, rules and decrees created by different regimes, and flexible arrangements rather than a consolidated rule of law. Imperial bureaucrats did not possess "rational" handbooks on bureaucracy and structure (Benton 2002: 13). They engaged in endless negotiations and disagreements with imperial offices and native leaders, termed by Johnston (1973) as “jurisdictional imperialism,” and by Benton (2002) as “jurisdictional politics” and “jurisdictional flexibility.” Benton argues that imperial politics entertained multiple incommensurable legal systems, in which the location of authority was not uniform (Benton 2002: 3). Imperial bureaucracy is, therefore, an amalgam of formal rules, classificatory regimes, and often flexible and invisible structures.

Race and Bureaucracy

In *The Origins of Totalitarianism* (1951), Hannah Arendt refers to the disastrous juxtaposition of race and bureaucracy as the mutually interrelated sociological categories at work in imperial rule. It is the gap between “bureaucracy as a form of governance over one's own citizens” and “bureaucracy as a form of governance over the non-citizen 'subject races’" that is crucial for understanding the conditions under which hybrid coercive methods of domination are

legitimized (Horowitz 1982). A bureaucracy is founded, from its inception, upon a hybrid of domination methods, and legitimized by the "incommensurability" of "inferior" races with the rule of law (Lugard 1922: 86)**.** The inherent racial hierarchies of colonial administration represented a breach of two fundamental principles of Weber's Ideal type: universalism and impersonality

Universalism and Impersonality

The principle of universalism encompasses the rule of law (subordination of the official to the law) and equality before the law (the same law applies to all). The term *rule of law* has multiple meanings in legal, political and philosophical scholarship, and a peculiar history in the British colonies, where claims to legitimacy through law played a constitutive role in its definition in the metropole. I will elaborate upon colonial rule of law later in the chapter.

Universalism has acted as a foundational concept, marking the boundary between operational differences in pre-modern and modern states. Universalism is a distinct feature of direct rule in the modern state, which has established a direct relationship between the administration of the state and the civil and political rights of the population (Tilly 1995: 229). I refer to the principle of universalism with regard to the theory of the state, which defines the rules of the game, and not the contemporary debate between generalists and particularists (Dancy 2004), philosophers addressing the way in which law is implemented with moral, universalistic, or particularistic judgment within an organizational (Heimer 2011: 55) or legal system. Pierre Bourdieu, critiquing the concept of universalism in state bureaucracy, underscored its symbolic power in state administration:

> The best proof of the fact that the thought of the bureaucratic thinker is pervaded by the official representation of the official is, no doubt, the power of seduction wielded by representations of the state (as in Hegel) that portray bureaucracy as a "universal group" endowed with the intuition of, and the will to, universal interest; or as an organ of reflection and irrational instrument in charge of realizing the general interest (Bourdieu 1994: 2).

The principle of impersonality is based on the maxim *sine ira et studio*— without scorn and bias. Weber writes, "Bureaucracy develops the more perfectly the more it is dehumanized, the more it succeeds in eliminating from official business love, hatred, and all purely personal, irrational and emotional elements which escape calculation" (Weber 1978:975). The principle of impersonality includes an official neutrality and personal disinterestedness in the outcome of an administrative decision. Weber's concept of impersonality is different in the setting of the economic market and state organization, though in both, impersonality signifies the transformation from the pre-modern economy to the modern economy and state. "The market and its processes do not take the person into account; impersonal interests dominate it" (Weber, quoted in Swedberg 2000; 43). Beyond these two pivotal elements in Weber's rational-legal bureaucracy lies his particular conception of race.

Weber and Race

For Weber, race was a superfluous category, conflated with other variables of inequality along with instances or examples of the disparities created by class, status, religion or political affiliation. Weber did not give race an epistemological priority, possibly because he overlooked imperial rule altogether. Frustrated by the complexities of ethnic distinctions in Europe or the

U.S., Weber wrote that the "whole conception of ethnic groups is so vague and so complex that it might be good to abandon it altogether" (1968).

When Weber addressed pariah minorities, like the Jews in Europe and the lower castes in India's Brahamanic tradition, his analysis was based upon economic relations that derived their legitimacy from religion, which he gave priority over ethnicity or race. Weber believed that since racial and ethnic traits are visible, they serve as convenient social markers or proxies to other processes of social closure (Manasse 1947: 207).[38] For Weber, racial hierarchy was to be explained as a form, a method for creating social closures:

> [O]ne group of competitors takes some externally identifiable characteristic of another group of (actual or potential) competitors – race, language, religion and social origins, descent, residence, etc., as a pretext for attempting their exclusion. It does not matter which characteristic is chosen in the individual case: whatever suggests itself most easily is seized upon. This monopolization is always the closure of social and economic opportunities to outsiders (Weber 1968: 341-342).

Yet race was an explicit, defining category of action in imperial bureaucracies. Imperial history shows how colonial rulers created new political and legal arrangements to manage populations they viewed as inferior races, producing a blend of diverse, coercive methods of domination (Mitchell 1988; Hussain 2003; Steinmetz 2008). Imperial domination was justified

---

[38] Weber had scheduled himself to publish a section on "Economy and Race" in the *Handbook of Social Economics*, but never did (Swedberg 2005: 221).

by race, and featured separate administrative practices, regulations and possibilities for different racial populations.

Weber suggested that sociologists ought to distinguish between "the logic of the observer" and "the logic of the observed" – categories that are often wrongly conflated. This arises from adopting everyday, practical language and uncritically employing it as analytical language. Loveman (1999: 905) shows how comparative analyses of race essentialize it as a category of analysis. She claims that to explain how "different meanings and uses of race emerged" in different historical contexts requires an analytical vocabulary that avoids reproducing the vision of the social world that is the declared object of study. In the imperial context, conflation is precisely what colonial administrations accomplished: they used race as a category of both action and analysis. Imperial bureaucrats practiced division by race. Administrative lines were sorted by race. Racial categories were the object of constant bureaucratic analysis and inspection. Bureaucrats used racial categories in their reports and models. Thus, bureaucratic consciousness and its objective outcomes made race a legitimate category of practice and analysis in imperial settings. [39]

This nexus between bureaucracy and race as categories of analysis and practice has been articulated as the "rule of colonial difference" (Chatterjee 1994; Steinmetz 2008). As Steinmetz

---

[39] Interestingly enough, Weber did not incorporate into his model an epistemological sphere of illegitimacy (Mommsen 1974: 83; see also Titunik 2005: 145). He seems to assume that any 'stable' political structure is legitimate. Therefore, the failure to gain legitimacy in the eyes of the 'subject races' does not entail an inherent violation of the model of legitimacy (but see Steinmetz 2008: 592). Thus, imperial racial bureaucracy would have been seen as legitimate by Weber, if it was stable.

explains, the rule of colonial difference is premised on "the inferiority of the colonized and their incapacity for self-government" (2008: 593). Race is used as a construct of legitimized justification for imperial despotic bureaucracy, and although hybrid domination may also apply in other cases, in the imperial context it is formally legitimized by racial "difference." Hannah Arendt pointed to the appearance of race and "bureaucracy, as two mutually interrelated sociological categories of analysis that emerged during imperial rule of India" (Arendt 1951). She saw what was missing in Weber's rejection of race as an analytical category, and argued that the dangerous liaisons between race and bureaucracy unleashed extraordinary power and destruction, all the more alarming because they "bathed in an aura of rationality and civilization."[40] She described the juxtaposition between modern bureaucracy and race as a major political moment in modern domination:

> Two new devices for political organization and rule over foreign people were discovered during the first decades of imperialism. One was race as a principle of the body politic, and the other bureaucracy as a principle of foreign domination. Without race as a substitute for the nation, [and …] without bureaucracy as a substitute for government, the British possession of India might well have been left to the recklessness of the "breakers of law in India" (Arendt 1951: 65).

In the administration of the British colonies, the principle of universalism was shattered by the rule of colonial difference that set out different rules, standards, practices, and administrative routines within the state bureaucracy. While I use universalism and its absence in

---

[40] See also her methodological debate with Voegelin in his review of her book in *Review of Politics*, cited in Disch, *Hannah and the Limits of Philosophy*, p. 311; see also Dossa, "Hannah Arendt and Eichmann."

the colonial situation as a point of differentiation, I do not intend to promote the validity of the claim that modern liberal democracies are universalistic in practice. Bourdieu explains how we can use universalism as a concept without forgetting that empirically, universalism in bureaucracy is a myth. "There is no contradiction in fighting, at the same time, against the mystificatory hypocrisy of abstract universalism and for universal access to the universal" (Bourdieu 2000: 71-72).

The British Imperial Bureaucracy

Propositions. My intent is to show that in both theory and practice, colonial bureaucracy entailed different features than the ideal type of legal-rationality. Three propositions are examined in the Indian colonial model of bureaucracy and its diffusion to Egypt and other Imperial territories: (1) colonial bureaucracy prescribes a hybrid of domination methods, blending legal-rationality, traditional domination and personalism; (2) colonial bureaucracy is legitimized by imperial rulers and often by their subjects, based on racial categories of membership rather than citizenship; and (3) colonial bureaucracy features an amalgam of formal rules and flexible and invisible structures.

These propositions are obviously interrelated. Racial definitions legitimize hybrid (and despotic) bureaucracy, which employs hybrid methods of domination. In turn, these methods reconstruct and validate the 'necessity' of racial definitions. Flexible and invisible structures enable the use of hybrid methods and, at the same time, provide the conditions under which these methods are used. The models of British imperial bureaucracy in Egypt and in India serve as case studies for the examination of these propositions.

Diffusion of the British Colonial Model of Bureaucracy

The Indian model was based upon the principles of indirect rule, later summarized by Lord Lugard, by which 'subject races' are managed through their own chiefs and rulers (Lugard 1922: 194). It was decentralized, and its agents, who had wide discretion and enormous freedom on the ground, were incessant entrepreneurs and systematizers of bureaucracy. This stood in sharp contrast to the French or the Belgian traditions, for example, which leaned on centralization and standardization by "direct rule" – and the power of the European state, which kept closer contact with its colonial agents (e.g. Fieldhouse 1967; Wallerstein 1961: 40-41; Young 1994; Wilder 2005; Friedrichsmeyer 1998; Steinmetz 2008). This contrast was not just a difference of degree, but of the kind of administration the British established throughout the Empire. Less than 1,200 British administrators of the Indian civil service ruled a population of 350 million. The number of British bureaucrats in Egypt amounted, in 1891, to only 39 officials (Berger 1957: 26). Indeed, British bureaucrats such as Cromer and Lugard testified that the system of indirect rule that first developed in India was much more flexible and effective than French centralized bureaucracy (Cromer 1908a: 15; Lugard 1922). Table 1, below, presents the ratios of administrators to population in the colonies in Sub-Saharan Africa in the early 20th century. There were, in fact, significant differences between the British, French, and Belgian colonies. On average, the ratio for Britain was significantly higher (37,374) than France (25,209) and 18,444 in Belgium (Richens 2009: 21). In the outlier case (Sudan versus French Congo), the ratio of French bureaucrats was almost ten times higher than the British.

Table 1: Number of Administrators to Population in British, French and Belgian Colonies in Africa[41]

Country	Colonial Power	Ratio of Administrators/ Population	Colonial Administrators	Population
Sudan	British	60, 643	95	5,761,042
Nigeria	British	56, 428	353	19, 919, 006
Uganda	British	44, 086	83	3,659,105
Gold Coast/ Ghana	British	39, 219	91	3,568961
Mali/French Sudan	French	23, 938	110	2633,163
Cameroon	French	26, 705	113	3, 017,697
Belgian Congo	Belgian	15,084	728	10, 931, 320
French Congo	French	5843	66	385, 648

At its peak in 1933, the British Empire ruled nearly one-quarter of the world's population (Fieldhouse 1967). This enormous population and territory produced a multiplicity of control mechanisms that were not standardized across the various colonies. Imperial administrators had no official handbook explaining which forms of the law were best to institute in colonial settings; rather, as administrative entrepreneurs and adopters, they treated European legal traditions as a "useful collection from which they might draw selectively in crafting colonial legal systems" (Benton 2002: 261). Warren Hastings and Lord Curzon in India, Lord Cromer in Egypt, Lord Charles Somerset at the Cape, Sir Harry Smith in South Africa, Sir George Grey in New Zealand, and Lord Lytton in Afghanistan, among others, managed their colonies using their

[41] Table Compiled from Richens, P. (2009). The Economic Legacies of the" Thin White Line:" Indirect Rule and the Comparative Development of Sub-Saharan Africa. *African Economic History*, 33-102 and Hailey, W. M. H. B. (1939). *An African Survey*. Oxford University Press.

personal charisma, selective European laws, and a hybrid form of measures that had originated in India (Lugard 1922; Burroughs 1999).

Most prominent British administrators had served, trained in, or traveled to India. It was in India where relations between indirect rule, racial hierarchy, and bureaucratic principles were first developed, with race juxtaposed onto administrative practices (Stoler 2008:359). The voluminous writings of these imperial bureaucrats represent the data from which I draw in order, to showcase an empirical model of racial hybrid bureaucracy. None of these bureaucrats wrote as systematically as Lord Cromer Proconsul of Egypt, who collated an exemplary model of imperial bureaucracy. At the onset of the 20th century, as the Indian model freely diffused to Southeast Asia and the Middle East, his was considered a root model of practice.

The British rule of India began with the conquest of the East India Company in the eighteenth century, creating a semi-sovereign state (Cohn 1989). The Company collected taxes, waged wars, managed the lives of subjects, and administered justice by differentiating between white Europeans and native Indians. Lord Warren Hastings, Governor General of India (1773-1785), developed a philosophy of administration in which "the man on the spot […] who [knows] the natives [represents] the forces of 'law and order'" (Cohn 1989: 135). Lord Hastings explained that British law was “too technical, too complicated, and totally inappropriate for the conditions in India" (Cohn 1989: 141). The British needed, therefore, to "modify and adapt the old, to fit English ideas and standards" and "produce a piece of machinery that English officials could operate and English opinion tolerate" (Cohn 1989: 136).). As Bhagavan (2003: 20) summarizes, “In colonial India there were to be no citizens, only subjects of the empire and ‘traditional’ princes.” Under these conditions, justice depended not only on the law, but also "the rule of men;" that is, rule by imperial bureaucrats (Cohn 1989: 14). This first principle of the

Indian model, which inspired Lord Cromer to lay it down,[42] advised incorporation of selective European law with the local customs and traditions of Indian communities.

In 1858, the East India Company dissolved, and its functions were integrated into the India Office. The imperial model of government was constructed on the paradigm of England prior to the establishment of a liberal constitution: the governor represented the king, and local councils represented the home cabinet and parliament (Lugard 1922: 95). Although there was a gradual shift toward rationalization and efficiency (Lugard 1922: 94), it was always accompanied by contrived bureaucracy suited to the particular conditions on the ground.

Toward the end of the nineteenth century, the British rule of India relied upon a huge, multi-layered bureaucracy, comparable in size to that of Tsarist Russia or China (Cell 1999: 236). It was founded upon "complex, varied, and constantly shifting patterns of administration" (Burroughs 1999: 174; see also: Mukherjee 2010), which acted far from the principles of the rule of law, partially because administrative jurisdiction of the central provincial governments in India, covering one-third of the subcontinent, was incommensurable with the internal governance of the princely states (Fuller 1913: 239, 246; Moore 1999: 427; Cell 1999: 236-7). The Indian model of bureaucracy developed into a diarchy, a system of double government that was introduced by the Government of India Act in 1919 and later led to the autonomy of provincial governments in the reform introduced by the Government of India Act of 1935. The principle of

---

[42] Cromer was inspired by the administrative solutions Warren Hastings attempted in India, and applied similar measures in Egypt. See the review of Cromer's report on the administration of Egypt in 1899 in West, R. (1900) Recent Changes in Egypt. *Journal of the Society of Comparative Legislation*, *2*(3), 495-503.

diarchy centered upon a division of the executive branch of each provincial government into authoritarian and popularly responsible sections. The first was composed of executive councilors, appointed, as before, by the crown. The second was composed of ministers who were chosen by the governor from the elected members of the provincial legislature. These latter ministers were Indians. Diarchy existed as a hybrid system that embodied the principle of indirect rule in the administration, while legitimating its racial hierarchies in the quest toward India's self-rule and subsequent independence (see Sen 2013; Gallagher & Seal, 1981).

The practices, policies, expertise, and character of the Indian model traveled to the rest of the colonies. Their paths of diffusion are beyond the scope of this chapter, but I briefly point to the three methods to show that the articulation of "On the Government of Subject Races," written by Lord Cromer, was a product of a dense transfer of knowledge and expertise accumulated through the experience of imperial officials over time.

Strang and Meyer (1991) examined diffusion of practices in a global context, and suggested that the conditions for diffusion are the cultural linkages between models, social actors, and their cognitive maps (Strang & Meyer 1993:491). Common repertoires produce similar institutional structures through a process of institutional isomorphism (DiMaggio & Powell 1983), and through imitation in times of uncertainty (such as the quick diffusion of 'state of emergency' measures). Practices diffuse rapidly when there is an exemplary model that enables "theorization," and when there is a distinct stratum or category of potential practitioners the bureaucrats called "adopters" (Strang & Meyer: 498). The diffusion of British bureaucratic models in the colonies fits well with this set of assumptions.

The primary method of diffusion occurred through the India Office and the Colonial Office, the central command of the colonial administration. The Colonial Office promulgated laws, distributed policies, and printed up forms, codes of conduct, and circulars. It was the body through which information flowed from one colony to another, as they engaged in usually unsuccessful attempts to standardize laws and practices. Despite the decentralized nature of British imperial bureaucracy, the information flowing through the India and Colonial Offices developed an important body of administrative knowledge. Particularly with regard to policing and controlling populations in times of crisis, the Colonial Office aspired to export an ethos of "British policing" perceived as an essential component of liberalization (Sinclair & Williams 2007: 222). The colonial office also attempted to standardize legislation of special measures in times of protest and uprising.[43] In times of crisis, such as the Nicosia disorder in Cyprus (1931) and the Arab Revolt in Mandate Palestine (1936-1939), experts who had gained their expertise in India, specifically Bengal, were sent by the Colonial Office to aid local colonial governments.[44]

A second method of diffusion was copying and pasting: Indian bureaucratic forms, such as naturalization applications and residency permits, served as templates for diffusion in

---

[43] TNA CO 537/6244. Minute, Bennet, Colonial Office response on the Standardization of Emergency Measures in the Colonies, draft letter to Governor of Cyprus. April 20, 1950.

[44] An interesting example of the diffusion of policing methods can be found in Charles Tegart, who served as police commissioner in Calcutta and was recruited to aid in the repression of the Arab Revolt in Mandate Palestine because of his notoriously effective methods of suspect interrogation. See Charles Tegart of the Indian Police, an unpublished biography by Lady Tegart, MSS Eur C235 in British Library, India Office Records.

Mandate Palestine and Cyprus.[45] Practices diffused in times of uncertainty and crisis, mainly through mimicry, or more simply through the copying and pasting of forms, templates, and administrative precedence. For example, during the Arab Revolt in 1936, the government of Palestine used decrees promulgated in Bengal in the 1930s as templates for local standing orders. The enactment of martial law followed the Indian experience, which had ready-made bureaucratic emergency measures in place.[46]

A third method of diffusion was introduced through professional delegations and the movement of colonial officials from post to post, particularly when it came to expertise on administration in times of crisis, which imperial historians have focused upon as an inventive method that was born in India and diffused to other colonies (Sinclair 2006). India was the training ground for many colonial administrators who began their careers there before continuing on to other territories in the Empire. Diffusion intensified when Cromer's bureaucracy became an exemplary model in the passing of information to training delegations, which traveled in order to learn from experts in other colonial governments, as we see below.

Empirical Sources. My empirical corpus for identifying the model of British imperial bureaucracy includes documents written by five prominent British bureaucrats, prolific writers in their circle, with Lord Cromer as the central character who articulated the principles of British imperial bureaucracy most systematically. These materials include books, articles, documents,

---

[45] ISA M/5134/10, a file of miscellaneous forms for use in the Immigration Dept. in Palestine, included a number of forms from India, “two of which had a category of race or case or tribe and sub-tribe” which were crossed out.

[46] TNA CO/733/315/2 Part II 1936, pamphlet and corresponding minutes.

and letters, which provided, apart from theoretical principles, information on British administration in different colonies as well as analyses of bureaucratic successes and failures. I also use secondary sources on additional British bureaucrats, and historians' observations with regard to the Indian model. All in all, the materials offer a rich description of imperial bureaucracy—one that differed from Weber's ideal type for liberal societies. The five bureaucrats are:

(1) *Lord Cromer* who in 1883 became British Consul-General of Egypt after several formative years of service in India. He was the first British bureaucrat to collate and summarize the theoretical ideal model for imperial bureaucracy, in "On the Government of Subject Races" (1908a) and *Modern Egypt* (1908b).[47] Well aware that his model of administration was disparate from the principles of modern liberal state bureaucracies, he dubbed it "hybrid bureaucracy." Indeed, British bureaucracy in Egypt, during his term, was described as "paternal," "despotic" and "absolute" (Berger 1957: 120).

(2*) Sir Joseph Bampfylde Fuller*, who used the pseudonym Carthill (1913; 1924); a British bureaucrat who served in East Bengal, but resigned under Lord Curzon (Curzon was a prolific writer himself who, unfortunately, did not produce texts on administration or bureaucracy; he was a colleague of Cromer, who consulted him on political and administrative issues).[48] In *The*

---

[47] As Owen (2004: 362) points out, "'On the Government of Subject Races' presented materials which were removed from earlier drafts of *Modern Egypt*, in the guise of a review of a book on the decline of the Roman Empire."

[48] Letter from Lord Cromer to Curzon, December 18th 1898, Curzon Papers 111/218.

Last Dominion (1924) and *The Empire of India* (1913), Carthill offered observations about British bureaucracy in India, and provided a detailed description of its principles.

(3) *Sir Frederick Lugard,* who provided the most comprehensive description of administrative indirect rule; he labeled it "the dual mandate." His experience of service as governor in Hong Kong and Nigeria resulted in a set principles that resonated with Cromer's 1908 observations (Lugard 1922).

(4) *Lord Edward Cecil*, who held several bureaucratic positions in Egypt under Lord Cromer and Lord Kitchener. He was the son of a British prime minister, and very much a product of the British administrative elite. His posthumous *The Leisure of an Egyptian Official* is a collection and collation of private letters and papers.

(5) *John Sydennham Furnival,* who served in Burma after joining the Indian Civil Service and wrote *Colonial Policy and Practice* (Furnivall 1942). Furnival had a second career as an historian of colonial sites, and was a prolific writer in many journals and periodicals.

All were interconnected. Cecil had worked under the direction of Cromer. Carthill shared Cromer's belief that imperial bureaucrats bore the torch and burden of western knowledge, but was far more extreme in the measures he sought for the discipline of recalcitrant subjects who retaliated against policies and despotic rule.[49] Lugard developed principles to manage "subject

[49] Fuller was the first governor of East Bengal after Curzon's decision to partition it in 1905. Fuller attempted to encourage the Muslim population to support partition. He employed extremely harsh methods against those who protested partition. See F. H. Brown, 'Fuller, Sir (Joseph) Bampfylde (1854–

races," building upon Lord Milner's principles of British colonial rule through native chieftains and the theory of indirect rule that Milner had incorporated into the rule of South Africa (Lugard 1922: 193). When Furnivall advocated for a benevolent despotism for an independent Burma, he pointed to Cromer's as an exemplary model (Furnivall 1947).

These five bureaucrats represent a broader stratum of officials who learned colonial administration in India during the same period. Among them was Francis Campbell Balfour, who served as military secretary to the governor of Madras before going on to become governor of the Sudan, where he met Lord Cromer. Hugh Shakespeare served as an administrator in India (chief commissioner of Baluchistan) before becoming lieutenant governor of Burma. Marshall Clark first served in India before being appointed as special commissioner for South Africa in 1876; and James Shaw served in India before becoming the governor of Gambia and Sierra Leone in 1886.

The bureaucrats listed above play a double role in this analysis. First, they serve as observers and writers who supply us with theoretical principles for examining the contours of the racial-imperial model of bureaucracy. Second, they are observed players in the imperial bureaucratic scene who provided (somewhat idealized) descriptions of imperial bureaucratic practice. Their analyses, and the principles they prescribed, are crucial for identifying their theoretical view of imperial bureaucracy and its implementation, even if their representations are biased and tend to be self-aggrandizing, underscoring successes and hiding failures. They

---

1935)', rev. Suranjan Das, *Oxford Dictionary of National Biography*, Oxford University Press, 2004; online edition, January 2012

provide an extremely valuable view into the administrative world they perceived and created in the colonies.

The political context in which the imperial model was exposed to the public is telling. Cromer, alongside Lord Milner, who ruled the Transvaal, and Lord Curzon, Viceroy of India, shared the belief that imperial governance was what made Britain a great nation (Owen 2004; 378). Under the British liberal government, at the turn of the century, bureaucratic heavy-handedness came under attack everywhere, from Milner's Transvaal to Curzon's India. This was the political context in which Cromer wrote, and his systematization of imperial bureaucracy represents an answer to the liberal critique in London about the despotic measures rampant in the colonies. In the hybrid model for the "On the Government of Subject Races," Cromer presented race as a central category that exerted separate administrative practices, regulations and possibilities for different racial populations. Race was not superfluous, in this case, but a central category that was formally in use.

In an address Lord Curzon gave on "The Place of India within the Empire," he justified the "difference between Dominions possessing responsible government and an administration like that of India." With regard to differences in living standards, economic aptitudes and social and moral conceptions were fundamental and unbridgeable by abstract reasoning. The civilizing mission remained, and it was an "elementary fact that the rule of India is still, and must for as long as we can foresee, remain in British hands." Whilst there was a "necessity of a progressive increase in the employment of Indians in the administration of their country," there was also a requirement for "a strong British personnel in the higher ranks of the Administration" (quoted in Moore 1993:723).

Furnivall, a colonial official in Burma and scholar of the empire, wrote: "common to all colonial practice is that the responsibility for maintaining order is assumed by the colonial powers; and organic autonomous society maintains order with more or less success in virtue of its inherent vitality, but it dependencies are kept alive, as it were, by artificial respiration, the pressure exercised mechanically from outside of the above" (Furnivale 1939/ 1956).

Racial hierarchy was both a political belief and an organizing principle. When Lord Curzon jettisoned the term "self-government," he wrote of Oriental "inferiority:"

> It is a pity that the word self-government has such different meanings. To some (for instance myself) it means the Indians acquiring by stages an ever-increasing influence in the administration, until they become the predominant factor in the higher as they already are within lower official ranks—but all this under the guidance of Great Britain. To others […] the British mission is not to govern but to go, and self-government means that the Indians will govern themselves (to the extrusion of the British) much as the Russians, who are true Orientals, are doing at this moment, and no doubt with similar results. There is great danger in the use of phrases which admit of such contradictory interpretations (quoted in Moore 2003:729).

Furnivall was also very clear about the relationship between racial hierarchy and the administration of the colonies:

> The prime care of any colonial power must be to maintain order, for order is essential to such advantages as it anticipates from imposing its rule of dependency. In maintaining order, the colonial power must choose between the

> western principle of law and the tropical system of relying on personal authority, between direct and indirect rule. Secondly, to attain the perspective advantages, the colonial power must choose between the western principle of freedom and the tropical system of compulsion. These are the two main lines along which colonial practice divides (1939/1956:8).

Cromer, who shared these views on the dangers of self-rule, was not just a central figure in a circle of administrators; he had come to represent the quintessential figure of the British imperial administrator. Upon his death in 1917, *Living Age* editors wrote: "Lord Cromer's was a masterful personality, but the real field of its ascendency came to lie, as the years of his tenure of power lengthened out, rather in England than in Egypt. He became the center of a legend, the figure of modern imperialism that dominated our foreign policy."[50]

Lord Cromer and the Government of Subject Races

Evelyn Baring, known as Lord Cromer, began his career in the colonial service as an aid to Lord Northbrook, Viceroy of India, from 1872- 1876, and as an aid to Viceroy Ripon before going to Egypt upon the recommendation of officials at the India Office. Northbrook served as president of the Royal Asiatic Society, which was engaged in scholarship and publications on Asian culture and society. Before his viceroyalty in India, Northbrook aided the secretary of the India Office in the implementation of reforms to structure administrative machinery within the India Office and its liaisons with parliament, experiences he relayed to Cromer (Kaminsky 1986: 13). Under Northbrook, Cromer aided in setting up the Indian intelligence service, and learned to

---

[50] The Empire Builder, *Living Age*, 1917, 758.

manage the press in times of famine. After a short period of service in Egypt, he returned to India as Lord Ripon's right-hand man, and focused on financial decentralization and granting local control of finance to local governments (Owen, 2004: 164-5). In 1883, he returned to Egypt as Consul-General.

In 1882, Britain began to control Egypt with no declared intention of remaining there. The British policy was to restore order, and then possibly withdraw troops (Cromer 1908b, Vol. 2: 349). British occupation was defined as 'temporary' and the culture of temporality undercut any attempt to systematize the administration (Marsot 1999: 654). In this context, Cromer defined a "hybrid" model based upon new British administration and existing Egyptian bureaucracy. As in India, British bureaucracy in Egypt was based upon a patchwork of rules and regulations, elaborated administrative sections, intricate legal divisions, and flexible offices, all interwoven into local, traditional laws and customs.

Cromer linked his maxims for imperial bureaucracy in Egypt directly to the Indian model, and suggested that "this portion of the Indian system is deserving of reproduction" in all colonies of Great Britain (1908a: 16; see also in Lugard 1922).

The British exported the Indian model not only to Egypt, but also to Southeast Asia, the Middle East and Africa (Subramaniam 2009: 54; Lugard 1922). These documents and writing of officials, when viewed as a model of knowledge and practice that diffused throughout the Colonial and India offices, provide a rich account for examination of the racial, hybrid and flexible nature of imperial bureaucracy.

Analysis. This analysis is based upon "parallel demonstration theory," in which "historical instances are juxtaposed to demonstrate that the theoretical arguments apply convincingly to

multiple cases that ought to fit if the theory in question is indeed valid" (Skocpol and Somers 1980: 176). Admittedly, there are differences between various imperial bureaucracies in size, duration, goals and histories (Marsot 1999: 655). Berger (1957) attributes these differences to the longer duration of British rule in India, fluctuating levels of security threat, and the historical period of conquest. In India, British bureaucrats reached the provinces and villages more regularly, and interacted with the natives in a more intimate manner (Fuller 1913), whereas in Egypt, colonial rule did not penetrate society to a similar extent. Also, the British occupied Egypt after a century of French influence over the country, and the local administration was suffused with the spirit of centralized French bureaucracy (Berger 1957). The two cases also differ from the bureaucracies encountered in other British colonies, and all the more from bureaucracies under centralized and formalized types of government, such as the French, Spanish and German (Steinmetz 2007, 2008).

When juxtaposed, the two bureaucracies, and the diffusion of concepts and practices to other parts of the empire, provide rich material for the examination of differences between imperial bureaucracy and bureaucracies under legal domination. The juxtaposition of these cases, based upon their bureaucratic similarities, is substantiated in the literature. Marsot already points to the "striking parallels" between British administration in India and Egypt (Marsot 1999: 655; see also Lugard 1922). Even Cromer explains that his maxims for imperial bureaucracy in Egypt are derived directly from his experience in India. In the analysis, I emphasize the similarities between the two cases rather than the differences. Correspondence in cases of hybrid domination does not necessitate a similar outcome. Proximity allows for differences in the mixture of domination methods, while at the same time demonstrating the principle of hybridity.

Empirical Analysis: The Three Characteristics of Colonial Bureaucracy

Domination: Hybrid Methods of Domination

Weber defined legal-rational domination as follows:

[Legal-rational bureaucracy] is the administrative process in the rational pursuit of the interests which are specified in the order governing the organization, within the limits laid down by legal precepts, and following principles which are capable of generalized formulation and are approved in the order of governing the group, or at least not disapproved in it (1968: 217).

He emphasizes that the person who obeys authority obeys only "the law" (1968: 217). The ideal type of rational bureaucracy renders the use of despotic measures and "exceptions" from the law undesirable, and these should only be resorted to in the case of temporal necessity or malfunction.

In contrast, the theoretical model of hybrid domination offers a fusion of despotic methods. It should be noted that Weber does not identify spheres of illegitimacy, perhaps implying that every stable political system is legitimate (Mommsen 1974). Thus, Weber may have accepted hybrid domination as a legitimate form of action. Hybrid bureaucracies used an amalgam of domination methods to manage racially inferior populations. Imperial bureaucrats legitimized these coercive models through racial ideologies. In the context of Egypt, Cromer labeled the system a "hybrid form of government" (1908a). In the context of India, Carthill defined this form of governance as "despotic bureaucracy" (1924: 248; see also Fuller 1913: 235). Hybrid domination represented neither a deviation from the rational-legal model nor an informal structure emerging from unintended consequences. Indeed, it was an intended, conscious and explicit model.

When, in 1883, Lord Cromer realized that the future of British rule in Egypt was uncertain, he developed a set of principles for his “hybrid” type of government (1908a; 1908b). This model of bureaucracy applied to management of "the subject races" in societies that may not be easily catalogued as modern nation-states. Cromer offered an administrative system that originated in India and hinged upon a tangle of conflicting jurisdictions. He presented the utilization of exceptions to the law, and suggested replacing stable laws with abrupt decrees and additional coercive methods of domination.

This vision of bureaucracy outlined by Cromer in his writings soon materialized on the ground. As Timothy Mitchell describes, the British established in Egypt a system of domination that was, as Cromer admitted, tantamount to the introduction of legal exceptions (1991: 97). Mitchell shows that upon its foundation, the bureaucracy was also based upon the so-called Brigandage Commissions, and was composed of abrupt military raids, secret police, local informants, mass imprisonments, and systematic use of torture (see Cromer 1908b, Vol. 2: 289). A decade after they were introduced, these commissions were replaced by a more disciplined and consolidated bureaucratic system, mixing traditional and rational methods of domination. Bureaucratic control included selective use of the law, which was formalized as a multitude of decrees and an abruptly changing set of rules and regulations pertaining to movement in the region (Mitchell 1991; see also Shenhav and Berda 2009). These measures were enforced by the police as well as hired watchmen (Mitchell 1991: 96).

Similar methods of domination were applied to capitalist production in Egypt. Mitchell (2000) describes the process in which these methods were used to prevent labor desertion from lands in which colonial crops were grown. In order to coerce villagers to cultivate export corps and deliver them to government warehouses, the British applied methods such as taxation,

penalties, and usurpation of land. Furthermore, when crop monopoly was met with resistance from villagers who deserted their militarily guarded territories and moved to agricultural lands beyond government control, a permit regime was introduced to prevent any departure from the locality of one's village (Mitchell 2002: 60 – 61, Mitchell 1998: 34, 40 – 43). The land laws and decrees constituted attempts to compel the natives to remain on their lands and to confirm the seizure of lands from those who fled from them.

Imperial bureaucracy in Egypt also introduced land reform for the Bedouins, directly linked to population control and infringement on the freedom of movement. Bedouins who were willing to surrender to the authority of the military officer assigned to their locality and subject themselves to the regime's bureaucratic hoops were offered small plots of land. Mitchell (2002: 62) describes the decree as follows:

> They were to give the officer a list of the heads of the sections of each tribe, with the number of persons and a description of each individual enumerated tribe by tribe, section-by-section, name by name. The officer would then issue a permit with the name, physical description and tribe of every individual under his authority. A person who wished to move from one tribal section to another, or to another part of the country, required this permit to travel.

In case of revolt, reasons for administering a permit system and early forms of suspect lists shifted from the economic justification of preventing desertion to a justification that prescribed control over those who posed a security threat. Villagers were required to round up “depraved and malicious persons and suspicious characters" (Mitchell 1998: 97) in their locality, and they were sent to labor. If, after an assigned period, the suspicious characters were found in

the districts, the headmen were punished. Imperial bureaucracy also placed local thugs and gangs under continuous police control in order to oversee a system of “tickets” that were handed out workers in their villages before they traveled to their work sites, "but only to those men whom the local police deemed not to be troublemakers" (Mitchell 1998: 97).

This form of hybrid domination, in which violent despotism and legal elaboration were used hand in hand, was not exclusive to Egypt. Cromer himself admitted that the Egyptian case was modeled after the administrative case of India (1908a). Cromer referred to an explicit model that should travel as "an ideal" from India to Egypt.

This model was generated in India by Lord Hasting, who believed that domination in India "could mean nothing but despotism" (Mukherjee 2010: 17). He admitted that British domination "exceed[ed] the rule of law, and [was] therefore illegitimate and even criminal" (Mukherjee 2010: 29). Carthill provided the following theoretical discussion on despotic domination (1924: 257):

> Repression is justifiable when, and only when, it is necessary. If the emergency does not exist, repression is inadmissible. When it does exist, and repression is decided on, repression should be carried out coldly, calmly and ruthlessly till the emergency is passed.

Carthill emphasized that, under such conditions, castigation is to be administrated casually and capriciously (1924: 257). This was considered legitimate, since the "Oriental understands no other form of government" (Carthill 1924: 43).

Martial law, for example, was frequently resorted to in the employment of bureaucracy. It did not rest on the authorization of ordinary law, but on the legal maxim *salus populi suprema*

est lex ("the safety of the people is the supreme law," see Hussain 2003: 102). Similar to the logic propounded in Egypt, the necessity of martial law in India was legitimized by racially-based justifications anchored in "the inferiority and lawlessness of the natives" Carthill resorted to racial differences to lend legitimacy to abrupt decrees and moving orders: "The oriental is very pertinacious […] he is also a fatalist, and when a decree is final and irrevocable, he will accept it with marvelous resignation" (1924: 238).

Personalism as Integrated into Impersonal Bureaucratic Domination

In his ideal type, Weber emphasized "the typical person in authority, the 'superior,' is himself subject to an impersonal order" (1968: 217). Hybrid bureaucracy was also prone to cultures of bureaucratic distance, in which bureaucrats developed moral aloofness and remoteness toward their 'subject races.' It is true that the same phenomenon is encountered in Western bureaucracies. Corporate elites express the same moral aloofness toward workers, particularly in times of crisis, as seen, for example, in the downsizing or restructuring of pensions (for a similar approach, see Courpasson and Dany 2003). In racially oriented bureaucracy, this aloofness was normatively prescribed and legitimized by racial ideologies.

Cromer argued that imperial bureaucrats were not mad or vicious rulers, but administrative "systematizers." He declared that "[the bureaucrat] will not be possessed with any secret desire to see the whole of Africa or of Asia painted red on the map" (Cromer 1908a: 1-2). Imperial officials were informed "by the light of western knowledge," but considered the colonial locality and act in the best interest of the natives (Cromer 1908a: 6). The enlightened idea of rationality was inscribed in bureaucracy and its rules: "[T]he principles of government […] guide our relations with whatsoever races are brought under our control, and must be politically and economically sound and morally defensible" (Cromer 1908a: 2). Furthermore, he

argued that if the British bureaucrat persistently adhered to this principle, he might gain respect for his selflessness and excellent skills (Cromer 1908: 6).

Arendt produces similar observations about Lord Cromer, pointing to his "indifference and aloofness and [his] genuine lack of interest in [his] subjects" (Arendt 1951: 92). She explains:

> Aloofness became the new attitude of all members of the British services; it was a more dangerous form of governing than despotism and arbitrariness, because it did not even tolerate that last link between the despot and his subjects, which is formed by bribery and gifts (1951: 92).

Furthermore:

> The very integrity of the British administration made despotic government more inhuman and inaccessible to its subjects than Asiatic rulers and reckless conquerors had ever been. Integrity and aloofness were symbols for an absolute division of interests, to the point where they are not even permitted to conflict. In comparison, exploitation, oppression, or corruption look like safeguards of human dignity, because exploiter and exploited, oppressor and oppressed, corruptor and corrupted still live in the same world, still share the same goals, fight each other for the possession of the same things (1951: 92).

Importantly, these descriptions underscore the culture of instrumental rationality as embedded in imperial bureaucracy. Cromer argued that "personal influence" devoid of written legal treaties was crucial for "effective supervision" (Arendt 1951: 93). Personalism was suggested as an addition to the formalized and visible decision-making process, as it could be altered on the spot,

avoiding a cumbersome and limiting interaction with the metropole (Cecil 1921: 87). Cromer lamented that he had "to work through British agents over whom [he] possessed no control, save that based on personal authority and moral suasion" (1908b, Vol. 2: 325). Personal influence was therefore privileged over formal policy.

In the context of India, bureaucracy also featured an amalgamation of personalism, with attempts to construct bureaucratic rationality (Fuller 1913: 234). On the one hand, Lord Curzon extended the bureaucracy in India and attempted to develop (with little success) models of organizational efficiency (Moore 1999: 436), such as the partition of Bengal. On the other hand, bureaucrats suggested a concoction of personalism as mixed with traditional methods.

The British traditionally claimed that Indian administrators, unlike their British counterparts, lacked the "virtue of impartiality" (Spangenberg 1976: 5), yet Lugard described British bureaucrats as exerting close personal influence and pressure (Lugard 1922: 97). The 1930 Simon Commission, which investigated British officials in India, discovered that British bureaucracy developed "highly personalized techniques, based on the special local knowledge of the officials and the ‘trust’ of the mass of the population" (Spangenberg 1976:6).

Moral aloofness goes hand in hand with personalism. As Bendix argues, following in Weber's footsteps, "charismatic authority appears to 'erupt' and then become transformed through 'depersonalization'" (1962: 387). Bivona also points to the simultaneous nature of the indirect rule involving personalism and bureaucratic aloofness:

> Indirect rule can be seen to serve a contradictory purpose when one examines it in light of Weber's dichotomy of charisma and bureaucracy. Indirect rule attempts to systematize charismatic rule, to institutionalize the manufacture of leaders with

> godlike powers, expertise, and fields of action out of otherwise ordinary English bureaucrats […] It is the bureaucratization of charisma (Bivona 1998: 33).

This conclusion pertains to what may be perceived as inner contradictions within bureaucratic domination. These do not necessarily counteract each other, but constitute instead an integral feature of the hybrid form of bureaucracy.

The Racial Legitimization of Colonial Bureaucracy

According to the legal-rational model, political participation is based on equal citizenship, in which "people are no longer followers or subjects, but citizens who possess formal rights of participation" (Bendix 1956: xxviii). Under such conditions, bureaucracy attempts to treat people equally *sine ira et studio*; that is, "without hatred or passion, and hence without affection or enthusiasm" (Weber 1968: 225). However, this was often not the case with imperialism, as it constructed and established race as a prescribed category that legitimized colonial domination. It should be recalled that Weber seemed to assume any "stable" political structure to be legitimate. Therefore, failure to gain legitimacy in the eyes of the 'subject races' did not entail an inherent violation of the model of legitimacy (but see Steinmetz 2008: 592).

Cromer's imperial bureaucracy in Egypt was founded upon the principle of hybrid domination because, in his eyes, the rule of law was perceived as foreign to the 'subject races,' and also because the stability fixed in the law endangered "dynamic operation" (1908b, Vol. 2: 263). Cromer perceived colonial bureaucracy as indirect rule was perceived as necessary in Egypt, since European bureaucracy did not accord with the "Oriental habits of thought" (1908a: 13). In addition, Cromer referred to the position of women under Islam as an indication of the unfitness of Egyptians for the rule of law (Marsot 1999: 663). He argued that steady bureaucracy

required political maturity, which the natives lacked: "Before Orientals can attain anything approaching the British ideal of self-government, they will have to undergo very numerous transmigrations of political thought" (Cromer 1908a: 14). Cromer also observed that "the tendency of every Egyptian official is to shirk responsibility."

Cromer was sent to Egypt from India to exercise indirect authority by advising the local Khedive (Bivona 1998). He was explicit in emphasizing that coercive methods of domination were legitimate, since "the inhabitants of the countries under British rule [were] not of Anglo-Saxon origin" (Cromer 1908a: 1). In his two-volume work, *Modern Egypt*, he presented the following racial differences:

> The European is a close reasoner; his statements of fact are devoid of ambiguity […] he loves symmetry in all things; he is by nature skeptical and requires proof before he can accept the truth of any proposition; his trained intelligence works like a piece of mechanism (Cromer 1908b, Vol. 2: 146).

Furthermore:

> Contrast [with] the European talkative mind, bursting with superfluous energy, active in mind, inquisitive about everything he sees and hears […] the grave and silent Eastern, devoid of energy and initiative, [and] stagnant in mind (Cromer 1908b vol. 2: 148).

The Egyptian, he added, cannot be shaped into "something very useful" and is "merely the rawest of raw material." Therefore:

> It is for the civilized Englishmen to extend to [the native Egyptians] the hand of fellowship and encouragement, and to raise them, morally and materially, from the abject state in which he finds them [...] He looks towards India, and he says to himself with all the confidence of the imperial race—I can perform this task (Cromer 1908b, Vol. 2: 130).

The justification was clearly the perceived low level of the Egyptians: "It is important that, in our well-intentioned endeavors to impregnate the Oriental mind with our insular habits of thought, we should proceed with the utmost caution" (Cromer 1908a: 14). Cromer also explained that political emergencies on the ground required prompt action and the exercise of common sense. Clearly, the Egyptian "[did] not recognize emergencies, and he [spurned] common sense" (Cromer 1908b, Vol. 2: 240). The native could fit the lower echelons of bureaucracy in light of his submissiveness to all constituted authority (Cromer 1908b, Vol. 2: 151). Cromer prophesized that "so long as British supervision is maintained, the Egyptian will readily copy the practices and procedures of his English teachers" (Cromer 1908b, vol. 2: 155).

Lord Edward Cecil, who served under Cromer, provided similar observations, arguing, for example, that “no Egyptian ever profits by experience” and that “when it is cold, he cannot think at all…” (1921: 3). Cecil even alluded to their “playful habit of inserting matter to suit their own ends” and making one "say things which give an impression to [one's] correspondent that [one] has become insane” (Cecil 1921: 54). He further lamented the strenuous interaction with Egyptian subordinates, as “native officials are far too fond of referring questions to superior authority, partly because they are timid, and partly because they have no sense of proportionate importance” (Cecil 1921: 54). This was attributed to the previously mentioned underdeveloped characterization of the natives, as well as their tradition of ineffective government (Cecil 1921:

55). The local Egyptian bureaucrats were labeled as a “growling mob of officials” (Cecil 1921: 54).

Similar to the logic propounded in Egypt, the necessity of colonial bureaucracy in India was legitimized through racially based justifications portraying the natives as racially inferior and dysfunctional subjects. Evidently, what was perceived as racial superiority served as a rationale for the British despotic patrimonial rule of India, as well as for suspension of the law (Hussain 2003:80). British bureaucrats in India almost unanimously argued that natives were "unsuited to the Western form of government" (Moore 1999: 438), describing the "subject races" as despotic and autocratic, lawless and inferior (Cohn 2004a: 212; Cohn 1004b; Cohn 2004c; Bhagavan 2003).

Oxford scholar Sir William Jones, upon the seizure of India, stated a similar position. British law could not become the law of India, he proposed, as "a system of liberty, forced upon a people invincibly attached to opposite habits, would in truth be a system of tyranny" (Cohn 2004: 68). Like Cromer, Carthill also defined the subjects of bureaucracy as “subject races” (1924: 151), which were “not yet ready for Western conceptions of justice and freedom” (Bhagavan 2003: 16).

Carthill, indicating the impossibility of democracy in India, wrote: "We desire that British control should continue, and even be increased, because we are aware that the masses of the population are still very far from being true liberals" (1924: 245). He further suggested that the subject races "would not have minded a few capricious acts of tyranny" (Carthill 1924: 26). Sir Fitzjames Stephen, who was a central figure in the assimilation of British law into India, informed Lord Lytton, in 1879, that the codification of the law had reached “a point of

diminishing returns" (Spangenberg 1976: 130). Likewise, Carthill argued that the "transfer to Indian hands of a large proportion of posts of control would certainly lower the standards of administration" (Fuller 1913: 380). Denzil Ibbetson, who later became Lieutenant Governor of Punjab, wrote in 1889 that "the whole of our system of law and justice [was] utterly unsuited to the circumstances, necessities, habits and ideas of the people" (Spangenberg 1976:132).

Similarly, Carthill was apprehensive about the ability of Indian Orientals to serve as district officers (Fuller 1913: 232-3), much like Cromer in Egypt:

> For the Oriental, as soon as he ceases to be a barbarian (and often before he ceases to be so), becomes essentially a bureaucrat and a paper-chewer. He is accustomed […] to look for a "superior command." As soon as he finds it, he is happy. Its existence frees him from that odious thing, responsibility (Carthill 1924: 145).

As we shall see in the following chapters, the principle of racial hierarchy in colonial bureaucracy extended beyond justification of the use of emergency laws and authoritarian power, becoming instead a prominent method of rule through classification of population. Classificatory regimes were first justified by racial hierarchy and later, during the World Wars, by security reasons of threat to the colonial state.

Structure: Formal Rules Combined with Flexibility and Invisibility

The rational-legal model of bureaucracy was founded upon a fixed division of labor and a hierarchy of offices defined by clear rules. The rationality of bureaucracy was based upon stability and predictability (Swedberg 2005: 204) as well as on transparency and visibility as supported by written documents (Weber 1968: 956-958). As Weber put it, "Administrative acts,

decisions, and rules [were] formulated and recorded in writing, even in cases where oral discussion [was] the rule, or even mandatory" (Weber 1968: 219, 956-958).

As mentioned, in the writings of imperial bureaucrats, imperial expansionism did not comply with the rule of law, and therefore "necessitate[d]" flexible, secretive structures based upon exceptions to the law in order to govern racially differentiated groups (Ghazzal 2003). The administrative system that emerged in Egypt thus became totally incomprehensible (Marsot 1999: 661). Imperial bureaucrats described bureaucratic labyrinths and red tape: “We have a mania in this country for committees, and we have them of all sorts and kinds. There are standing committees, special committees, departmental committees, and so forth” (Cecil 1921: 78).

Cromer proscribed that imperial bureaucracy necessitate a flexible structure rather than a fixed one in order to retain secrecy and invisibility of operation (Canovan 1974). This point was pivotal to the nature of imperialism. Accordingly, Cromer viewed the growing disparity between the political center and the periphery as the cause and justification for this flexibility, emphasizing that he was not guided in his decisions and had "never asked for any such instructions" (Cromer 1908b, Vol. 2: 323). His fundamental principle was to handle "purely local matters on the spot, with as little reference as possible to London" (Cromer 1908b, Vol. 2: 327). Cromer shunned every written instrument "in order to be free to obey only the law of expansion, without obligation to a man-made treaty" (Arendt 1951: 96).

Explaining the importance of flexibility, Cromer referred to the Indian colonial administrative system, which served as a personal precedent. He also criticized the "continental [i.e., French] school of bureaucracy" (Cromer 1908a:15), which was viewed as overly formalized

and centralized. He condemned "the tendency of every French central authority […] to allow no discretionary power whatever to its subordinate," resulting in a reciprocal tendency of the subordinate "to lean in everything on superior authority" (Cromer 1908a: 15). He argued that imperial "over-centralization is a danger which should be carefully shunned" (Cromer 1908a: 16) in favor of a middle path between centralization and decentralization. This form of bureaucracy stemmed from parts of the bureaucratic machinery incapable of producing exact definitions (Cromer 1908b, Vol. 2: 321) and unable to conform to a "ready-made system" (1908b, Vol. 2: 238) or “more rational administrative systems" (Cromer 1908b, Vol. 2: 311). Cromer made the following comparison between the French and the English systems of rule in Egypt:

> Look, again, at the theoretical perfection of French administrative systems, at their elaborate detail, and at the provision which is apparently made to meet every possible contingency which may arise. Compare these features with the Englishman’s practical systems, which lay down rules as to a few main points, and leave a mass of detail to individual discretion (Cromer 1908b, Vol. 2: 237-8).

As mentioned earlier, the number of British bureaucrats in Egypt was limited, and in 1891 amounted to only 39 officials (Berger 1957: 26). They were portrayed as young, ambitious, well-trained, and highly-reliable staff, willing to renounce the human aspiration of connecting their names with their achievements, and therefore able to replace credit with secrecy, informality and lack of accountability (Arendt 1951). As Cromer formulated, "[T]he less British officials [were] talked about, the better" (letter to Lord Rosebery, 1886, quoted in Arendt 1951: 93). Cromer epitomized this theory, as he prided himself on "remain[ing] more or less hidden [and] pull [ing] the strings" (letter to Lord Rosebery in 1893, quoted in Arendt 1951: 94). Bivona argues that Cromer constructed an archetype of invisible management, "[h]aving surrounded

himself during his tenure in Egypt with bureaucrats willing to subordinate the natural human desire for recognition to the bureaucratic need for invisibility" (1998: 27-8).

Cromer noted that the Indian model offered a flexible bureaucracy which "pervade[d] the whole British administrative system, and that [had] given birth to a class of officials who [had] both the desire and capacity to govern" (1908a: 16). This flexibility was particularly necessary in India, due to its distance from the metropole, and the incidence of unforeseen events. As one British legal expert observed, India's administrative frontier was constantly "moving" (Cohn 2004: 468), and the government was styled as imperfect or half-sovereign (Johnston 1973: 217). Referring to India, Cromer argued that decentralized structures and flexible operation did not necessitate a loss of control. Carthill corroborated this observation:

> A tactful Viceroy, or a Viceroy of great personality, could carry any measure he pleased […] A policy, therefore, which was merely the expression of the views of some individual statesman might be brought into force in India, and made to appear as the results of the considered judgment of the Parliament of Great Britain and of the Government of India (Carthill 1924: 135).

He lamented:

> … [I]t is invariably the case that the local agent, knowing that he, if he acts on his own initiative, may be censured and exposed to the humiliation of having his policy reversed, prefers, before doing anything, to get preliminary sanction. In this case, you have the man on the spot who is legally responsible but impotent, and the official at home who is all-powerful but in no way responsible. This

> cannot but result in the general enfeebling of the executive (Carthill, 1924: 135-6).

Spangenberg observes that during the late nineteenth century, British Indian bureaucracy conformed to a model which emphasized a premium on routine qualities (Spangenberg 1976: 144). Fuller described a system suffused with red tape, stressing that the Indian cadre was ill-fit to the administration:

> [T]here is hardly a quality which is so urgently needed in an executive officer as the capacity of influencing others, and, in particular, of controlling his own subordinates. The officials are few in proportion to the population; they are employed in scattered centers; the subordinate staff has hardly yet emerged from a state of morality which permits any laxity of supervision […] Indians generally lack the zeal for practical improvement, which is the highest qualification for posts of executive authority (Fuller 1913: 379).

Indeed, this apparatus was far from efficient. Officials sought to magnify and extend their offices and control, preoccupied with written documents and printed matter that exercised little bearing on administrative efficiency. This paper-thrift did not contradict the invisibility and the lack of written rules referred to earlier. The two seemingly contradictory natures of bureaucracy could, in fact, co-exist. Spangenberg (1976: 347) persuasively debugs the myth of an efficient British administration, stating that "'efficiency' in India" is a myth generated by British bureaucrats to justify their monopoly of higher positions. On the other hand, despotic domination exerted its rule through exception and invisibility of operation: "The 'efficiency' of British officials [became] a racist desideratum for the exclusion of Indians, who [were] branded

inefficient and incompetent" (Spangenberg 1976: 347). Indeed, Weber observed that the extension of patrimonial domination necessitated decentralization of the ruler's personal authority (Bendix 1962: 347), a form of domination that militated against an effective government encompassing a larger territory (Bendix 1962: 347). Lugard argued, following Lord Milner, that decentralized bureaucracy curtailed efficiency (Lugard 1922: 96).

Effective Inefficiency and the Management of Subject Populations

The flexibility of administrative decision-making was justified for two related reasons: the state of emergency, and the need of the administration to be able to react quickly to an ever-changing, hostile environment. These justifications for wide discretion held true for most colonies, and not just those viewed as "fortress colonies,"[51] a list consisting of territories governed by the British for the security of the British Empire, such as Cyprus, Malta, Gibraltar, Aden, Kenya, Hong Kong and Singapore (Porter & Stockwell 1989: 494). Justifications were also implicated in places where the chief purpose could be identified as extraction of resources, commercial markets, and access to both. Some populations turned hostile to British Rule following heavy-handed practices or favoring of a rival population (Mitchel 2002).

Administrative flexibility and lack of jurisdictional boundaries resulted in conflicting decisions, uncertainty and confusion for governed subjects, and also for the various agents and officials operating in the departments and ministries of the colonial bureaucracy. From the viewpoint of a rational-legal bureaucracy founded upon a fixed division of labor and a hierarchy

---

[51] Colonial Secretary Alan Lenox Boyd used the term "fortress colonies" to indicate territories that were "vital to the free world" in a speech he made in 1958.

of offices defined by clear rules, transparency and visibility, flexibility of discretion led to inefficiency and friction, confusing both the subjects of the officials themselves. However, this confusion did not create chaos and disorder, but led to a complete dependency of the subject upon the bureaucracy. Uncertainty became a formidable tool of discipline and control[52] (Kornai 1992).

Cromer valued administrative flexibility, and deplored codification. He marveled at the possibility of invisible management along with flexibility and fluidity of administrative decision-making, and believed it the only possible way to rule the colonies.

The uncertainty produced by flexible decision-making produced a high level of dependency of subjects upon officials, along with contradictory administrative decisions between different departments, or even within the same department. I call this flexibility *effective inefficiency*, because if we view administrative outcomes through the principles of rational-legal bureaucracy, it may seem to be inefficient or a waste of resources. However, in colonial bureaucracy, the inefficient or wasteful organizational outcome was intentionally used to subdue subjects who found themselves unable to anticipate much with regard to their personal and collective situation, therefore becoming slow in their activities and more manageable to colonial authorities (Berda 2012:8).

---

[52] The consistent creation of uncertainty as a form of control was not exclusive to colonial bureaucracy. Yehouda Shenhav shows how managers have used uncertainty as a strategy to increase control over subordinates (Shenhav 1994).

Bureaucracies in both Egypt and India were designed to manage legally inferior racial populations, especially those defined in liminal legal and administrative categories, outside the rule of law. Application of flexible structures, though formalized and rationalized, also made transparency and precision difficult. At the same time, the principles that produced instrumental rationality were in motion, and the use of ad hoc decrees and shifting regulations was institutionalized into the administration. Rule by emergency, including the flexibility of administrative decisions, became regularized and routinized.

This analysis has pointed to inherent differences between the imperial model of bureaucracy (both in theory and practice) and Weber's ideal type. In other words, legal domination was featured in colonial bureaucracy in different degrees of magnitude and representation, but fell short of capturing the model of imperial bureaucracy as a whole. Throughout the analysis, we encountered contradictions in the description of imperial bureaucrats while examining excerpts of European legal rationality, which also expressed despotic inclinations. The bureaucrats applied coercive methods while at the same time lamenting the absence of a rule of law. These officials acted as mere instruments in the service of the empire, but played omnipotent roles in the colonies. They maintained personal aloofness while employing excessive personalism as a method of domination (Bivona 1998).

This conclusion, generally overlooked in the literature on bureaucracies, sheds a new light on our understanding of the linkage between bureaucracy and the deployment of political and economic violence in the contemporary post-colonial world.

Conclusion: Juxtaposing British Colonial Bureaucracy with Rational-Legal Bureaucracy

In an effort to summarize the template of colonial bureaucracy in the British Colonies, and subsequently the legacies of those administrations in the post-colonial state, I outline here the five organizing principles of colonial bureaucracy that I have extracted from the writings of colonial officials. To facilitate the juxtaposition of colonial bureaucracy with the rational-legal model, let us remember how Weber conceptualized rational-legal bureaucracies: as instruments to secure rationality, predictability, precision, speed, ambiguity, knowledge of files, continuity, direction, unity, strict subordination, and reduction of friction to "raise efficiency to its optimal level" (Weber 1946). According to this view, the prevalence of uncertainty created irregularities and complications in planning and consistency while maintaining causal linkages between means and ends. The six principles of rational-legal bureaucracies postulated by Weber include:

1) *Published laws and fixed jurisdiction of administrative activities that bind official action to law*. Officials conduct regular, assigned activities based upon the authority they are granted, specifically with regard to laws and regulations. Both authority of command and means of coercion are defined by rules, and acted upon in a stable and predictable fashion; duties are regular, and continuously performed.

2) *Hierarchy of command*. Office hierarchy and a clearly-established system of subordination, including the ability of to appeal decisions.

3) *Files*. Management is based upon written documents and files, along with any other official means of production, are separate from officials' private property. Weber took files to be an artifact that exemplified rational order; written documents maintained accountability and limited abuse of power by making actions transparent and traceable. This principle incorporated

a proverb originating in Roman law (*quod non est in actis, non est in mundo*: what is not on file is not in the world) into an analysis of the rational bureaucracy of the modern state.

4) *Expertise and training*. Office management presupposes the training of staff in fields of specialization. Administrative expertise, clear roles, and jurisdiction delineate domains of professional administration.

5) *Commitment*. The official is fully committed, and official business is his primary priority and concern. Over time, he becomes an expert, not only in a particular field, but in deep knowledge of the administrative system.

6) *General, stable rules*. The official possesses knowledge and particular expertise with regard to these rules, yet regulation must be abstract: "The authority to order by decree that is legally granted to an agency does not entitle to regulate by individual commands for each case, but only to regulate the matter abstractly" (Weber 1946). Discretion is based on universalistic, abstract rules, not on a particularistic case-by-case evaluation according to the identity of the applicant.

Administrative discretion represented a key concern for Weber in this model. He rejected the view that "general norms [were] held to play primarily a negative role, as barriers to the officials positive and 'creative' activity, which should never be regulated" because individual freedoms and personal circumstances were (and remain) of the utmost importance in an administrative decision. In his model of bureaucracy, "this freely creative administration would not constitute a realm of free, arbitrary action and discretion, of personally motivated favorites and valuation such as we shall find to be the case among pre-bureaucratic forms" (Weber 1978:979). In contrast, he asserted that the official must serve the strictly rational and objective

idea of raison d'etat.[53] "To have any kind of equality before the law, it is imperative to have formal and rational objectivity of administration rather than the grace of the old patrimonial, pre bureaucratic domination" (1978: 980). The concept of a rational reason d'etat assumed a central role in Weber's description of the boundaries of operation within administrative discretion, which generally adhere to universalistic principles.

The propositions examined above—domination, race, and structure in the writings of British colonial bureaucrats—allow us to extract an outline of colonial bureaucracy based upon the following five elements, which are clearly juxtaposed with Weber's characteristics of bureaucracy:

1) *Racial hierarchy*. The bureaucratic sovereign uses racial distinctions in laws that subsequently form institutions, regulations, routines and procedures promoting segregation between Europeans and local natives. This early distinction between Europeans and natives formulated a system of classification of population based on race, and practices and routines were employed corresponding to the racial category. The difference became apparent in the enforcement and implementation of formal law, and also in the establishment of separate organizational structures, practices, and routines within the same government.

---

[53] Weber was well aware of the dubious possibilities created by the subjective reasoning of the state: "The sure instincts of the bureaucracy for the conditions of maintaining its own power in the home state are inseparably fused with this canonization of the abstraction of objective idea of reasons of state" (Weber 1978: 980).

2) *Flexibility*: the bureaucratic sovereign was not bound by the principle of separation of powers, because any legislative body was part of the executive branch of the colonial government. Authority and administrative power were not centralized, nor were they necessarily hierarchical. Officials had wide discretion in decision-making, not only within the legal domain, but also in deciding which law would apply, or whether the situation warranted an exception to the law. Therefore, decisions were not predictable or stable, laws could be annulled or suspended with decrees, and a change in personnel would immediately reflect upon the outcome of an administrative decision.

3*)* *Personalism*. Colonial officials produced decisions based upon the particular identity of the official and on the particular identity of the subject. This was true not only of the subjects' racial/ethnic/religious identity, but also of the relationship of the subject to the state, usually classified on a continuum of loyalty and threat (i.e., loyal citizen, cooperative subject, suspect, or security threat).

4) *Administrative exceptions*. Beyond the perpetual state of emergency that defined governance in the colonies, colonial rule manufactured endless exceptions to laws, most of which restricted the movement of population in one way or another.

5) *Secrecy*. Colonial administration based many of its decisions upon unpublished rules and internal directives. On the one hand, it was omnipresent and ubiquitous, intervening and regulating life where it saw fit; on the other, it was elusive, and the source of an administrative decision was hard to trace, particularly when one wanted to know how to make an appeal, or locate an official to make demands upon. This principle turned colonial bureaucracy into what I call a phantom sovereign. Though secrecy, intelligence, and clandestine operations represent

inherent functions of any executive branch of state authority, in the colonial bureaucracy, secrecy was not confined to issues of national security, the military, or managing crises. Secrecy functioned as an organizing principle. Direct consequences came about through frequent use of unpublished rules, obfuscation of procedures, and an opaque administrative process that complemented the flexibility and personalism with which decisions were made.

The Omission of Imperial Bureaucratic Legacy from Sociological Research

Why have sociologists overlooked the possibility of an alternative colonial bureaucracy despite the 'objective possibility' mentioned in Weber's writings?

Most texts on the sociology of management and organizations fail to include colonialism and imperialism as the contexts in which the discussed administrative and organizational practices have developed (see for example: Pfeffer 1982; Scott 2003; Starbuck 2003. For critique, see Frenkel and Shenhav 2006; Prasad 2003). Even books dealing with bureaucracies in the context of world society do not contain a single entry for imperialism or colonialism (see for example: Drori, Meyer and Hwang 2006). The history of bureaucracy, however, is rooted in imperialism.

Administrative inventions took shape through the imperial experience of administering large-scale military and civilian systems across broad geographical areas, even before the rise of the large corporations in the west (Mir, Mir and Punya 2003; Cooke 2003; Mintz 1985). Both the roots of bureaucracy and the uniqueness of imperial bureaucracy have been neglected in the literature. This model of colonial bureaucracy offers a framework for considering organizational theory in light of imperial and colonial history. In the next chapter, I focus upon classification of population, and how these practices shaped both administration and inter-communal conflicts.

As we conceptualize the role of categories in British colonial bureaucracy through the minutes and memos of colonial officials, we also witness myriad other elements and facets of colonial bureaucracy at work, as they manifested in the daily practices and routines inherent to the management of subject populations.

Chapter 2 Categorizing Populations: Forms, Spaces and Identities

Introduction

Leadership in the post-colonial states inherited a patchwork of laws, territories and populations that did not map together well. This legal and administrative quagmire was the result of partition, and a massive shift of peoples across borders.

Classification of population and surveillance practices gradually grew into a set of core security technologies under British colonial rule. These practices permeated the administration of the new independent states, and shaped the boundaries of citizenship and belonging through laws and internal regulations.

I argue that the bureaucratic practices of classification employed by the British, most prominently in the census but also in many other administrative practices and forms, was influenced by inter-communal conflicts in each colony, and acted to produce and shape a particular schema of conflict over identity. Through organizational practices and routines, British colonial governments instituted and maintained a strong connection between administrative categories, classifications, access to material needs, and symbolic power. While I do not share the notion that British colonial rule created this type of conflict, I believe that the model of British colonial bureaucracy I outlines in Chapter 1, in light of its organizational principles, wide discretion, flexible laws, perpetual uncertainty due to constant emergencies, and, above all, racial hierarchy, forged the administrative logic of racial separation, hierarchy and suspicion that shaped subsequent conflicts and continued into the first decades of independence. I argue that classification of population in categories by British administrators did not simply reflect existing divisions between population groups, but they also did not invent or create groups out of the

figments of their imagination. Administrative categories employed by the British turned existing fluid and porous group differences into identities that bore strong consequences on a legal and political level. As we shall see in chapter 4, after partition plans introduced imagined future boundaries, the price of belonging to these colonial categories defined if one was part of the majority or the minority, if she were native or would be considered a foreigner or an intruder.

While demarcating the boundaries of the collective in census categories and administrative forms, three processes take place at the same time: individualization, in which the individual is a distinct object of surveillance and control; standardization, in which populations are grouped into manageable categories even if they are distinct communities; and homogenization, in which groups are lumped together according to involuntary traits and lines of distinction. The classification process allows administrations to apply specific policies and procedures to population groups. Documents, rules, regulations and administrative departments are geared to manage certain communities.

In the colonial context, these processes of classification called for another level of complexity. Within demographic categories, a second axis of classification was introduced, a continuum against which individual or collective loyalty, or threat to the state, was measured. I call the second continuum of classification the axis of suspicion. These processes are by no means particular to colonial states, but also act as a central feature of modern states engaged in data collection, classification and surveillance of their own population. However, in the colonial state, these classifications resulted in immediate consequences for status and access to material goods. The processes of individualization, standardization and homogenization had a significant impact on the status of minority groups and their rights after independence.

Colonial knowledge involved more than the mere collection of information and discovery of pre-existing facts. It was a matter of creation of facts, and their arrangement into an ordered and systematic index (Cohn 1987: 226). Benedict Anderson saw the map, the museum and the census as building blocks of the nation-state in the colonial context. He juxtaposed this with imagined communities in the west; literacy was a foundational element of his argument on nationalism and the state's administrative role in the construction of national identities (Anderson 1991:163). He writes that the innovation of the census-takers in the late-19th century did not represent the construction of ethnic-racial classifications, but rather their systemic quantification.

Arjun Appadurai goes a step further, arguing that quantification of identities in the colonial census in India "helped ignite communitarian and nationalist identities that, in fact, undermined colonial rule" in the long run (Appadurai 1993: 315). Ayesha Jalal writes of the ways provincial censuses in the 19th century "cast the dies, making religion the central factor superseding all forms of social relationships" (2002:40). These views have been critiqued for overstating colonial state power in determining identities, as well as disregarding the longevity of religious traditions from the pre-colonial era, namely, the Mughal empire; and for downplaying the role of daily practice and social life in the creation of identities (Guha 2003: 151-2). These critiques claim that scholarship accusing modern technologies of the quantification and enumeration the British employed in India and throughout the empire in 19thand 20th centuries shares a paradigm in which historical agency is fundamentally western. I am sympathetic to this critique, but my vantage point, concerned with how classification and categorization practices shaped administrative action and vice-versa, does not demand a decision regarding the bearers of the torch of historical agency.

From the vantage point of the study of organizations, when we look at the role of administration in the processes of classification and categorization of a population, we incorporate into the administrative model the constant adaptation and innovation that administration demands. The study of British colonial administration, as an outcome of practices and routines, takes into account how the shaping of practices was informed by realities and problems that fluidity of identity, social practice, agency and resistance coded into its routines—a constant process of adaptation and diffusion. In India, the census was not only a means of manipulation by colonial officials. Categories of religion, region and ethnicity were negotiated between communities and the colonial state, and since these categories carried with them much more than symbolic power, they also represented powerful tools for achieving political, economic, and social goals. The matrix of durable inequalities, initially created by the colonial state's modernization of customary practices and laws, was not static; it was fluid, vibrant and volatile, and the stakes were high for all parties involved—even more so for those who were not. Because population management was so central to colonial bureaucracy, classification and its means became a crucial political battleground.

Population Categories and the Anxious Work of Rule

In January 1949, India's constitutional adviser, B.N. Rau, wrestled with one of the many incongruences, brought about by partition, which had arisen between law, territory and population. He was attempting to determine the citizenship status of Indians born in other parts of the British Empire. In a letter to India's Prime Minister, Jawaharlal Nehru, he explained the difficulty with Indians residing outside of India who were claiming Indian citizenship rights:

> These persons have, at present, no territorial connection with India; that is to say, with post-partition India. They were not born in India; nor were any of their parents or grandparents born in India (apparently, they and their ancestors were born in what is now called Pakistan, and their present intention is to continue to reside in Burma.) If they were connected with India in any of these ways, they would be qualified for Indian citizenship under the provisions of our new constitution, and there would be no problem. Another problem is that under the British Nationality Act of 1949, these British subjects are viewed as "potential citizens of Pakistan."[54]

In the aftermath of Empire, during the first years of independence, the determination of political membership became one of the most crucial and impossible administrative tasks. Territorial boundaries, populations, and authority were temporary and uncertain, so administrative decisions and classifications became necessary, and held far-reaching consequences for the future of individuals and communities in the independent states. At this dramatic moment of liberation from colonial rule, violent conflict and grave uncertainty about the stability of the new democracies held sway. Existing administrative routines, practices, and categories provided a much-needed backbone and structure for political leadership and administration.

Retaining the colonial legacy, though, came with a heavy price. The practices of the taxonomic (Stoler 2008) and classificatory colonial state, anxious about the tiny group of white

---

[54] B.N Rau Papers, Nehru memorial Museum and Library (NMML) P. 2, 31.

men ruling hostile natives, had produced specific forms of categorization and classification of population, and applied them to political membership. I argue that the use of these practices and routines actually meant that the most political decision of any democratic state—determining the boundaries of citizenship and the borders of the political community—was, in fact, shaped by the British colonial bureaucracy and its logic of racial hierarchy.

What role did institutional practices and policies of classification, as they diffused across the British Empire, play in the shaping of new territorial entities? How did British administrative categories of population affect outcomes of political membership in the post-colonial independent states?

I propose that classification and categorization practices (which I will call from this point on – classification) during British colonial rule shaped the way the state viewed populations in general. In turn, these practices shaped trajectories in the independent states affecting their efficiency (civil servants), gender rights (the status of married women), and the limits of political participation of minorities. The legacy of these practices became institutionalized, diffused throughout the empire, and metamorphosed into an intrinsic part of state bureaucracy and its administrative and political *modus operandi*.

Race and Bureaucracy: Categories in British Colonial Administration

British colonial rule, preoccupied with management of hostile subject populations and controlled by a small minority of European officials referred to as "the thin white line" (Kirk-Green 1980), devised administrative and legal tools intended to simplify and facilitate population control. The prerequisite for the use of such tools was outright classification and categorization of the

population (Stoler 2002). These processes had different goals in each colony, but the impact of their legacies on the formation of post-colonial political membership was strikingly similar.

Colonial bureaucracy breached a central feature of Max Weber's rational-legal bureaucracy. Weber envisioned efficient bureaucracy as a machine (Weber 1968: 973; Swedberg 2005: 19) that operated according to universal procedures and treated people impartially. This was to be achieved through technical objectivity, careers based upon merit, and a lack of particularistic distinctions between individuals.

Yet colonial bureaucracy employed race and ethnicity as an explicit factor for differentiation between populations and individuals, creating and altering racial distinctions to serve its purposes. In contrast with Max Weber's legal-rational model of bureaucracy, this alternative, ideal type of bureaucracy introduced a nomenclature of racial hierarchies into the administrative structure, rendering Weber's universalistic prerequisite of "without scorn and bias" (Weber 1946:87) all but obsolete.

Modern colonial states[55] functioned differently with regard to the rule of law, replacing it with a sustained legal state of emergency and, at times, governing by decree; in these instances,

---

[55] Steinmetz has suggested that we study the colonial state as a social field through Pierre Bourdieu's concept, which he uses to show a variety of technologies of rule used by German colonial powers. Steinmetz defines colonial states as territories in which (1) political sovereignty has been seized by a foreign political power and (2) the indigenous population is treated by the conquering state as fundamentally inferior (e.g., as barbarians, savages, heathens, an inferior race, a stagnant civilization, or denizens of a "failed state").[55] These two criteria can be summarized as the *sovereignty* criterion and the *rule of difference* [55]criterion.

administrators simply made up the law and issued statements at random. Colonial government was based upon a legal patchwork and ad-hoc arrangements or exceptions rather than a single, liberal rule of law (Mitchell 1988; Hussain 2003). I have argued elsewhere (Berda, 2012) that colonial bureaucracy used an initial racial distinction between 'Europeans' and 'natives' to develop a complex model of classification and differentiation between communities based upon their identity and their relationship to the state. This distinction demanded constant and systematic classification and categorization of populations in order to implement the toolkit of rule.

Categories of Race and Suspicion: the Colonial State's Durable Inequalities

John Torpey (2000) and Radhika Mongia (1999) have shown how the technologies of monitoring population movement and identity, central to the construction of the nation-state, and were institutionalized as fundamental markers of citizenship, defining insiders and outsiders both spatially and legally. State formation theorists have shown that political elites and bureaucrats delimited administrative domains like enumeration and civil registration through a process of accumulating infrastructural capacity and symbolic capital (Bourdieu 1977: 179;Loveman 2005; Mann 1993).

In colonial regimes, direct violence proved ineffective when subjects fled from the control of a state where an occupying power concentrated their efforts to bind populations to territories for labor needed for extraction, so more sophisticated forms of control (through documentation and surveillance) were developed in order to manage the populations and make

them "legible" (Scott, 1998). Imperial interests were about settling disorderly communities, deciphering the population, and mobilizing demographic resources for key economic sectors in the empire. This represents a key difference between the classifications in the metropole as opposed to the colonies. For imperial rule, an alternative to direct violence was procedural coercion, which in turn necessitated the knowledge of what Dirks called the "ethnographic state" (2001). This caused the development of expertise to map populations in order to rule.

In *Durable Inequality*, Charles Tilly suggests that mechanisms of closure and exclusion are mobilized and routinized through the use of categories of race, class, ethnicity and gender. He claims that durable inequalities function because socially constructed categories do the work necessary to keep them in place. Dominant groups have a vested interest in perpetuating categorical inequalities.

In the colonial context, the state created or exacerbated categorical divisions as a method of rule. While most scholarship on classification and categorization of population by the state examines the way in which it affected the self-understanding, social organization, and political claims of indigenous populations (Brubaker & Cooper 2000), I suggest we reverse this investigation and look at the way classification of populations shaped the governing bureaucracy—the state apparatus itself. The regime of classification created structural inequalities that were consistently justified, reified and maintained by colonial officials. It turned the divisions and rivalry that previously between communities and factions into a structural feature of government.

In Mandate Palestine, categorization was accomplished through the lens of a political economy of conflict management. The "principle of Palestine's capacity for economic

absorption" of Jewish immigrants (Metzer 1998) was intentionally juxtaposed with the perceived political needs of the indigenous Arab population in order to form a complex system of immigration permits. In Cyprus, categories of religion and ethnicity were merged to facilitate colonial control through manipulation of recruitment into the civil service and police forces. Over time, religion and language merged into an administrative category of ethnicity. In India, a plethora of emergency laws served to control riots and social unrest. They were also used to crush various kinds of political opposition. Census categories were used to match the relevant population to each kind of technology of rule. After partition, these categories served as an administrative boundary as thin as an official document, but they had far-reaching consequences for the quality of everyday life, political rights, social and economic opportunities, and freedom of movement. Significantly, administrative boundaries became a powerful tool for exclusion of minorities from citizenship in the post-colony.

As the post-colonies underwent regime change, independent states sought to infuse concepts of citizenship and political participation with national identity. However, they had not yet turned their practices away from population management and toward the creation of administrations geared to grant citizens equal rights under the rule of law. In various ways, the new nations still functioned as colonial states at the administrative level. The first five years in Israel and seven years in India, from the establishment of independence to the moment formal citizenship laws were enacted, created a legal and political limbo in which administrations ruled through colonial categorizations, internal regulations, emergency decrees, and permit regimes. This state of legal and administrative uncertainty resulted in two outcomes. The first was a

skeletal outline of citizenship as defined in the constitutions,[56] and the second was a powerful bureaucracy, particularly in the home and interior ministries, that made law through administrative practices and internal regulation. The ministries had nearly absolute power to delineate, define and determine the boundaries of citizenship, and to substantially and categorically and control the movement of populations, particularly the movement of unwanted minorities. In each state, these outcomes took on varied forms due to the different types of partition. I will demonstrate similarities in population categorization, as inherited from the colonial state, in various sociological areas of government in the independent states.

The Power of the Administrative Form

In contemporary Cyprus, India, and Israel, ascription of ethno-religious identity is highly political and juridical. Descriptions of people and groups in official and popular discourse play a major role in the ongoing conflicts (Constantinou 2007). The history of a population is not only articulated by politicians and educational materials in public schools; it is also brought forward by the administrative classifications that people experience in census questionnaires, while filling out forms for I.D. cards, marriage registration, or the checking of passports and identity at airports and border passages (also see Gupta 2006).

Legal theorist Cornelia Vismann shows us how, over time, administrative files have enabled governments to detach administration, the nitty-gritty of legal life, from abstract laws through administrative "acts of transmitting, storing, cancelling, manipulating and destroying the history of the law" (Vismann 2008: xiv). Technical adaptation of legal forms is not just a

[56] For an analysis of the skeletal constitutional citizenship in India, see Chapter 1 of Gopal, 2013.

procedure; the procedures themselves encompasses legal and political ideologies, legitimate the role of lawyers and administrators as technicians of law, and reflect the organizational structures that bind them.

Administrative forms are the tools that enable an administration to collect and register information in a systematic way. Forms are universal; they standardize the mayhem of the real world into a set of simple, legible answers. Forms guide and limit the way in which humans go about their work (Riles 2005: 987), and indeed, how they define themselves in relation to the state in writing (Austin 1975; Constable 2011). I focus on practices and technologies of legal adaptation rather than meanings, because when we take "on the technicalities" of law (2005:976), as Annelise Riles suggests, we have the opportunity to witness the trajectories of law in practice, as they turn into administrative action.

Material forms of documentation, which Matthew Hull calls "graphic artifacts," create a government of paper (Hull 2012: 5). The official form, in which a single box is checked, demands a choice, determined by a person or a state assuming a collective administrative identity. These categories are entrenched, in the structure of the institutions themselves (Star 1992: 264). Official categories influence changes in everyday politics and routines that then demand new classifications, so from an institutional perspective, categories accumulate. "Legal and other official categories are like geological deposits, with layers of varying age, bearing traces from their period of formation" (Star 1992: 265). As my research shows, however, categories are not as static as the geological metaphor. Official categories are shaped by politics, and shifted by contradicting practices as the state tries to adapt to the changes happening in everyday life. At the same time, it directs and constitutes practices leading to population classification and assignments of administrative identity.

On the basis of group categorizations, rights are granted or denied, determining political and social status of individuals while impacting their daily lives by means of facilitation or denial of the right of entry into and/or exit from the state; property rights; rights of marriage and family unification; and access to public services. In Cyprus, access to rights according to ethnicity is demarcated territorially by the Green Line, which separates Turkish-occupied Northern Cyprus ("the TNRC") from Southern Cyprus, controlled by the Greek Majority. In Israel, the Green Line delineating the borders of Israel prior to the war of 1967 represents just one of many markers of differentiation between Jews and Palestinians, citizens, residents, undocumented infiltrators, refugees and stateless people. Political and economic needs give rise to formal laws, internal regulations, and enforcement practices that construct categories of political membership.

These categories, particularly the processes of exclusion of individuals from political membership, necessitate the creation of administrative technologies to coordinate between the "bundle of rights" granted by political membership (Shafir 2004:17) and the documents and evidentiary demands to match it. They also mark the territory the person of a certain category can legally inhabit as citizen, resident, guest or intruder; the law constitutes an actual boundary for movement within a particular space.[57] The administrative file that holds the evidence for a person belonging to a category creates a triangle, providing a link between the law, spatial boundaries where one can reside for a limited or unlimited amount of time, and the person

---

[57] Critical legal geographers call the intersection between law and space the *nomosphere* (Delaney 2010). "Legal geographers move beyond the binary treatment of law and space as two distinctive autonomous realms in favor of an understanding that they are "conjoined and co-constituted" (Kedar 2003).

herself. If the Roman proverb states, “the administrative file opens up the world” (Visemann 2008), then the administrative file of a person classified as a refugee or intruder is a map depicting the space where she no longer belongs.

Even in contemporary India, where boundaries are less disputed than in Israel and Cyprus, the rights, duties and scope of citizenship remain uneven and unsettled (Gopal 2013: 8), as public discourse on citizenship is directly linked to a battle for civil liberties (Sundar 2005: 362). One important aspect of citizenship can be identified in its relationship to security practices. The colonial emergency laws that continue to be in force in Pakistan and parts of India (Kashmir and the Northeastern Provinces) target and classify populations as threats to security (Kalhan 2010.) Political membership in India is still highly charged as the long shadow of communal strife continues to affect issues of self-determination and belonging (as in Jammu and Kashmir); issues of assimilation and immigration (as in Manipur, where public demand exists for a permit regime to prevent immigration of Muslims; see Fernandez, 2005); and uprisings related to tribal self-rule and land cultivation and ownership (Shah 2013).

I maintain that the fundamental elements of British colonial governance, namely the classification of population, had a significant impact on administration and political membership in three post-colonies, following their independence: Israel, India, and Cyprus. I assume that British colonial administrative practices created a particular form of bureaucracy (which I have outlined in chapter 1) that manifested very differently from the classic model of bureaucracy, due to its constant use of emergency law and racial hierarchy between colonial officials and subjects.

Practices of colonial categorization contributed to the construction of political membership in the post-colonies through the census, other documents, and administrative practices of

classification. This chapter underscores the building blocks of colonial classification of political membership. This classification shaped the post-colonial civil service and the legacy of gendered citizenship, as well as the exclusion of minorities through categorization based upon loyalty/threat to the state. I examine practices of population classification in the 20th-century British colonial state, with a focus upon categorization in the census procedures of India, Cyprus and Mandate Palestine. These practices were mutually constitutive with the inter-communal conflicts and the imagined outcome of partition. I show how these practices diffused throughout the British Empire, each colony a growing site for specialized administrative expertise that was then shared and innovated upon in other colonies.

I look at administrative categories in India, Cyprus and Israel during two periods: colonial rule prior to partition, and the first decade following independence. I suggest that administrative population categories had three major roles. Categories served as a direct form of population control through emergency regulations; as a state-building project of and for the majority population, through the classification of civil servants; and as an intersection for maintaining order of both family and state, specifically targeting the ethno-national identity of married women. Through these processes, I show that categorization of population during colonial rule resulted in a substantial impact on the construction of political membership in the post-colonial independent states.

As I demonstrate these classification practices, I trace the bureaucratic legacy of colonial rule to the early years of the post-colonial state, along with the power held by interior ministries in their crucial early years. The interior ministries of both India and Israel defined citizenship

through bureaucratic practices and evidentiary demands in the early years prior to the enactment of formal citizenship laws.[58] These practices, based upon motivations related to surveillance, security, and institutionalized racial hierarchies, delineated the boundaries of citizenship and belonging, while shaping the relationship between the state and its minorities for decades to come.

Diffusion of Population Management Practices in British Colonies

The particular legacies of classification in each state developed through the diffusion of population management practices in the empire, so as we investigate the cases, we must keep in mind the imperial influences that structured these practices. Coercive methods of extraction employed by colonial regimes usually led to discontent among the local population, which grew hostile to colonial government (Mitchell 1988). Population management practices were employed for mapping (Edney 1997), and governing the population through statistical methods (Kapalgam 2000), intelligence, and administration. Officials were transferred from colony to colony; delegations were sent to train at other colonial locations; and laws and regulations were adopted, revised at the local level of a particular colony, and returned to legal advisers in the colonial office for scrutiny

---

[58] In 1947, the Government of India decided to suspend naturalization of aliens in India under both the British Nationality Land Status of Aliens Act of 1914 and the Indian Naturalization Act 1928, pending the enactment of a law defining Indian citizenship. NAI MHA 60/25/49 ESTS Review of the Activities of the Ministry of Home Affairs 1948, p. 30. The Indian Citizenship Act was finally promulgated in 1955.

This process of diffusion was not as planned and organized, however, as it might have seemed. As I explore population management practices l show that similarities between the three cases are related to their diffusion throughout the empire, particularly during peak times of inter-communal conflict when there existed an administrative need for methods and expertise addressing population control. A few examples of this are, as we shall see later in this chapter, the Census Commissioner in Palestine, sought training with seasoned census commissioners that had experience with the enumeration of nomadic populations, in order to enumerate the Bedouin of Palestine. Policing innovations developed by the Palestine police, during the Arab Revolt in 1936, were used in Cyprus during the Emergency in 1955 (Sinclair 2006 and Chapter 4). Intelligence and surveillance methods of political activists developed in Bengal in the 1930s were used to in the British effort against the Jewish militant organizations campaign for independence from the British in the late 1940s (Arnold 1992; Smith 1992).

Meyer and Strang (1991) argue that diffusion occurs rapidly when there is a cultural understanding that social entities belong to a common social category. In their ability to hypothesize the formulation of patterned relationships between abstract categories, theories propose homogeneities between them, and actively motivate certain groupings as meaningful and consequential. Theoretical accounts of specific practices simplify and abstract their properties, making it easier to understand and communicate about them in detail (Strang & Mayer 1990: 497). Practices diffuse easily and rapidly through theories.

In colonial administration, officials in the central offices often aggregated information from district commissioners, creating a theory about populations that would then transfer to the colonial office, such as theories about what tribes would be designated as criminal tribes (Major 1999; Brown 2003), or which population groups were considered bad characters (In Cyprus see

Bryant 2003). These theories usually justified measures of restricting movement or confining entry into certain areas But official theories represented only one type of diffusion, because as each location developed its own practices of population management, it also shifted the perception of the kinds of practices and forms that were needed, the regulations required to implement those practices, and the laws that would be perceived as legitimate.

When we pay closer attention to the adaptation and innovation of these types of transplants and how they were constantly informed through officials' interaction with the community and negotiations between departments, we do not see one-directional processes from the center to the colonies. On the one hand, policies from the colonial and foreign offices were negotiated with local governors, but were also extremely affected by domestic politics in Britain. On the other hand, the colonies themselves were cosmopolitan, and officials were acutely aware of the global impact of their decisions.

This was particularly true in Cyprus, where not only the colonial office, but the foreign office had great stakes, because of the complex relationships that needed to be maintained with Greece and Turkey, but also in Palestine, where policies of the government of Palestine that disgruntled the Arabs of Palestine raised concern with the Muslim leadership in India,[59] and

---

[59] TNA CO/733/ 341/12 In 1937 following the Arab revolt in 1936, prominent Muslim leaders in India warned the colonial office, on a special visit they made to England to discuss the matter "that all Muslims in India were looking to the English government to treat the Arabs of Palestine with Justice and to end Jewish immigration" or the political consequences in India would be less than convenient for her Majesties government. Semi-official report of a conversation between Sayedna Tahar Seifuddin and Sir

disagreements with the Jews concerned Jewish leadership in Britain and in turn, the British Labor movement (Gorny 2013). In times of crisis, officials searched for information about how other colonies had addressed similar situations, and pointed to resemblances and differences in the implementation of policies and routines as they justified their administrative decisions to the colonial office and local leadership.

Monitoring Movement, Mapping Identities

In its attempt to control population movement, which was more important that governing territory, the British colonial administration attempted to modernize and stabilize more fluid identities, like those that existed in the Mughal and Ottoman Empires, through population classification and identification practices. The British saw a great threat in groups that moved frequently across territories, though previous rulers in the Mughal and Ottoman empires seemed to "permit mendicant and pilgrim throngs, pastoralist and hunting bands, and other itinerant communities […] without sufficient scrutiny" (2000: 151). Tolerance of vagrant communities such as ascetics and gypsies (Luccasen and Willems 2003) reversed the stabilizing effects the administrators expected from the caste system in India and the religious divides of the millets in Cyprus and Palestine.

Colonial administrators struggled with local social norms that made it difficult to verify social antecedents, which were imperative to the efforts to settle, tax and police the population. As we trace legacies of classification in the colonial state, following their sphere of influence

---

Arthur Wauchope, May 15th, 1937. Wauchope served as High Commissioner for Palestine and Transjordan 1931-1937.

after independence in the exclusion of communities from citizenship, did it import or transplant practices that were entirely foreign to its colonies. The Mughal and Ottoman empires had elaborate systems of population management and classification, as well, though these systems were more influenced by patrimonial bureaucratic structures (Blake 1979; Subrahmanyam 2006). British modernizing efforts took the fluid, existing infrastructures and attempted to stabilize these practices in a systematized, routinized method of administration.

Radhika Singha tracks the evolution of identity-making technologies in India and their relationship to surveillance in the late 19th century. The upsurge of colonial administrative efforts to categorize the population began in the 1860s, after the 1857 rebellion, and included the establishment of a specialized department in the East India Company charged with the registration, indexing and archiving of individual biographies of colonial subjects (Singha 2003:88). By the end of the 19th century, the British had built up ethnologies to distinguish between those who provided good raw material as productive, revenue-generating subjects and those whose peripatetic way of life made it difficult to tax, to survey and police them.

As the Indian economy became more closely integrated in the global market for labor and commodities, new institutional contexts emerged in which colonial subjects were called upon to verify their identity. Modernization was changing the role of the colonial official who "knew the people," and "the spatial re-figuration of rule" (Singha 2000: 156-7) suggested that local knowledge and individual experience would not suffice.

The compilation of systemic ethnographies and categorizing information with regard to population had to be developed to penetrate dissimulation and locate troublemakers and suspicious characters. Modernization provided the government with agencies and the

infrastructure for assembling these archives. Surveyors, emigration agents, the sanitary inspector, the official vaccinator, and the postmaster (who was also sometimes the shopkeeper or schoolteacher) were all roped into the project of collecting census data. By the 20th century, every official in the colonial state was, in some way, part of the process of collecting, processing, interpreting or implementing data about the population through lists, reports and tables that found their way to the desks of the district commissioners. The most central and prominent element of population management was, obviously, the census.

Census as the Toolkit of Government

The census represents the primary resource for the modern state to make population legible to state bureaucracy. Census statistics are not simply an instrumental tool for intervention. Rather, systems of official statistics contributed to the constitution of both the state administration and the society that was the object of the state's action (Leibler & Breslau, 2005). Census categories, particularly the enumeration of race, "created and advanced concepts of race, bringing into being the racial reality that census officials presume is already there, waiting to be counted" (Nobles 2000: xi). As we established, in British colonies, racial categories directly determined the economic and political trajectories of the population.

Colonial census commissioners sought to convey the complexities of the societies they ruled in statistical terms. Identity, which included, at different times, intersections of race, ethnicity, caste and religion, represented one of the aspects about which the government sought to collect information, reflecting the high interest in ethnology (Brown 2001: 347) in the scientific circles of the nineteenth and early twentieth centuries. Interest in the ordering of races was not merely scientific; it provided a political and moral justification for the British civilizing mission of natives in the colonies (Bayly 1995). Although the imperial government sought to

produce comprehensive statistical surveys of the empire, each colony classified the population according to its own particular set of criteria and purposes (Christopher 2005), which included religion, language, legal status and nationality.[60] My primary contribution to this body of knowledge about the role of classification in the colonial state is the introduction of the axis of suspicion, according to which persons were also classified according to the degree of security threat they posed to the colonial state

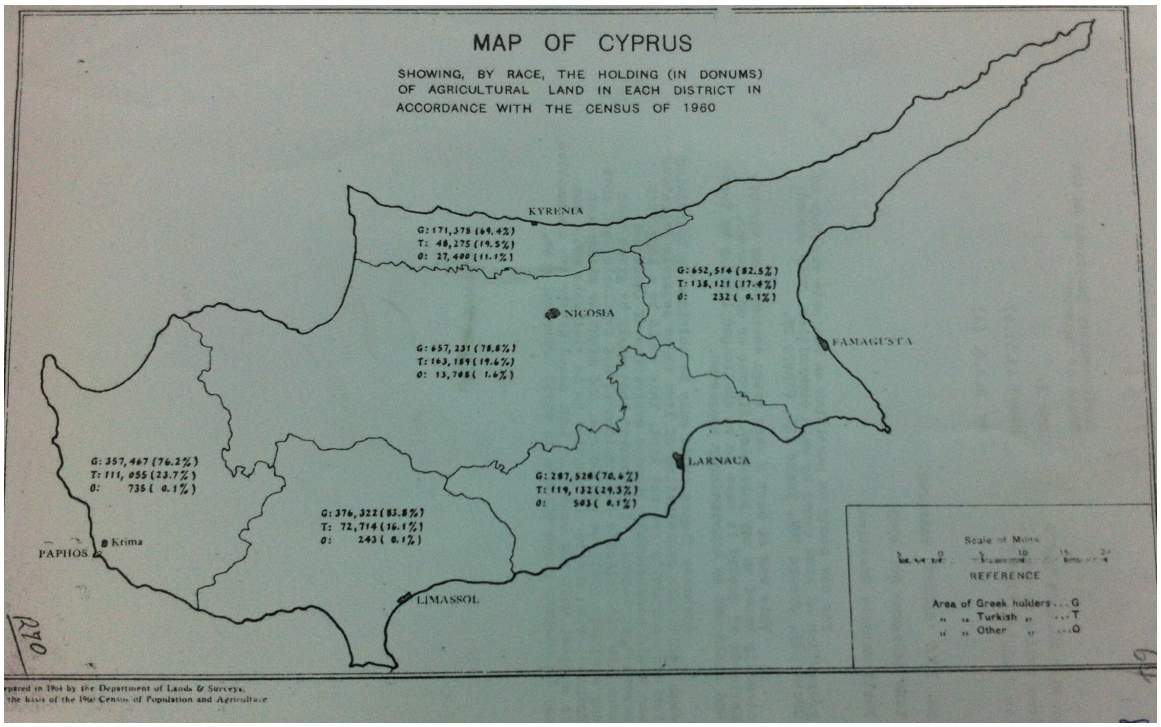
In India, Palestine and Cyprus, the struggle around census categories was about the division of land and resources, quotas determining how many people from each group could enter into the colonial bureaucracy, access to employment, goods and natural resources, access to real estate, and permission to reside and settle in particular areas. In Mandate Palestine, the census battle was also relevant to immigration quotas for Jews coming to Palestine, and in Cyprus, to the budgeting of schools and the identity of teachers. In colonies with legacies of ethnic conflict, population management was a top priority for colonial officials. The mapping and defining of boundaries around groups unlocked the secret doors to successful bureaucratic rule of subject populations. The Malayan census superintendent wrote in 1931:

---

[60] The British census only introduced a racial classification question in the 1990s (Peach, 1996). Nevertheless, racial classification has been an integral part of the majority of colonial and even post-colonial censuses within the territories of the former British overseas empire. The systems adopted varied from empire-wide surveys to specific classification valid only for the perceived circumstances of individual colonies and states. The result is a bewildering variety of methodologies and terminologies, all charged with the same task of classifying the population into meaningful categories.

> The term "race" is used […] in a particular sense, for lack of a more appropriate term, to cover a complex set of ideas of which race, in the strict scientific sense, is only a small element. The term race is used for census purposes … a judicious blend, for practical ends, of the ideas of geographic and ethnographic origin, political allegiance, and racial and social affinities.[61]

Race was a trope, a way of signifying differences and matching distinctive administrative classification to a blurred and confusing mixture of populations. (For an example of the versatile administrative use of the term "race" as it refers to Greek and Turkish Cypriots, see Figure 1 below for a land-ownership map of colonial Cyprus, divided by race.)



[61] Quoted in Christopher, 2005:105.

Figure 1: Land Ownership Map by Race Cyprus Census 1960[62]

Colonial officials were confronted with an unfamiliar environment and a confusing variety of people practicing different religions, speaking different languages, and following different customs. The Calcutta census commissioner reported: "It is no exaggeration of language to describe the population of Calcutta and suburbs as an agglomeration of races, for no less than 397 separate nationalities, races and castes are returned. Nearly all the races and nationalities of the civilized world are represented" (India 1913: 41).

Census Categories: Cyprus

In Cyprus, the Ottoman rule that preceded the British conducted a system of governance dividing subjects along religious lines. This "millet" system[63] empowered local religious communities to operate as civil units that were semi-autonomous, as the empire allowed separate exercise of legal and fiscal functions along with educational autonomy.[64] Giving the millets more formal

---

[62] CSA/MI/82/1960.

[63] See "Tanzimat Reform in Ottoman Cyprus and its Legacy to the British Colonial Rule," Hasan Samani (Near East University, Northern Cyprus), forthcoming.

[64] The British kept an important feature of millet governance: the autonomy of educational institutions. However, educational statistics showed more evidence of changes in population categories, the relationship between practices of local communities, and the way the colonial government defined and allocated funding. The report compares numbers of pupils in Moslem and Greek Christian schools: "The fundamental principle of elementary education in Cyprus is that each of the denominations comprising the native populations (Moslem, Greek Orthodox, Maronite, and Armenian) has its separate schools."

recognition effectively institutionalized the separation between religious groups, but with an ethnic dimension that became increasingly important over time (Peristianis 2008: 108). Like in Cyprus, the millet system was similarly innovated upon in Palestine, where the Mandate government extended its scope to include Muslims as a millet and invented various communal institutions that would function as the basic structures of communal participation (Robson 2011: 44).

British colonial authorities sought to "modernize" rather than abolish the millet system that saw people as bound to their millet, or community by their religious affiliations, and not by their ethnic origins. The heads of millets reported directly to the Ottoman Sultan and held great power as each millet made their own laws, collected and distributed there own taxes. At first, British colonial administrators retained religious divisions between communities as the prime category of distinction. In 1859, the second Tanzimat decree, geared to standardize the Ottoman administration, was promulgated throughout the Ottoman Empire. The British in Cyprus referred to the system of governance they encountered when landing in Cyprus is 1878 as the "millet," when it was actually the updated version of Tanzimat [65] Despite the ambivalence of officials regarding the question of whether religion or language constituted the key racial indicator,

---

Colonial reports, Annual no. 1025 Cyprus (1920 CMD 508-9); House of Commons parliamentary papers online, 1917 – 1918, (pp. 5-6)

[65] Cyprus 1932. Census 1931. Government Printer, Nicosia.

colonial administrators gradually coupled religious identity with linguistic identity to form clear ethnic divisions.[66]

From census to census, the categories of religion and mother tongue had solidified into an ethno-national identity.[67] In 1881, census schedules (questionnaire forms) included categories of religion and mother tongue[68] that divided the population as Greek Orthodox, Muslim, or other, and languages into Greek or Turkish. In the 1946 census, one could be either Greek or Turkish, as defined by mother tongue and other cultural markers which were perceived as ethnic origin.

In 1951, the U.N. requested that the colonial government in Cyprus conduct a census. As officials discussed this possibility, the major category of enumeration was no longer language and religion; it was ethnicity. They could have enumerated persons on the basis of their religious belonging and linguistic identity. However, they planned to classify people as Greek, Turk, and

---

[66] Recently, in the Cyprus census of 2002, the category changed to "community/religious group." The terminology included Greek Cypriot and Turkish Cypriot to stress the distinctive character of these societies as opposed to other Greeks and Turks. See the Cyprus 2002 census of population. Statistical service; Nicosia.

[67] Census data from the following sources: the Cyprus government; The Cyprus Blue Book, 1946; Nicosia, Govt. Printing Office, 1948; Census of Cyprus, 1881. Report on the census of Cyprus 1881, with appendix. By Fredrick W. Barry, superintendent of the Government of Cyprus, House of Commons Parliamentary Papers online, 1884-85.

[68] Religion was the sixth category on the census schedule, and mother tongue the seventh. Prior to these were name; relation to head of family; conjugal condition; sex; and age. Following religion and language were: place of birth; occupation.

other. This type of classification was thought of as effective and not costly "since Mukhtars[69] under supervision of the district staff, coordinated by the statistical officer, can affect such enumeration at negligible cost."[70] It was easier to lump the population into three groups, according to the two languages, and employ a residual category of other for all other minorities, that remained to some extent, invisible to the administration. The census was not taken again in Cyprus until after independence, but the administrative categories dividing Cypriots into Greeks, Turks and other minorities [71] had far-reaching implications for the way the two communities, and minorities who were lumped into the category "other," experienced daily life and the growing political enmity between community. .

One curious finding that goes against the narrative in which the British viewed Turkish and Greek Cypriots as ethno-national categories was that British colonial administrators continued to refer to the division between Greek and Turkish Cypriots as a division between races. This is clear from the consistent designation on maps and internal reports of the interior

---

[69] Mukhtars were village headmen which were under the payroll of the colonial government and represented the district commissioner in the village.

[70] SA1/1322/50 Cyprus Census Office Minute by Mr. Percival, February 18th, 1950.

[71] Minorities were lumped together, and actually lost their status as minorities because the dominant official minority consisted of Turkish Cypriots, which led to the virtual evaporation of any collective rights of other minorities in Cyprus. The category "other" then had to compete with ethno-national categories that were more powerful and salient (see Varnava 2010).

ministry (See Figure 1), in which the title of the table included the word *race* and the categories were Greek, Turk and Other.[72]

The Registration Department, created in 1956, was charged with instituting and maintaining a system of registration of residents within the Island. Shortly after its establishment, it was given the task of compiling separate electoral rolls for the Turkish and Cypriot communities, and played a major role in elections in Cyprus.[73] By 1960, the registration department was in charge of distribution of identity cards to the population, and appointed district inspectors to act as registration officers. Identity cards were in numerical sequence, and a person's identity number was never changed.[74] It seems that numbers were distributed according to ethnicity, a practice that also occurred in Israel, where minorities had a separate series of numbers on their identity cards (Tawil-Souri 2011).

The first census in independent Cyprus took place on December 11th, 1960. [75] A report from the interior ministry is explicit about the adversarial nature of the division of the population

---

[72] Perhaps the view that the British colonial government saw Turkish and Greek Cypriots as ethno-national categories stems from the period of transition to independence, when the involvement of Greece and Turkey in the negotiation of the independence agreements (including international treaties) led to British classification of population according to "nationality." This development took place in the late 1950s, and did not reflect the way the colonial administration had classified population previously.

[73] CSA/MI/290/1960 p.100.

[74] CSA/MI/ 223/1960/ 1 p. 63. Letter from registration officer to interior ministry, October 13th, 1960.

[75] CSA/MI/82/1960. P. 22 Submission to Council of Ministers regarding census day. November 25th, 1960.

by race, continuing the classification instituted by colonial governments: "In the census of 1960, the population of Cyprus was 577,615 out of whom 448,000 were Greeks, 104, 350 were Turks and 24,408 of other races. Thus the percentage was 81.1% Greeks against 18.9 % Turks."[76] Minorities are lumped in with Greek Cypriots "against" Turkish Cypriots. This categorization turned Cypriot identity into a hyphenated one. As Costas Constantinou writes, "in post-colonial Cyprus, being simply and singly Cypriot is a constitutional impossibility" (2007). Following independence, Cypriots were defined in the constitution as citizens of the Republic who were of "Greek origin and spoke Greek, or shared the Greek cultural traditions or belonged to the Greek Orthodox Church" or were citizens of "Turkish origin and spoke Turkish, or shared the Turkish cultural traditions or who were of the Muslim faith." Citizens outside of these two defined communities had to elect membership into either ethnic group. [77]

---

[76] CSA/MI/178/1960/2

[77] In the 1990s, the republic of Cyprus acknowledged the role that changes in population categorization had played in the political polarization on the island. From Cyprus' report to the U.N. committee for the elimination of racial discrimination, CERD/C/299 addendum 19: "The communities in Cyprus were divided according to their religious beliefs and not according to their ethnic origin, for reasons only known to the joint committee established with the duty to complete a draft constitution for the independent Republic of Cyprus, incorporating the Basic Structure agreed at the Zurich Conference. It may be true that what distinguishes the communities may not only be the factor of religion but also their ethnic origin. Whatever the description of the community may be, the fact is that we cannot change the description given by the drafters of the constitution. Nevertheless, the gist of the difference is not how the groups are described but whether their rights are safeguarded."

Starting in 1963, after the collapse of the constitution due to violent clashes, the Cyprus government had no access to demographic data about the Turkish Cypriot community, and also no data regarding land in the Nicosia district, since the records had been held in the government building in Konak square, which was located in what had become the Turkish Cypriot enclave in Nicosia. [78] From 1963 onwards, the demographic data collected is primarily about Greek Cypriots and other minorities, as the ability of the administration to engage in population management was limited.

The role of census categories in Cyprus shifted and changed in tandem with the intensification of the inter-communal conflict and the British attempt to manage and control it in various ways. The conflation of categories of race, religion and ethnicity was a signature of the British colonial state that had developed the administrative manipulation of population classification since the transfer of power from the East India Company to the government of India. In a situation similar to that of Cyprus, religion became the primary category of manipulation used by colonial administrators.

Census Categories: India

There exists a wealth of scholarship on the colonial census in India, its centrality to colonial rule, and the perceptions of British administrators as to what an orderly and efficient method of classifying populations in a modern state entailed—as well as information about the culture-defining capacities of the colonial census (Sundar 2000) since the first attempt at an All- India

---

[78] CSA/MI/82/1960 p. 19. Letter from the director of the Department of Lands and Surveys (G.PH. Avramides) April 28th, 1964.

enumeration in 1872 (Martin 1981:61). My contribution to this rich literature is the finding that beyond the characteristics of religion, caste, gender and region, the colonial administration classified population according to levels of loyalty or threat to the state.

In India, statistics on identity became important as communities demanded entitlements from the colonial government on the basis of numbers. The reigning political climate conflated representation (standing on behalf of) with representativeness (coming from a particular community) (Sundar 2000; Appadurai 1993).

In 1940s colonial India, as partition became an objective possibility, the politics of numbers flared up, and battles over census categorizations were fierce. From the mid-19th century, the plethora of religions and faiths practiced by non-Muslims were lumped into the standard category of Hindu. As a census commissioner reported in 1911, "Hindi means any native of India, and Hindu means a non Muhammadan native of India."[79] Some scholars contend that certain religious groups falling under the category Hindu was actually created through data collection, interpretation, and application of categories (Haan 2005). While I am not certain that Hindus existed as a group prior to British Colonial rule, it is clear that what the British did, through the administrative classifications, was make the category Hindu into one that had political power across region. One interesting example of the interplay between census categories and political power took place with regard to the category of Adivasis (tribals). In the 1931 census, Adivasis, who held a distinctive set of faiths and religious and cultural practices, were all considered Hindus; but by 1941, the census rules had changed. Adivasis were no longer

[79] Census of India, 1911, Volume 15. United provinces of Agra and Oudh. Report by EHA Blunt, Government Press Allahabad.

classified as Hindus, but as tribals—the result of a successful negotiation on the part of the Moslem League with the census commissioner.

The League lodged a massive protest campaign [80] against the government of India, the census commissioner, and to the census superintendents of Bengal, Assam, Bihar, C.P. and Bombay, and requested that they rectify the classification of Santhals and other tribals as Hindus; otherwise, the League warned, Muslims and minorities would be forced to challenge the entire census return, and demand a new census "by a cent-by-cent paid staff, under gazetted officer appointed with fair representation for all communities in the census agency." Maheshwari (1996) writes that political contention around the census of 1941 escalated further as Hindu parties and organizations complained to the viceroy that the rising numbers in the Muslim population were due to irregularities performed by Muslim census enumerators.

Finally, the political demands of the League for establishing a separate category for tribals were accepted, and the British focused the classifications upon rituals and religious practices, as an excerpt from new instructions to the enumerators of census 1941 in Bengal shows:

> If he says he observes Bakrid write Mohammedan, if he says he observes Diwali write Hindu, if he says he observes Christmas write Christian. If none of the above festivals are observed put an X. In the case of aboriginals that are baffled by the question ask if they observe the festivals that their ancestors observed. If the answer is yes, do not write any further but write the name of the tribe.

---

[80] NAI HD public branch file 2/1/41/pub.

While the political battle over religious categories was a well-known aspect of communal rivalry, a lesser-known problem of population classification concerned migration and the fuzzy definitions of insiders and outsiders that the colonial administration used. These definitions impacted the issue of status in independent India well into the 1990s. Fateh Singh, undersecretary at the Home Department, explained in response to a request for statistics of immigration: "the terms 'migration,' 'immigration' and 'emigration' have such a wide scope that it would be necessary to give indication to the points on which we require information for them." [81] Besides the governments of Madras and Bombay, which collected migration statistics systematically,[82] provincial governments were only required to maintain information on the entry and exit of foreigners, and not on the movement of Indians. This changed after independence, once the concern of overseas Indians about their citizenship status became an explosive issue.

This difficulty in gathering information had to do with the imperial character of population management, namely the administrative requirements for entering and leaving India. The government could collect statistics about emigrants only if they required passports. If they emigrated to Ceylon, Burma and Malaya, major destinations for employment, they did not need a

---

[81] NAI MHA 78/47/ Poll (E) p. 6. Memo from Assistant Secretary Fateh Singh to the Commissioner of Public Health, March 20th, 1947.

[82] The reason that immigration statistics were collected in these locations was that there were offices of the Protector of Emigrants, charged with guaranteeing the rights of Indians overseas. The main branch was located in Madras, but there were branches in Karachi and Calcutta, as well. NAI MHA 78/47/ Poll (E) p. 18. Note from N. Juganwala from General health Services to the Ministry of Home Affairs, December 18th, 1947.

passport. Regarding immigration, foreigners had to register under the Registration of Foreigners Act, but the category of foreigner did not include European British subjects or subjects of British dominions, so these categories of immigrants were not officially recorded.[83]

In April 1948, the Ministry of Home Affairs issued new forms to the provincial government to aid them in recording the figures of immigration and emigration. [84] The form tracked the emigrants according to whether they were British subjects or aliens, and then divided the British subjects into two categories (Indians and others). The lack of reliable statistics on migration continued after independence, so estimates of population in preparation for the enumeration of the 1951 census did not even take immigration into account, for lack of reliable statistics.[85] While statistics on migration and the entry and exit of Indians were not instituted until the mid-1950s, the enumeration of displaced and refugee populations, following the massive movement in the wake of partition, were of great concern to the interior ministry. The concern was not about the movement of the population across territorial boundaries, because immigration and emigration were not recorded. The concern was about the identities of those moving across India's new boundaries, and particularly their relationship to Pakistan.

---

[83] NAI MHA 78/47/poll (E). Reply from secretary of the Government of Cochin to the Ministry of Home Affairs; request for immigration statistics. Nov. 13, 1947.

[84] NAI MHA 78/47/ Poll (E). Letter to provincial governments on collection of migration statics. Under Secretary Fateh Singh, April 20th, 1948.

[85] NAI MHA 15/47/48. Public letter from Director General of Health Services to census commissioner, 28th July, 1948.

Classification After Independence - The Refugee Census of 1948

On September 3, 1948, the Census Act of independent India was promulgated.[86] The first census included a count of those who had become refugees and displaced persons because of partition violence. This refugee census was to become critical, not only for rehabilitation efforts, but also for purposes of classification of civil servants. These classifications were most critical in the partitioned states of Punjab and Bengal.

The definition of a refugee was determined in spatial and temporal terms by the official schedule of the refugee census. The date and place of a person's whereabouts, specifically the time and location of their entry into India (although the borders of independent India were still in flux at that time), in addition to the stated reason why they had left their previous residence, would determine their status from that point on. On the level of national policy, the refugee census was published in 1951, but enumeration and classification as a refugee in 1949 had more immediate implications for access to relief and rehabilitation resources.

Refugees were defined as "any person who [had] entered India on or after the 1st of March 1947, having left or being compelled to leave his home in West Pakistan on account of civil disturbances or on account of the setting up of the two dominions of India and Pakistan." West Pakistan was defined as the part of Pakistan that lies to the West of India. [87]

---

[86] NAI MHA file 2/14/1948. Memo of the M.W.M Yeatts, Census Commissioner for India, September 3rd, 1948.

[87] Ibid. page 1. Notification of refugee census on September 4th, 1948 by H.V.R Iyengar, Secretary to the Government of India.

The questions on the refugee census schedule revealed the logic through which the administration attempted to classify the displaced population: by their demographic characteristics and their degree of loyalty to independent India. The primary questions involved the location of the refugee's family in Pakistan as well as their religion. Next were questions about the value of any immovable property the family had owned, as well any property the family had owned in the Indian union prior to partition. Following questions about one's original location, religion and property ownership, they then focused on the displaced person's current status. Had they secured employment? Where were they living? And finally, what rehabilitation benefits had they accessed from the government?[88]

Despite a declaration of the importance of the census, particularly the refugee census for rehabilitation efforts, the Ministry of Home Affairs struggled to find office accommodations for the census staff, and failed at turning census work into a priority for the ministry. Although the census team had requested a location in the south block, close to the office of Relief and Rehabilitation, for the purposes of consultation and coordination they were allocated office space in the distant and dusty P block [89] of the government buildings in Connaught place.

The independent census was the first administrative event in which the population turned from subjects into citizens, through the documents, forms, and questionnaires of the census.

---

[88] Ibid. List of questions issued in accordance with section 8 of the Census Act of 1948, September 4th, 1948. P.2-3.

[89] NAI MHA 521/1/47. A & E minute 81, no. 12 from N.N. Mallya, Undersecretary to the Accommodations Advisory Committee, March 16, 1948.

Nationality became the primary category, before the question of race, caste, or community, which had been the primary classifications of the colonial government up to that point.

The notes of Census Commissioner M.W.M Yeatts, who has been described as an "iron willed census commissioner" (Rath 2011) for his path breaking decision to discontinue the enumeration of caste in the census of 1941, provide a glimpse into the way the administrative technologies of classification matched the new political narrative of the independent state. He wrote about a process of shifting away from all-India tabulations of caste, which were costly and complex, to categories that were more useful and functional for government actions, explaining this as a reflection of historical needs:

> When the Indian census system began, [the caste system] was of considerable administrative importance. It was also a matter of great interest to the world outside India for historical and other reasons. The Indian census series practically created the body of knowledge in this field…specialization has developed in the usual scientific way in anthropology, folklore etc. The field should be left to them.
>
> So much for the cultural value of past census work on caste. Some provincial governments may want to know broad groupings like scheduled castes, and there is, in addition, the important aspect of the tribal peoples, for whom governments in India have a certain responsibility. [90]

---

[90] In the census of 1941, Bombay and other provinces paid for extra caste tabulations that they used to determine appointment proportions to the civil service. On allocations and reserved placements for scheduled castes in the state bureaucracy during this period see Gould 2007: 48-49

The last colonial census included a question that had been part of the census since 1872, which categorized population under the heading "race, tribe or caste." For the 1948 census, Yeatts suggested that this question change to a two-tiered one about the individual's nationality and categories of community belonging.

> "What is your nationality? If an Indian national, state your community or tribe." This form of question, while bringing in the citizenship aspect now necessary, will enable information to come in on such broad groupings as may be wanted by the central government and insofar as a province or state may want something more, and be prepared to pay for it, we will produce such further detail.[91]

The consolidation of categories was justified for economic reasons, but this was an attempt to indicate that population management, for the majority was no longer based on a minute classification scheme, but on broad categories that could be lumped together. Moving away from the proliferation of categories and divisions during colonial rule, the attempt at lumping together broader categories of population reflected Nehru's agenda of modernization and standardization, as well as his belief in the principle that India's democratic future depended upon the ability of the state to create "unity in diversity" (Gottlob 2007).

The census was a grand state project – a great burden and source of administrative pride. Yeatts wrote of the mammoth organization of enumeration: "the Indian census is a tour de force carried out by enlisting the full weight of the provincial and state administrations […] every

---

[91] NAI MHA 15/43/48. Public Letter from Census Commissioner M. Yeatts regarding major changes to the first census questionnaire in Independent India, to Ministry of Home Affairs March 9th, 1948.

district collector should feel himself part of the organization which produces this fundamental data."[92] The importance of the census and the effort involved in it were remarkable, and yet it took almost a decade after independence to stabilize the classification and categorization of population in the ministries and courts. This limbo of categorization affected masses of people who waited to find their place in the new state, particularly civil servants, women, and those who had fled to Pakistan during partition. Until formal citizenship laws stabilized concepts of status and belonging in India, they remained outside the boxed categories of the census forma and the access it provided to citizenship and material possibilities.

Census Categories: Palestine

Census categories in Mandate Palestine reflected the rapid change in political conditions that occurred between the Balfour declaration, stating Britain's commitment to building a "Jewish National Home" in Palestine in 1917 (Smith 2009: 96), and the Arab Revolt in 1936. In these two decades, British colonial strategy for population management changed numerous times.

As in India and Cyprus, the British Mandate authorities in Palestine initially chose religion as the key ethnic division between populations[93] at the outset of colonial rule in 1920. However, the fostering of Jewish nationality, which was also conflated with religion, led to a

---

[92] NAI MHA 2/18/48. Letter from M.W.M Yeatts to the Ministry of Home Affairs regarding the appointment of a Registrar General for vital statistics. Yeatts makes the case for why the registrar needs to be part of a Central Bureau of Statistics in the Ministry of Home Affairs and not the health services. September 19th, 1948.

[93] Palestine. 1923. Report and General Abstract of the Census, 1922. Greek Convent Press, Jerusalem.

parallel emergence of an administrative Arab identity that, by 1931, had been incorporated into the census [94] (Christopher, 2005).

In 1931, in the questionnaire schedule for the enumerators, a new column was added to the table that recorded the citizenship of the person in addition to religion and sect. After entering the person's citizenship, the enumerators were instructed to add "Jew" or "Arab" for persons so describing themselves. National identity had clearly become a subjective question of belonging, which represented a change from objective classification according to religion. [95]

Rules for enumerators provided the guidelines for determining one's category of citizenship. Anyone who had been a Turkish subject prior to 1925, and had not assumed another nationality, was considered Palestinian. Non-Turkish subjects born in Palestine before 1925 were of whatever citizenship they held, "e.g., Palestinian, French, German, etc., etc." [96] If the person was not born in Palestine, enumerators were to enter present citizenship, "e.g., Palestinian, or British, or Polish, or Trans-Jordanian, or Egyptian or Syrian, etc. etc." Those who had pending application for Palestinian citizenship were categorized as "papers." The citizenship of wives followed that of husbands, as did children, unless they held other citizenship. If the person did not hold citizenship, the enumerator was to enter "none." The final instruction for completing the citizenship column was to record one's subjective national identity. The instruction was: "in all

---

[94] Palestine. 1933. Census of Palestine, 1931. Government of Palestine: Alexandria.

[95] National Archives UK CO733/206/5a. Questionnaire Schedule for enumerators Palestine census 1931

[96] National Archives UK CO733/206/5a. pp. 63-64, Instructions for Enumerators: rules for filling up the schedule.

cases when any person claims to be 'Arab' or 'Jew,' enter after citizenship 'Arab' or 'Jew,' respectively, e.g., Palestinian, Arab; or Palestinian, Jew."

The binary categories of Arab and Jew represented an important shift away from the Ottoman millet system that categorized people by their religion. The census of 1931 was a highly contested project in the eyes of Palestinian communities in Palestine as well as the Zionist leadership of the Jewish community. For the government of Palestine, the census enumeration was an exercise in maintaining the authority of British rule, and managing the recalcitrant parties that did not seem to appreciate the need for statistical information benefiting the progress of the state.

The colonial office was extremely disturbed by a pamphlet published on the 26th of September, 1931, that called all Jews with "self-respect" to boycott the census that:

> Evidently was part of the scientific program, beginning with Sir John Hope Simpson's inquiry purporting to liquidate "scientifically" the Balfour Declaration and oppress the Jewish community in Palestine. The census will be taken with a view to proving that the Jewish community in Palestine is a "negligible minority."[97]

The pamphlet expressed acute fear of census inaccuracy, and also of political tampering in the enumeration by the Arabs: "It is not possible for us to move government to defer the census, the results of which will be a weapon in the hand of any liquidator of Zionism. Our only response

---

[97] TNA CO733/206/5a p. 33. Extract from Hebrew press survey no. 40.

should be to take no part of it." The pamphlet was an immediate response of the Zionist leadership to the enactment of the Census Ordinance no. 6 of 1931, a week before.

Eric Mills, the Census Superintendent of the government of Palestine, was painfully aware that his professional decisions in census, even the technical and scientific ones, would be perceived by the Jewish and Arab communities as political choices either for or against them. Writing to the Chief Secretary about the staff and materials needed for the census, he addressed the political implications of technical choices, perhaps in a reflexive attempt to record his impartiality: "From the point of view of census administration, it is immaterial to me whether the staff is composed of British, Jewish or Arab persons; but it is probably desirable, from a more general standpoint, to have a staff which shows some sense of balance between Arab and Jew."[98]

Mills was not unique in his concern. The issue of representative balance between Arabs and Jews in the colonial administration by allocating positions in rough proportion to the size of the two communities was a great preoccupation of the Mandate government (Wasserstein 1977: 173), so much that they were criticized for running "a government by arithmetic" by the royal commission for Palestine[99] several years later. While this decision to have balance of representation was favorable politically, Mills had a professional problem. There were qualified statisticians among the Jews, none among the Arabs, and none among the British staff. Mills recommended a number of persons he could recruit, one of whom was an Egyptian official from

---

[98] TNA CO733/206/5a p. 51. Letter from E. Mills, Superintendent of Census to Chief Secretary, June 16th 1931.

[99] Palestine Royal Commission Report. Cmd, 5479. London, July 1937. P 139.

the Egyptian government,[100] along with two Jews and two Arabs, including David Gurevitz, head of the statistics department in the Jewish Agency; Reuben Katzenelson, head of the statistics department of the Hadassah medical organization (who would later head the National Health Services, after independence); Mussa Nassir, a civil servant in the southern district described as having "some mathematical training and an accurate mind;" and F. Saba, who attempted to do some of the statistical work of the Arab Executive committee. [101]

In order to avoid accusations of political bias, Mills established two advisory subcommittees for the census, one Jewish and the other Arab.[102] These committees met numerous times to discuss the questions in the schedules. The Jewish Agency demanded that questions about landlessness and unemployment be avoided in order to protect the land acquisition methods of the Zionist organizations (Forman & Kedar 2003). The methods of land acquisition by the Jewish National Fund (Stein 1984) and other agents of the Zionist Committee were considered politically controversial, not only by the Arab leadership but by the colonial government as well. The British employed a method of land settlement, that intended to register

[100] This method of borrowing an expert from one colonial territory to another served as a way to incorporate expertise when it was needed. There existed a process and terms for loaning staff, but this was one of the ways in which practices related to population management diffused throughout the empire, incorporating local colonial administrative practices and adapting them to new conditions in another colonial setting.

[101] TNA CO733/206/5a p. 51-54. Letter from E. Mills, Superintendent of Census to chief secretary, June 16th 1931.

[102] TNA CO733/206/5a p. Letter from John Robert Chancellor, High Commissioner of Palestine to Sir John Shuckburg.

and divide village lands that were distributed in a form of join tenure called "Mesha'a" inherited for Ottoman land law (Atran 1989). Zionist brokers bought cheap land in joint form from absentee owners and granted the Palestinian villagers temporary lease on the land. Once the land was divided and registered, its value skyrocketed. The Arab absentee owners that had sold the properties, had to legally displace the villagers, once the registration process was underway (see Shafir 1989). These very methods were the reasons the Jewish committee was adamant that questions of landlessness and unemployment be avoided in the census, as these would expose the extent of the land acquisition process and could jeopardize the entire project.

The protocols of the advisory committee demonstrate how the census tables, and the questionnaires themselves, played a role in the conflict. The form was not just a tool of the British administration for classification; it was a means by which they asserted their authority of rule, and demonstrated their objective and scientific impartiality. Less visible than the maps of partition, which would ultimately become the physical site of paper battles, the census form encapsulated the demographic fears of the Jews and the suspicion of the Arabs with regard to usurpation of their lands. The form and its changes over time are interesting because of its content, and also because it became an actor in the demographic battle (Riles 2005:985). Establishing two separate advisory councils served as a way to acknowledge the political nature of the census, but at the same time, it solidified the conflict.

The first meeting of the Jewish Advisory Council to the census took convened on June 23, 1931. Mills welcomed the committee, expressing his regret that it was not possible to have one advisory committee (of Jews and Arabs), but assured them that having two committees was not an obstacle.

The Jewish council was concerned about the fate of the census and its accuracy, considering that so many Jews and Arabs resided in Palestine illegally. Mills replied that the enumeration would not be used in criminal or civil proceedings, but they worried that fear of persecution would skew the numbers against the Jews. If Jews that resided in Palestine illegally, or had entered illegally, but had managed to secure identity documents in various ways, were asked to fill out administrative forms and questionnaires, they would fear the colonial government would discover their legal situation. The Jewish public did not trust the Mandate administration enough to believe that there would be no consequences to responding to the enumeration. If Jewish that entered Palestine illegally were not enumerate, it would have seriously affected the population numbers. The committee also worried that Arabs would inflate their numbers, and wondered what the government would do about that. They were concerned that the Arabs were illiterate, that enumerators would wrongly correct the schedules, and that enumeration would not be supervised: who would check their work, and correct it? The committee conveyed the extreme uneasiness of the Jewish communities about this demographic battle.

Mills used his imperial experience of conducting censuses in other colonies to convince the committee of the scientific validity of the Palestine census under his direction. Addressing concern about the ways in which the Bedouin would be enumerated, Mills replied that he might have to adapt a special method that had been employed in India, of non-synchronous tracts designed to enumerate nomadic populations. [103] Mills proposed that, as in India, the enumerator

---

[103] TNA CO733/206/5a p. 75. Minutes of the meeting of the Jewish advisory sub-committee to the census

originate from their own districts, and explained that the concern of the Jews over the Arabs inflating their numbers were echoed and mirrored in the concerns of the Arabs.

The Jewish subcommittee met again two weeks later, on July 6, 1931. Katzenelson asked that the column concerning religion be changed to separate columns enumerating Muslims, Christians, Jews and others. These were the categories that had been employed as main classifications of identity by the government, the Jewish agency, and the Arab executive organizations. [104] Mills reported that in his unofficial meeting with the Arab advisory committee, they recommended including questions about unemployment, land shortage and race, and "felt strongly" about the latter. [105] Yitzhak Ben Zvi, who would become Israel's second president, expressed the wishes of the 'Vaad Leumi' (Jewish National Committee) to aid in the demographic census in order to assure its high scientific standards: "The census may be a complete failure if the public should suspect it to have any political motive."[106] He explained that the national committee would not assist with questions regarding unemployment or land tenure, as these could not be answered accurately in a demographic census.

---

[104] Historians Shira Robinson (2013) and Laura Robson (2011) claim that the Jewish community agreed to the racial/national distinction of Jew and Arab. However, my research in the world Zionist Archives paints a different picture, in which the Jewish Agency was extremely concerned by the binary categorization of population introduced by the Mandate government in the 1930s, since officials believed that categorization based on religion allowed the Jewish agency more negotiating power with regard to posts in the civil service and other issues.

[105]National Archives UK CO733/206/5a. Minutes of the meeting of the Jewish advisory committee, July 8th, 1931.

[106] TNA CO733/206/5a p. 99

As he attempted to dispel fears around a political census, Mills explained that the questionnaire and the instructions might not be in accordance with practices in certain European countries in which members of the committee had active experience, but were based upon successes in India: "Indian census and India, with one-fifth of the world's population, with almost every possible variation for economic structure, is a better model for Palestine." [107]

Population Statistics and the making of the Jewish National Home

The Zionist leadership of the Jewish community (*Yishuv)* in Palestine, which administered the affairs of the Jewish community with much autonomy from the colonial government, underscored the importance of quantitative statistical research to building a Jewish National Home in Palestine. David Gurevitz, the head of the statistics department of the Jewish Agency from 1924 until his death in 1947, had been trained at Stanford University, and was considered the Jewish *Yishuv*'s primary expert and official regarding demographic studies, the census, and its effects upon achievement of a state for the Jews in Palestine (Alroe 2006).

The Jews were extremely unhappy with the new categorization by nationality, in which the colonial government lumped Muslims and Christians into the single category of 'Arab,' because they wished the key ethnic divide remained a religious one. Categorization by religion would enable them to make an important distinction between Muslim Arabs and Christian Arabs, one that the Jewish establishment hoped to leverage politically in the national struggle. Christian Arabs had formed economic and political alliances with the Zionist committee. They were also prominent in the colonial administration, and although the government attempted to balance the

[107] Ibid, p. 101.

administrators in proportion to the size of their respective community, Christian Arabs had better technical skills and qualification, spoke more Western languages so they were better competitors for government positions. Although they comprised one tenth of the Arab population of Palestine, the number of Christian Arabs and Muslim Arabs in the civil service was almost equal.[108] This situation created enmity between Muslim and Christian Arabs that enabled the Jewish establishment to form important ad hoc alliances with Christian Arabs, or so they believed.

For these reasons statistical reports from the Jewish Agency continued to use the category of religion as the distinction, while the statistics of the government turned to a national distinction: Jews vs. Arabs. Population numbers became especially critical in the mid-1930s, as an influx of Jews fled Germany and Poland for Palestine; the Arab population regarded this as a political and economic threat. The British reduced immigration quotas on Jewish immigration, and tightened their enforcement.

In the late 1940s, David Gurevitz harbored a growing concern about the discrepancies of numbers between three statistical sources: the census of the Mandate government in 1931, updated population figures in reports filed by the Department of Migration, and data that the Jewish agency collected in their own census, which enumerated the Jewish population of Palestine. He wrote of the acute importance of the discrepancy, and suggested that the difference

---

[108] By 1929, despite the efforts of the colonial administration to balance the numbers of administrators in proportion to the size of their community in the population there were 1,111 junior administrators who were Muslim Arabs and 1,176 Christian Arabs, although Christians comprised about ten percent of the Arab population of Palestine (See Wasserstein 1977).

could be attributed to administrative categorization of the Jewish population—people the mandate government viewed as ineligible for naturalization[109] because they had been classified as illegal immigrants.[110]

These sketches of the census as a site of categorization focus upon inter-communal conflict regarding population categorization by the colonial state as well as the relationship between technicalities of administrative forms/census categories and the political struggle between communities and against colonial rule.

In the next chapter, I show how these administrative categories shaped the formation of identity during the transition from colonial rule to independence, and during the first decade of independence. The classification of civil servants shaped both the boundaries of citizenship and the inner workings of the administration, which retained much of the colonial legacy of classification through a combination of three mechanisms of continuity: the retention of personnel, the retention of laws, and the retention of administrative practices. However, communal identity was not the only criteria for classification. A second toolkit of categorization did not address identity of the population for purposes of legibility or control, but classified it according to its relationship to the state. Suspects, security threats, anti-nationals, *goondahs* (criminals and minor security threats), and undesirables fell into this category. Classification according to suspicion influenced, to a great extent, the classification of civil servants, as well as administrative action against women who had married foreign nationals or had married outside the country. As we shall see, the axis of suspicion that, together with communal classification,

---

[109] Central Zionist Archive Jerusalem S19 – 302. Letter from Gurevitz to YizhakLuria 2.12.47.

[110] Central Zionist Archive Jerusalem S19 – 302. Letter dated 27.3.1944 to the chief secretary.

formed the colonial matrix of identity that conflated a person's race, religion, region, or caste with the security threat they posed to the state. This matrix of suspicion led to differential legal and administrative practices applied to individuals and communities that, in turn, led to disparities in access to rights guaranteed by the state.

Chapter 3 The Bureaucratic Legacies of Violence: Civil Servants, Women & Minorities

In order to examine the ways in which colonial categorization of the population impacted political membership in the post-colonies, I investigate three sites where processes of population classification had important effects on administrative practice and the outcomes of political membership: 1) categorization of civil servants; 2) the political status of married women; and 3) categorization of people and communities as threats to national security (political prisoners, criminal tribes, and foreigners). These represented sites of struggle between the British and subject populations in the colonies, as well as a political battleground between groups attempting to secure their communities' futures in the independent states.

In the census, people were classified according to their substantive traits: religion, ethnicity, language, region, gender and class, all of which formed their administrative identity. The implementation of emergency laws demanded the classification of the population by their administrative relationship to the state: patriot, suspect, security threat or enemy of the state: the axis of suspicion. In some cases, substantive identity traits and political relationship to the state were conflated. One example can be found in the Criminal Tribes Act,[111] which criminalized

[111] Criminal Tribes Act 1871 the act provided for the "registration, surveillance and control of certain tribes designated criminal." Local governments were empowered by the act to designate any gang, tribe or class of persons as a "criminal tribe" if they were addicted to the systemic commission of offences without bail.

members of certain tribes as a collective (Major 1999), particularly those leading a nomadic way of life and not residing in a primary geographic location.

The civil service existed as a major locus of power in colonies in which British rule was indirectly executed, mainly by an elite comprised of administrators from the subject population and orchestrated by a small number of British officers (Coen 1971). Communal representation in the civil service was a political battleground, because it impacted the lives of the subjects and shaped the administrative and political imaginations of the future: civil servants were thought of as individuals who would run the post-colony at the advent of independence.

The second site of classification can be found in the political membership of married women whose status in the colonies represented a vulnerable intersection of gender and nationality, where the order of the family met the order of the state. Although laws cancelling the British citizenship of women who married aliens were repealed in Britain after the Second World War, when the three post-colonies gained independence, all three retained laws enforcing loss of political citizenship to women who married outside of their ethnic, religious or national group, or preventing recognition of the marriage altogether.

The third site of classification based upon suspicion can be identified in permit regimes, legal-spatial techniques of monitoring movement of a population devised during colonial rule and adapted and innovated upon by the administration in the independent states. I will examine the significance of classification of civil servants based upon their identity, along with the legacy of British colonial rule in administrations of the independent states.

Classification of Civil Servants

Categorization of civil servants had been a major point of contention between the colonial governments and local populations before independence. As plans for partition gained momentum, the identity of civil service became a dominant concern for communities that hoped to secure their interests and have representation in the state apparatus after independence.

Civil Service: India

The British controlled the Indian bureaucracy effectively by reserving powerful points of control for British members of the Indian Civil Service (ICS), Indian Police (IP), and the IPS, or Indian Political Service (Potter 1973). Until WWI, British men made up the staff of these services. The process of "Indianization" of the Indian Civil Service (ICS) began in 1919, with constitutional changes established by Government of India Act and continued in the Lee Commission's recommendations of 1924. The Indianization of the service included demands for the recruitment of Indians from minority communities (particularly Muslims) and introduced a quota of twenty percent of the ICS for promotions from civil servants of the provincial governments—a requirement that was never met. Minorities were recruited for political reasons, to secure allegiance against the predominantly Hindu independence movement.

The Indianization process brought about a fierce inter-communal battle with regard to nominations, classifications and categorizations of recruits to civil service, as well as political campaigning against recruitment of any Europeans (Potter, 1973: 61). By 1945, as partition neared, the British government felt that the allegiance of ICS officers had shifted from the government of India to nationalist forces in India (Muslim officers to the Muslim League and

Pakistan, and the rest to the Indian National Congress and independent India).[112] As the transfer of power approached, the Indianization of the civil service became a crucial issue, and statistics were required every six months by the India office to show the strength and composition of the ICS. [113] In the reports, civil servants were simply categorized as Europeans, Indians and others.

The partition of India designated two nation-states, India and Pakistan, creating an option of political belonging for the general population, and specifically for the civil servants of the former ICS who had served in colonial India. For many, political belonging was coerced by forced migration; but for civil servants in areas that had undergone partition (primarily Bengal and the Punjab), there was a choice, an option to remain in India or continue civil service in Pakistan. The existence of this option turned the categorization of civil servants and their communal, religious, geographic, and ethnic identity into a crucial issue affecting their lives as well as their families. It impacted the formation and capabilities of the civil service in newly formed states and, in turn, the public. Following partition, ICS staff in Bengal and the Punjab could opt to serve in the other dominion according to their communal identity, until a deadline demanded the decision to be "India or Pakistan, final."

Questions of domicile and classification of civil servants occupied the establishments section of the Ministry of Home Affairs for a decade after partition, particularly when displaced

---

[112] Sir Stafford Cripps, Secretary of State for India in the Labor Government speaking for the British government in the House of Commons on 5 March 1947, in the debate on the Indian Independence Bill. Parl. Debates House of Commons, Vol. 434 (x94S47), col. 497-508.

[113] NAI HD 32/3/47 ESTS notes to the secretariat of the governor general by C.P Scott on September 6th, 1947.

persons from the other dominion applied for positions. Civil servants who had opted to serve in Pakistan before August 15th, 1947, and then applied to serve in India, were of great interest to the administration and the political leadership.[114] Civil servants who had changed their mind were classified in a liminal category, and their loyalty was scrutinized to a higher degree than others.

Identity and Loyalty: The Making of Post-Partition Citizenship in India's Civil Service

Prior to partition, ICS officers were classified into six categories related to their status after partition. These included Indian officers who wished to continue in the province to which they belonged; European officers who wished to remain in their province; officers who wished to transfer to a different province within the Indian union; officers who wished to transfer to Pakistan; officers who wished to retire but would remain temporarily because of the dire need; and officers who wished to retire at the moment of partition.[115]

Almost all Indian officers who requested to remain in service did remain in their province, though not always in their own posts. One interesting case involved M.W.M Yeatts, a British officer who requested not to remain in the Madras province (which he had left fifteen years earlier in order to work for the government of India in Delhi), but to work instead for the central government in Delhi. Consequently, he became the first census commissioner of

---

[114] NAI MHA 78/6/48 Admin – starred question no. 51, for the Legislative Assembly of India on July 28th 1948.

[115] NAI MHA 170/5/47 ESTS P.V.R. Rao, Joint Secretary to the government of India, memo to the Home Department, July 26th, 1947

independent India who changed primary tabulations in the census from race to nationality, as we saw in the previous chapter.[116]

The material and physical results of the transfer of power were immediately felt in the civil service. As soon as all the officers who had chosen to leave their posts for Pakistan withdrew from their departments, an office order renamed the departments as Home Department (India) and Home Department (Pakistan).[117] Officers who had been dismissed from government service, or were classified among those having "doubtful loyalty," suffered from other restrictions, ranging from the type of passport they could carry to complete refusal of passport services for travel outside of India. The reason for the restrictions was that these individuals were considered likely to vilify or speak against the government of India in a foreign country.[118] Doubtful loyalty had severe implications for freedom of movement among civil servants. This policy was only amended in 1953.

At the other end of loyalty and suspicion classification practices in the civil service was an order in the Ministry of Home Affairs to aid former government workers who had been blacklisted by the British colonial administration for political activities geared towards independence (and had consequently lost their positions) in finding government positions in the civil service after independence. This order was difficult to implement, because questions arose

---

[116] NAI MHA 170/5/47 ESTS p. 84. Letter from Yeatts to P.V.R. Rao, July 4th, 1947.

[117] NAI MHA 67/6/7 Public A, p. 4. Office order issued by R.N. Banerjee, secretary to the govt. of India, July 21st, 1947.

[118] NAI MEA 10/8/PV (1)/ 53. Inquiry on policy for refusal of passport facilities, secretary to the government of Manipur to Ministry of External Affairs, June 30th, 1953.

about what exactly should be classified as loyalty and/or patriotic activities (such as Indian National Congress activities), and what should be considered "real" subversive terrorist activities (Communist or extreme right-wing activities). In 1949, the ministry decided it could not establish a policy, but needed to look into each case. Some civil servants, who had been dismissed by the colonial government for anti-British activities related to independence "had joined groups that were entirely objectionable" to the independent government. [119]

The question was "whether a member of a terrorist party in India [could] be treated as having participated in synergetic activities in connection with the national movement for the liberation of the country for the purposes of orders regarding the grant of relief to such persons." [120] This exchange and negotiation, in which administrators determined how those who had been suspicious to the colonial government should be rewarded in the independent administration, shows both the impact of classification and how political conditions affected the classifications of those considered to be security threats. In practice, having been blacklisted and dismissed from the colonial civil service because of political activities did not guarantee a job, but allowed the formerly-blacklisted the possibility of applying for reinstatement, or access to a small government loan.

---

[119] NAI MHA 58/16/49 ESTS. Note by U.K. Goshal, March 31st, 1949.

[120] NAI MHA 58/16/49 ESTS. Office order, December 17th, 1948.

The Effect of Communal Violence on the Civil Service

Civil servants who had opted first to serve in Pakistan and then requested positions in India were considered suspect, and their loyalties were thoroughly investigated.[121] Specific policies were established and amended multiple times, for the absorption of government employees who opted provisionally for service in Pakistan, but later changed their option to India.

It was decided by the Ministry of Home Affairs in 1948 that "persons who opted provisionally for Pakistan and finally for India should not be reinstated in service until their antecedents have been verified by the police." Decision-makers had an extremely difficult time selecting those that "constitute[d] sufficient ground for reinstatement or discharges of such persons on security grounds." Finally, in 1949, the ministry decided upon three criteria to determine the loyalty of civil servants who had first requested a post in Pakistan and later opted for service in India.[122] The first class of cases consisted of:

> Cases where the reports [contained] specific allegations of serious nature against the employees which [were] inconsistent with their status as government service servants. These allegations need not necessarily relate to their participation in the public activities or formal membership of the political party, they may also refer to instances of activities of an informal nature, such as propaganda among friends and colleagues in pursuance of an ideology, which [was] inconsistent with loyalty

---

[121] MHA 16/22/49 ESTS p. 20.

[122] MHA 16/22/49 ESTS. Monthly review of the activities of the Ministry of Home Affairs, December 1948, p. 10.

> to India. Such employee, whether permanent or temporary must be removed from service.[123]

From the official correspondence, it is quite clear that police reports were structured as intelligence reports, and went much further than just checking one's antecedents. They also attempted to capture civil servants' political opinions, ideas and social networks in order to recommend their level of loyalty to independent India.

The second type of cases involved those in which the allegations were not sufficiently specific or serious "to raise suspicions against the employees in question and render their continuance in service risky for the security point of view."[124] The report elaborates upon this category: "These are cases, for instance, in which the police report that though nothing is found against them on record, they are believed to have held Muslim league views and their loyalty to India is doubtful." The memo suggested that such cases should be considered against:

> The circumstances in which the employee in question is placed in the office which he is expected to hold. If it appears that the employee has connections in Pakistan with whom he is in constant communication, if reinstated he would hold the position that could be of harm to the government of India, there will be a case for removing him. [125]

---

[123] Ibid.

[124] Ibid.

[125] Ibid.

The third class of cases placed the entire set of loyalty criteria in a peculiar light, as it seemed as if the ministry was indicating, curiously, that police reports were categorically skewed and less than reliable. The report further asserts that:

> There are cases in which employees deserve reinstatement in spite of adverse police reports. Police have often taken the view that redeployment of a person is undesirable, merely because they opted provisionally for Pakistan. In this case, discharges or a refusal to reinstate in the circumstances would be inconsistent.

While the ministry was well aware that police had a categorical bias towards Muslims who had opted first for Pakistan and then for India, they still relied on intelligence reports produced by the police to decide whether the civil servants were suspicious or of doubtful loyalty. This was not the only peculiar reliance on sources to determine loyalty.

The character roll and personal file of civil servants determined their loyalties and, consequently, their professional trajectories. An important aspect of their professional prospects involved the history of their movement and the whereabouts of their family during the early years of independence.[126] The Ministry of Home Affairs had demanded that all government employees in India bring their families back from Pakistan within a month, and furnish reasons to the head of their office if they were unable to do so.[127] Those who failed faced actions against them.[128]

---

[126] NAI MHA 25/78/49 ESTS p.1. Minutes of the Assistant Auditor General regarding appointments.

[127] NAI MHA 43/00/49 ESTS. Memorandum from August 26, 1947.

[128] NAI MHA 25/78/49 ESTS p.3. Office memorandum dated October 20th 1948.

As various departments requested to know whether they could employ government workers who had opted for India but whose families had stayed in Pakistan, the ministry replied adamantly about the issue of loyalty. The policy was created case-by-case: would the intention to settle permanently in India suffice to acquire Indian domicile, military commanders asked? The ministry replied:

> Although no procedure has been laid down for the scrutiny of the cases of the optees, mere declaration of intention to settle permanently in India should not confer upon the persons concerned the benefits of Indian domicile in doubtful cases. Obviously, the genuineness of the desire to settle in India of a person that has all his interests in Pakistan, is questionable. The persons whose families do not wish to move from Pakistan may be categorized as doubtful. Those whose families cannot move from Pakistan, however, may be dealt with leniently, as it is only because of the compulsion of circumstances that the members of their families have not been able to migrate from Pakistan. [129]

Nagar, of the Appointment Section, attempted to clarify the difference between nationality and domicile as he wrestled with administrative definitions and how they determined eligibility of civil servants for office before formal citizenship laws were enacted:

> There is at present no Indian nationality or Indian citizenship law in force; such a law is yet to be enacted. Nationality and domicile are two different things.

---

[129] NAI MHA 43/12/49. Appointments section, N.L. Nagar, policy clarification from September 25th, 1948.

> Persons who have opted to serve in India may not be Indians, and they cannot acquire Indian nationality merely by opting for service in the Indian union. Persons who have served in India can continue in service unless any of them is regarded by the authorities as unsuitable.[130]

There were severe objections within the ministry, and some officials held the view that persons who had opted to serve in India should be given certificates of eligibility to serve in the civil service, since it was a "technical formality" and a host of legitimate reasons existed to "persuade civil servants to leave their families in Pakistan in their ancestral homes rather than take the risk of unsettled existence." Bringing families to India might lead to losing the property the family still possessed in Pakistan, and thereby "aggravate hardship and distress that the officer and his family are already put to by reason of separation." [131] The issue of certificates of eligibility was raised only if someone migrated to India from Pakistan after September 30th 1948, or if they had not been continuously in government service since the day of partition, August 15th 1947. The only consensus between ministry officials was that the determining factor for appointments was "the issue of security."[132] They finally reached an agreement on the procedure, which required that all applicants for a certificate of eligibility give a full and detailed statement of their family members, and that the local C.I.D. and intelligence bureau be consulted before each certificate was issued.

---

[130] Ibid.

[131] NAI MHA 43/12/49. Appointments minutes of U.K. Ghoshal, Deputy Secretary, April 23rd, 1949.

[132] See footnote 77, p. 13.

The debate within the ministry continued as officials suggested that rules for the determination of domicile had to be relaxed and adapted in response to conditions of uncertainty created by the mass movement of population from Pakistan areas to India. It was decided that those able to obtain declarations of eligibility would be limited to candidates who were domiciled in Pakistan, but had moved to be of service to the Indian dominion.[133]

The issue of the location of civil servants' families remained unresolved for the first five years of the republic. One clerk in the office of the Accountant General in Bombay, S.E. Cooper, had failed to bring his family back from Pakistan. He had taken a sick leave, and had left to join his family in Karachi. As his history is recounted in the file, we catch a glimpse into the convoluted journey of government servants who were torn between Pakistan and India, between their position and their family. Mr. Cooper had spent multiple months on sick leave in Karachi before putting forth a plea that no suitable accommodations were provided for his family in Bombay. He asked, for lack of any alternative, for the transfer of his service to the office of the High Commissioner for India in Pakistan. The ministry, in their decision to discontinue the services of Mr. Cooper on the grounds of disloyalty and desertion, came to the conclusion that his plea:

> Obviously points to the irresistible inference that Mr. Cooper never thought, even in his dreams, to make India his permanent home, and that he opted provisionally

---

[133] Persons who had migrated before March 31 from Pakistan with the intention of permanently settling down were regarded as persons who had never lost their Indian domicile, even though they now resided in areas that were now in the dominion of Pakistan. MHA 43/20/50 ESTS, Letter from PVR Rao to Govt. Ministries, January 2nd, 1948.

> for India with definite mental reservations, maybe to avail himself of the maximum leave to which he was eligible and then return to Pakistan to settle there permanently. From what has been stated […] it will be observed that Mr. Cooper is not only guilty of grave indiscipline in having stayed away from office without permission, but he also committed another very serious crime of 'desertion' by slipping away surreptitiously to Pakistan, which for all practical purposes is ostensibly a hostile country. This, taken with his reaction to our orders for bringing back families from West Pakistan, casts a very serious doubt on the loyalty of Mr. Cooper.[134]

The relative ease with which civil servants were declared disloyal (or of doubtful loyalty) because of their familial ties in Pakistan is surprising given the dire need for well-trained and experienced administrative personnel. This necessity was cited repeatedly as a main reason that practices and routines disdainful to the independence movement had been kept intact, and continued to exist in the administrative work of rule in independent India.

The IAS After Independence

The situation of the Indian Administrative Service, the successor of the ICS, from the months before the transfer of power until the end of 1948, was difficult and complex in terms of staff—or, actually, the lack of it. Before World War II, the ICS consisted of over 1000 administrators, and these numbers remained stable during the war. A review of the activities of the Ministry of

---

[134] NAI MHA 25/78/49 ESTS p. 5-7. Decision of the Ministry of Home Affairs on the termination of services of Mr. S.E. Cooper of the ICS on the grounds of disloyalty and desertion.

Home Affairs explained the obstacles in organizing the Independent Indian Administrative service:[135]

The transfer of power and the partition of the country led to the retirement of most of the European officers. On the transfer of Muslims to Pakistan, more than 3/5 of the total number [of administrators] was lost, and the number of ICS officers today is therefore less than 400. The sudden loss of strength created two problems: one with the making of temporary arrangements for carrying on, and the other the organization of recruitment on a scale sufficient to make good as large a proportion as possible of the abnormal gap which had been caused in the circumstances.

Despite attempts by Home Minister Sarder Vallabhbhai Patel to insure continuity of personnel in the civil service after the transfer of power by guaranteeing their conditions and pay (including those of the British personnel in the services),[136] the civil services suffered a tremendous loss of personnel. The need for administrators was a great source of anxiety for both the central and provincial governments. They worried that the administration would be "weakened by the loss of experienced officers," and worked to ensure that members of the Secretary of State service (India office) continue to serve in the government of India after the transfer of power. They did this while keeping their pay scales and making suitable transfers to the provincial government, even though this represented a complete reversal of the Indianization

---

[135] MHA 60/25/49 ESTS. Review of the Activities of the Ministry of Home Affairs 1948. Introduction.

[136] MHA 21/13/47 ESTS. Starred question to Patel in the legislative assembly of India on the 29th of November 1947.

of the civil service that the independence movement had fought so bitterly for. [137] The Governments of Punjab, Bengal and Sind all replied that they confirmed the terms of continuity for British officers proposed by the viceroy and central government.[138] The presence of experienced minds and hands in the civil service enabled continuity of services, but also solidified the routines and practices of the colonial state, and institutionalized them in the new IAS.

In March 1948, a conference of chief secretaries took place that drew up a scheme for emergency recruitment. This would provide for the appointment of an ad hoc selecting authority as a special recruitment board.[139] The emergency recruitment scheme meant that two or three years into the plan, the officers recruited would have gained adequate experience, and the acute shortage of administrative manpower would be relieved in the provinces. Since India's constitution declared a federation of states; a large number of states were merged in the provinces, and integrated into unions. The administrative machinery of the new unions had to be reorganized and standardized with those in the provinces, with the assistance of the newly formed Ministry of States. The plan, devised by the Ministry of States and the Home Ministry, was to extend the All India Civil Service to the states and unions. The extension of the IAS across India created its own set of problems:

---

[137] NAI MHA 45/16/47 ESTS p. 14. Press Communique of the Government of Sind, June 3, 1947.

[138] NAI MHA 45/16/47 ESTS p. 11. Letter from D.C. Das to the Chief secretaries of the governments of Bengal, Punjab and the Sindh.

[139] MHA 60/25/49 EST S. Review of the activities of the Ministry of Home Affairs for the year 1948. pp. 1-3.

> The existence of corruption and nepotism and inefficiency in the ranks of public services cannot be denied. They are not, however, a recent or sudden growth but are more or less a legacy from the past. The situation has undoubtedly been made worse by the war and its aftermath […] and the expansion of India's activities of government.[140]

In addition to the corruption and inexperience of administrators who were recruited in great haste, the Establishments branch of the Ministry of Home Affairs identified several reasons for inefficiency in the administration. The first was that during the Second World War, methods of recruitment for central services had to be relaxed to cope with increased work and imminent deadlines. Therefore, persons with lower qualifications had a chance to enter government service. Another reason was that the ICS never caught up with its recruitment. There had been no decrease in workload since the Second World War, and an increase in administrative work created by the transfer of power and preparations for partition. A memo explained, "The high cost of living means that there's a lot of attention government workers devote to obtain their necessities. So they can't devote their undivided attention to their official duties." Another reason was the transfer of power itself, in which a considerable number of government servants transferred to Pakistan and "practically all European offices belonging to All India services retired from service. Out of 850 ICS officers, only 430 remained." [141] Finally, after the transfer

---

[140] NAI MHA 14/1/49 ESTS. Memo on measures taken by the Home Ministry to deal with corruption and nepotism and inefficiency in the police services.

[141] NAI MHA 14/1/49 ESTS.

of power, almost all of the vacancies had been or were being filled with refugees with no previous knowledge or experience in the work of the central government offices.

Reports and attempts to identify sources of inefficiency did not take into account the model of bureaucracy in the colonial state based upon flexible decision making, dispersed authority, wide discretion given to European officers, and constant institutionalization of emergency measures, which can be identified in the population management practices of the Ministry of Home Affairs after independence. The fact that the ministry attributed the problems to the legacy of inefficiency prevented structural changes to the IAS that could have addressed what I call the "effective inefficiency" (see Chapter 1) inherent to the model of British colonial bureaucracy.

Instead, the ministry enacted measures to combat inefficiency. It replaced unqualified recruits with qualified people. It went to great lengths to strengthen the general registration for emergency recruitment to the Indian Administrative Service and Indian Police. It also reintroduced a competitive examination, which had been the traditional form of recruitment to the ICS, and was initially structured to keep Indian applicants out of the civil services.[142]

Domicile and Religion: The Displaced Employees Transfer Bureau

After partition, every central government servant was given the right to opt for service in either India or Pakistan. Each department was to absorb its employees from Pakistan as much as

---

[142] MHA 14/1/49 ESTS. Brief on measures taken by the Ministry of Home Affairs to deal with corruption, nepotism and inefficiency in the public service, January 14th, 1949.

possible in offices under its administrative control, and any surplus[143] or deficit was to be reported to the Ministry of Home Affairs, which was responsible for intradepartmental adjustments through a new coordinating body called the Transfer Bureau.

The Transfer Bureau was in charge of resettling of the "exodus of non-Muslim provincial government employees that had fled from Pakistan to India" following the outbreak of communal riots. The workload was remarkable, though, so the ministry delegated the task of finding appointments for the refugees from West Punjab and East Bengal to the governments of the divided provinces of East Punjab and West Bengal. The Transfer Bureau assisted the refugee government servants of the Northwestern Frontier Provinces, Baluchistan and the Sind.

Court procedures and representation by lawyers and other non-official refugees who had arrived in large numbers from Pakistan led to the establishment of two more bodies. The Employment Coordination Committee was set up in March 1948 to coordinate the functions of the Transfer Bureau, which was registering government servants and employment exchanges. The Special Employment Bureau was instituted to register highly qualified refugees.

By May 1948, it had become clear to the ministry that certain types of persons registered at the Transfer Bureau could not be provided with employment under the central government, so a fourth body was established: the Employment Exchange, charged with the task of finding

---

[143] The main surpluses created as the result of the option exercise in favor of India were the railways, establishments under the Defense Ministry, the military accounts department and the residencies and establishments in the tribal areas. NAI MHA 60/25/49 ESTS p. 10

employment for the lower ranks of the central government, "mainly by getting rid of people who had been recruited and were unqualified during the war." [144]

The criteria for appointment to the civil service after independence were as follows: one had to be a national of the Indian dominion by birth or domicile, a person of Indian descent, a citizen of the Indian states, a citizen of the Pakistan dominion, or a citizen of any other territory adjacent to India in whose favor a declaration of eligibility had been issued by the government of the dominion of India.[145] Non-Muslims did not need declaration of eligibility. The Home Ministry demanded declarations of eligibility from British subjects and Muslim citizens of Pakistan even though the law[146] did not require it, but the Ministry of Home Affairs instituted the demand for it as a set of executive instructions. K.N. Subbanna assured the ministry that in a similar case, the Ministry of Law did not dispute "the validity of our executive order," despite the fact that it was directed only towards Muslims. When it came to non-Muslims, in order to make it easier to recruit displaced government servants from Pakistan, the ministry of Home Affairs decided in 1949 to relax the rule regarding the domicile of an applicant to a central civil service so that "displaced persons shall be treated as domiciled in the area where they now reside or where they intend to reside permanently."[147]

---

[144] MHA 60/25/49 EST S. Review of the Activities of the Ministry of Home Affairs for the year 1948, p. 12-13.

[145] NAI MHA 43/8/49 ESTS p. 7. Home Affairs Resolution 16/10/47 ESTS (R)

[146] Section 262 of the Government of India Act, 1935

[147] NAI MHA 16/22/49 ESTS p. 10. Monthly report of activities of the Ministry of Home Affairs for December 1948.

The citizenship of displaced government workers who migrated from Pakistan was determined by the cut off dates of articles 5-9 in the Indian constitution,[148] as long as they had resided in India six months before the cutoff date in July 1948. In August 1947, the ministry declared that citizens of Pakistan could not work for the government without a certificate of eligibility,[149] yet no one in the ministry knew what a certificate of eligibility was, what it should look like, or how to carry out the procedure. It was a category established to monitor Muslim government workers, but it created an obstacle for the ministry regarding recruitment of non-Muslim civil servants who were still considered residents of Pakistan, had been evacuated to India, and could not be treated as citizens of India for purposes of appointment.

Government workers had to obtain certificates of eligibility that confirmed their status, but the requirement was waived for some: "Non-Muslims belonging to Pakistan who have migrated to India may be deemed citizens of the Indian dominion. It is not necessary to issue declarations [of eligibility] in their favor. They may be appointed straightaway."[150]

In order to solve this problem of outright discrimination, a domicile questionnaire was developed. It was an elaborate one, in which candidates were asked where their father was born; what his permanent residence was at the time of his birth; where his father died; if his father had ever been in East Punjab/West Bengal; in what capacity did he come to East Punjab/ West Bengal; where was he educated; how often he left the province; if his parents had immovable

---

[148] These articles comprise Part II of the Indian constitution that was brought into effect before the constitution enactment in 1950 to solve issues of status and citizenship.

[149] NAI MHA 43/17/47 Resolution no. 16/10/47 ESTS (R), dated August 21, 1947.

[150] NAI MHA 43/17/47 ESTS p. 3. Minutes by P.V.R. Rao on December 2, 1947.

property in East Punjab/West Bengal (and if so, the candidate was asked to describe the property and its value); where the candidate was born; if they had ever been back to their native land; and if his wife had ever been back to his native land. [151]

Despite the desperate need for experienced administrators, foreigners could not acquire Indian nationality by domicile, thereby enabling them to serve in the civil service, because "the definition of the term 'Indian national' and the rules governing it have yet to be evolved by the constituent assembly of India,"[152] so civil servants who were foreigners (such as those domiciled in Burma or Ceylon, as well as Britain) needed a special declaration of authorization.[153] They were classified as "non-Indians," since the term 'British subject' did not grant status after independence. Issues of identity continued to affect the civil service through the 1950s, when citizenship was stabilized by both formal citizenship laws and Supreme Court decisions that prevented blatant discrimination against displaced Muslims.

As I have demonstrated, a combination of urgent need for administrators at a time of emergency, practices of classification according to loyalty and suspicion, and discrimination on the basis of racial and religious categories all created conditions in which the practices and routines of the colonial bureaucracy, formerly abhorred by leaders of the independence movement for their discriminatory nature, continued and even intensified under the Ministry of

---

[151] NAI MHA 10/9/ 47 APPTS. Copy of domicile questionnaire sent to Mr. S.C. Roy, who applied for a position in the ICS, by Abdullah Jan, Ass. Secretary to the govt. of India on July 21st 1947.

[152] NAI MHA 43/8/49 ESTS. K.N. Subbanna, December 12th, 1948.

[153] NAI MHA 43/8/49 ESTS Note of C.B. Gulati at the Ministry of Home Affairs on the case of F.L. Wakefield, October 13th, 1948.

Home Affairs. However, the situation was very different in Palestine, where, after independence, former Palestinian civil servants were not part of the equation of potential staff. Over 90% of Arab civil servants had fled in the wake of the violence of the war, and others, excluding a negligible minority, were not seen as possible candidates—they simply fell off the organizational chart of the new Israeli Civil Service.

Civil Service: Mandate Palestine

In Palestine, the number of Jewish clerks in the colonial government was a constant source of anxiety for a Jewish leadership that relied on them for intelligence and procurement of more immigration certificates for Jews to Palestine— the principal task, besides acquiring land, of Jewish organizations focused upon building a Jewish national home.

Classifications based upon identity played a prominent role in encouraging Jewish recruits into the colonial government. Jewish Agency officials blamed low ratios of Jews in the civil service on British categorization according to nationality or race, rather than religion. In 1937,[154] a worried David Gurevitz, the head statistician of the Jewish Agency, wrote that the government did not easily supply statistics on the subject, and found that different categorizations of staff, based upon religion or nationality, made a difference in the enumeration. The British categorized the civil servants as Jews, Arabs and others; the Jewish agency categorized them as Jews, Arabs, Christians and others. Gurevitz's method of collecting statistics

[154] Central Zionist Archive, Jerusalem, S19-216. Letter from Gurevitz to the Political Department of the Jewish Agency dated 4/23/1937. The low-tiered officials were given in a letter from 4/14/1938. Gurevitz explains that while the statistics of high-ranking officers appear in the blue books and bulletins, there was little access to mid- and lower-tiered officials.

on the number of Jewish staff was to go through colonial government staff lists and find them by the spelling of their name.

Table 2: Civil Service Staff in the Mandate Government of Palestine for 1937[155]

Category	**Jews**	**Arabs**	**Other**	**Total**
High-Ranking Civil Servants	1245	2957	534	4736
Low-Ranking Civil Servants	1213	7764	2058	11035

The government apparatus, at the end of the British mandate, encompassed approximately 29,000 gazetted employees and 9,500 temporary employees—British, Arab and Jewish. After independence and during the war in 1948, 85% of government workers disappeared. 5,200 Jewish civil servants remained (4,500 clerks and service workers; 700 police officers). The new state apparatus needed 8,000 people, who would come from former mandate officials, Jewish Yishuv officials, and workers of the labor unions and parties. Most decision-makers thought that using Mandate clerks was most efficient because of their knowledge and expertise (Braun 2006: 46). While their expertise was respected, the new Israeli government held a bifurcated view: some of them were not to be trusted, for they had served the British too well, did not demonstrate full loyalty to the Yishuv, and were viewed as corrupt because they accepted bribes.

[155] Ibid. Table compiled from the notes of David Gurevitz, from multiple sources and reports of the Government of Palestine and Jewish Agency statistics for 1937.

Loyalty and Suspicion: The Purification Committees of Colonial Civil Servants

Two days after independence, during the very first meeting of the temporary government, Bechor Shitrit, who would be appointed as Minister of Police, voiced the need for "purification" of the civil service. Legal historian Nathan Braun discovered this dark episode, and I relied heavily upon his research for this section as I investigated the state archive. However, Braun's understanding of this episode, as well as that of other historians who have investigated the civil service during the British mandate, contends that this process was unique, a dark spot in Israel's checkered past, in which suspicion and the quest to determine loyalty amounted to witch-hunts of former civil servants in the British colonial government. My analysis is very different. I demonstrate how these practices of determining loyalty and suspicion were not only far from unique to the Israeli case, they were also the product of a colonial legacy of classification based upon suspicion that has manifested in each of the cases I have studied.

In the 1920s, only 23 % of the officials in the mandate were Jews, but the percentage of Jews in the upper ranks of the civil service consistently exceeded their share of the population (De Vries 1997:375). The number of Muslim Palestinians increased during the 1930s and 1940s, but there were far more Christian Palestinians in service of the colonial government than represented by their numbers in the population (Hareuveni 1993:109).

At the end of the mandate, the civil service included 29,000 permanent employees and 9,500 temporary employees. Following the Israeli declaration of independence, the war, and British departure from Palestine, 85% of the employees of the Mandate government were gone. Of 12,000 Palestinian civil servants, some members of the upper ranks found placement in the administrative apparatus in Jordan, and those who went elsewhere could secure an economic

future for their families for the first years of exile because of pensions and arrears paid the by British government that amounted to over 10 million dollars (Badran 1980:52). Although one quarter of Palestinian civil servants in the mandate government were from the Palestinians, political elite, only some of the senior officials engaged in political activity for purely nationalist motives; only some used their positions on behalf of the nationalist movement. The majority of the senior officials in the government departments in Jerusalem did not engage in intense political activity when they were in the service (Al-Hout 1979). Scholars agree that almost all the Palestinian political elite left with the UN endorsement of the Partition Plan (Smith 1986).

At first, it was unclear whether Palestinians would be able join the Israeli civil service at all. In a secret emergency plan for the establishment of the apparatus of the Jewish State, designed by the situation committee that was in charge of plans for the administrative transitions to independence, a principle guideline defined the role of Arabs in the civil service from February 1948 on. They could not be recruited to higher ranks than they had been appointed to in the Mandate government, and they would "have to be under constant supervision and surveillance." The government was to announce that it wished to provide services to the Arab population, but that it would be dependent upon "the loyalty and cooperation of the Arab administrators." [156] This plan was devised as a transition at the end of the Mandate. Three months later, following the declaration of independence, most civil servants had fled or been expelled in the civil war that ensued. Very few Palestinians remained in the state civil service, and those who had managed to stay found employment on local levels.

---

[156] ISA G/110/35 p. 13. Emergency plan for organizing government apparatus, February 8th, 1948.

Most of the Israeli political leadership believed that administrative appointments should come from former civil servants of the Mandate; they had expertise and administrative knowledge, and the Jewish establishment had worked tirelessly to get them into the civil service and increase the number of Jews who ran the state.[157] On the other hand, they were seen as people who had collaborated too closely with British colonial rule, had not been inherently loyal to Jewish organizations, and, at times, had been prone to corruption. Their neutrality and the fact they spoke mostly English, along with the British cultural markers they had acquired, turned them into strangers or foreigners in the eyes of the Jewish establishment leadership. The decision to screen former Mandate civil servants in order to determine their loyalty came with a high cost. It was decided that administrators who had served in the Mandate government would be recruited after their "ability and integrity was verified." The Jewish administrators and clerks who had worked in the Jewish establishment (the Yishuv) did not have to go through such a process. [158]

The purification committees that determined loyalty worked for two years across the country, as thousands of former civil servants of the colonial government experienced the precarious uncertainty of being fired from their positions pending the decisions of the purification committees. Before setting up purification committees, the situation committee, which included the heads of the Zionist establishment that was planning a transition into an

---

[157] Increasing the numbers of Jews in the government of Palestine included paying extra salaries to civil servants and police who were paid low wages.

[158] ISA G/ 110/35 p. 34. Protocol of the situation committee on administrative apparatus, March 17th, 1948, Jerusalem.

independent state, decided that a file should be opened for each Jewish administrator in the Mandate government, which would include profile reports from the secret service of the Hagannah (the militant arm of the Jewish establishment). Anonymous reports began to flow into the apparatus committee. It was decided that Pinhas Rosenblit, who was to become Israel's first Minister of Justice, would head the inquiry into the Mandate civil servants and decide who could continue to work in the administration, who was undesirable, and for whom inclusion in the new state apparatus should be prevented (Braun 2006: 55). Two days after the declaration of independence, Rosenblit and a group of lawyers assembled as a committee began to fire former civil servants of the Mandate.

In June 1948, the new People's Council promulgated an ordinance that declared that all administrators of the Palestine government would continue to serve temporarily in the Israeli administration, and granted authority to any minister to fire or transfer a civil servant "without declared reasons and immediately."[159] Two weeks following the ordinance, a set of rules was promulgated that established investigation committees charged with "investigating the abilities and personality of anyone intended to serve the state of Israel."[160]

Members of the investigation committees were chosen as representatives of the political factions in the People's Council. The committees had authority to check the bank accounts and financial situations of each civil servant who had served the Mandate in order to discover "elements of corruption." A week after the appointment of the committees, an advertisement in

---

[159] Palestine Government Employee Ordinance, 1948, Official Gazette 4, Supplement 1, June 9th, 1948.

[160] Palestine Government Employee Regulations (Investigation Committees) 1948. Official Gazette 9, Supplement 2, July 14th, 1948.

Haaretz, a widely-read newspaper, urged the public to supply information to the committees and aid them in their task to "evaluate the personal traits of the candidate that had served the former Government of Palestine, and decide who among them is deserving to serve the government of Israel."[161] The committees did not inquire about the candidates' professional capacities, but were concerned only with their personality and integrity.

The committees classified the candidates into three categories. The first category contained those who were accepted into the new civil service, since no evidence was received about them and no doubts or suspicions were raised against them. The second category held candidates who may have accepted unsubstantial bribes; it was assumed that they were not prone to corruption, but had succumbed to it in the corrupt environment of the last days of the Mandate government. This class was used to indicate minor suspicion or doubt, and was conditionally accepted, though they were to be surveyed and scrutinized closely. In the third category were administrators the committee had evidence against; they were fired.

The committees' hearings were held in secret, and civil servants were prevented a hearing to answer to allegations against them. The secret service was requested to supply their files, including anyone on "their blacklist." Following a public outcry, when more than ten percent of former civil servants were dismissed and another 10% were classified as doubtful or suspicious, the state established an appeals committee (Braun, 64).

The former Mandate police officers were hit the hardest, when hundreds were classified in the third category and fired. The police officers mounted protests and petitioned the Supreme

---

[161] Haaretz, July 21st, 1948. (Quoted in Braun 1996:60).

Court against the purification committees. The Supreme Court decided that the practices of committees were not based upon fair administrative principals, and it was unclear whether decisions had been based on evidence or made arbitrarily. When the government did not respond to the ruling, the fired police officers attempted, in protest, to take over the main police station in Tel Aviv. They were dispersed by tear gas and later arrested.

The government decided to go ahead with firing the police officers, but created an appeals committee to hear their appeals. The appeals committee discovered that the reports of the secret service had much less to do with corruption and much more to do with the civil servants' reluctance to cooperate and collaborate with the Jewish establishment against the British—or those who had been neutral or taken the side of the Arabs in civil disputes between Jews and Arabs during the Mandate epoch. The appeals committee reversed some of the decisions (Braun 2006: 87-88).

The purification committees marked a fascinating episode in the making of the Israeli civil service and the obstacles faced in the transition from colonial rule to an independent administration. As we shall see, in Cyprus, similar to India, suspicion was directed on a communal basis; but in Israel, the Palestinians were not considered part of the relevant pool of candidates for civil service, and practices of classification and suspicion were directed internally, within the Jewish community. The classification of former civil servants of the colonial government as suspicious or of dubious loyalty was in direct relation to their commitment to the institutions of the Yishuv. These tests of loyalty and commitment to the Israeli national cause differed with regard to treatment of those who had served in the colonial civil service in India and Cyprus during transition to an independent administration. In India and Cyprus, colonial civil servants were viewed as apolitical and professional. Questions of loyalty and suspicion

were directly linked to communal identity and religion, and were exacerbated by partition plans. In Israel, the range of classification of civil servants' loyalty did not include Palestinians at all.

The Colonial District Commissioner in Transition to Democracy

Despite suspicion of former civil servants of the government of Palestine, in some ways, the new state leadership relied heavily upon the cumulative experience of civil servants during the Mandate. One particular type of experience viewed as imperative was that of the district commissioner. A fierce debate between officials at the interior ministry and the minister of minorities, Behor Shitrit[162] addressed the clash between the ease and necessity of using the practices and routines of the colonial government and the desire to incorporate the values and principles of a new democratic state into the administration. The debate demonstrated how continuity of administrative practices, authority structures, and routines curbed possibilities of administrative change in the early years of the Israeli civil service. I quote extensively from this administrative debate because it represents a rare historical moment in which the structure of bureaucracy and regime transition from colonial rule to independence were discussed in political and institutional terms.

Shitrit, writing to the entire government,[163] argued that keeping the role of district commissioners would maintain practices of colonial rule and prevent the development of democratic administration. If district commissioners continued to govern as they did during the

---

[162] ISA G/ 2201/ 6. File on the role and authorities of the district administration.

[163] ISA G/ 2201/ 6. Letter from Behor Shitrit to ministers (מז/מע/69), October 1948.

Mandate era, he argued, the interior ministry, to which they reported, would eventually gain authority and control over all other areas of government, which needed to be managed under other ministries.

Shitrit reprimanded officials of the interior ministry for their plan that the district commissioners continue their authority over the population, all for the sake of saving funds and administrative resources, and only because "the district commissioners have many years of experience in the district governorate, they will know to consult, train, comment and coordinate between the different branches of government."[164] He wrote with some irony:

> This ambiguous administrative plan will create a situation in which the power of the district commissioner in the district will be stronger the power of the Minister of Interior in the state, because the minister will represent only his ministry while the district commissioner will represent the entire government.

Shitrit explained that the commissioners had arrived at their administrative positions only because they were local police officers who had been accepted by the Jewish settlers in each district. They did not have proper administrative training, and remained in their positions only because the colonial government assumed that public and political conflicts could be resolved by them, and only by them. Beyond his critique of the commissioners' lack of administrative capacities, Shitrit's main argument was about the necessity of breaking with the practices of the colonial government:

---

[164] ISA G/ 2201/ 6. Memo from Minister of the Interior in the interim government, Yithak Grunbaum, September 12th, 1948.

> To the heart of the issue: every administration is connected to governmental tendencies. Despite the fact that the government we had in our country was called a mandatory government, it was a colonial regime, and its tendencies were particular and steady to establish and carry out an administration that suited the tendencies of British colonial rule. To achieve that, there was a need for a high commissioner as the representative of the colonial government in the country, the district commissioner as the representative of the high commissioner, and the Mukhtar clerk as the representative of the crown in the village.

He demanded that independence be reflected in the administration:

> We have been liberated from the mandatory government and have entered an independent democratic regime, and we have the power to establish an administration suitable to the new life.
>
> The proposal continues or perpetuates the colonial administration, in which the various departments of civil servants are subservient to the district commissioners, who are subservient to the high commissioner or the governor general. In that type of regime, there is a satisfactory guarantee for the supervision of the center of all life cells in the state, and that is what a colonizing government, whose political interests are more important than the level of efficiency of service to public, is interested in. A foreign government enjoys and upholds this type of administration because it caters to its needs.

Shitrit highlighted the differences between administrators chosen by the colonial government and those staffing the civil service in the independent Israeli government:

> Let us not forget that the British administration justified the concentration of departments in the hands of the commissioners under the pretext that there were no local administrators capable of managing the administrative departments independently, and I do not think there is a place for such a notion in our regime regarding the administrative personnel in our new state.

One of the main concerns in retaining the office of District Commissioner was the lack of administrative expertise and sabotage of central authority at the local levels of administration. Shitrit wrote:

> I assume that the type of regime that is becoming institutionalized is a democratic type regime whose tendencies are to fulfill the public's need through efficient services. The services of a modern state are various and numerous and their implementation requires knowledge and expertise. One cannot assume that the district commissioner is an expert and has knowledge in all the different services in the state. Therefore, it is imperative that at the head of the ministry and departments will be responsible for expert staff. Only then can the minister be responsible for the results of the administrative workers in the branches of the ministry. The minister's responsibility towards the government will not be complete if there is an institution of District commissioner that separates him from the administrative staff, which is not under his supervision; and which, as a result, will harm the mutuality and affinity between the minister and the heads of the branches.

The interior minister's reply paints a complicated picture of the administrative regime in the early days of Israeli independence—one that incorporated civil and military rule into an administration in a struggling democratic state with colonial structures of power. The first problem with Shitrit's demand to do away with the colonial position of district commissioner was that alongside the democratic state for the Jewish Citizens of Israel, a regime of military rule governed the Palestinian minority which remained after the war.

The interior minister explained that the need for district commissioners was created by "realities on the ground." The lack of coordination between district commissioners and military forces created havoc. The military had relocated and transferred populations, blown up homes, and committed other acts that could have been carried out less violently and with the cooperation of the [Palestinian] population, which would have cooperated with the district commissioners. [165]

For the interior minister, retaining the district commissioner was crucial because of the role's ambiguity, flexibility and close ties with the population. The minister agreed that colonial authority was not entirely compatible with administration in a democracy, but it was necessary and indispensable, in his view.

The district commissioners themselves were most acutely aware of their hybrid administrative role in the transition from colonial rule to independent government, which included the military government ruling over the Palestinian minority. The district commissioner

---

[165] ISA G/ 2201/ 6. Memo from Interior Minister in the interim government, Yithak Grunbaum, September 12th, 1948.

of Galilee warned the legal adviser of the interior ministry about the lack of boundaries between military law and civil law in his district:

> Right now, there is not really a defined boundary between military law and civil law, and there is a danger that the military will gain control over purely civil authorities. I am sure the security forces are saying that we are living in exceptional times, in a state of emergency, but the problem is, these temporary arrangements take hold and remain. Impediments on civil rights and civil issues very quickly become a custom. The district commissioners can be different and act as a liaison between the military and the civilians, and where the ministry of defense does not have representatives, we can represent them. [166]

After independence, the debate in the Israeli administration about the transition from colonial role to democratic administration, along with the scope of colonial practices and legacies, represented an internal conflict within the Jewish community. Communal rivalry for posts and power in the government of Palestine no longer existed, because the Palestinian civil servants had fled, or were in no position to petition for administrative posts as refugees or displaced persons.[167] The situation was very different in Cyprus, where communal clashes over

---

[166] ISA G/ 2201/ 6. Memo from Galilee District Commissioner Barkay to the legal adviser of the interior ministry, September 21st, 1948.

[167] In the files of the situation committee that was in charge of transition of the administrative apparatus from colonial rule to independent state, there are thousands of applications for posts. I found only three from Palestinian civil servants who had served in the government of Palestine. This is either because they did not apply for posts, or perhaps their petitions were not filed at all. See ISA files G/107/9; G/107/10;

posts in the civil service were one of the reasons for the collapse of the republic. A brief history of the civil service in colonial Cyprus is in order.

Civil Service: Cyprus

Contention about communal identity in Cyprus escalated starting in 1955, as the Greek Cypriot campaign against British rule and the demand for *enosis* turned into a military uprising. But this contention had much earlier roots. During the rule of the Ottoman Empire, only Turkish Muslim Cypriots could serve on the Cypriot police force. When the British ruled the island after the First World War, recruitment to the police force gradually reflected population ratios. In 1954, the police numbered 1,397, of which sixty percent were Greek Cypriots and less then forty percent Turkish Cypriots. During the emergency declared in 1955 that continued until independence, the ethnic balance of the security forces became a crucial issue influencing the violent political outcomes in independent Cyprus.

The EOKA campaign targeted Greek Cypriots in the police force as collaborators with British rule. The campaign, coupled with an immediate need to expand the police force to sustain colonial rule on the island, caused a dramatic shift in the racial identity of the police, as it led to a massive recruitment of Turkish Cypriots. Shown in Table 2 below, within two years, by 1957, the police force had doubled in size, with fifty one percent Turkish Cypriots, twenty percent British officers, and only thirty percent Greek Cypriots. As we shall see, after independence,

---

G/107/11; G/107/12; G/107/13; G/107/14; G/ 107/15; G/107/16; Some petitions for employment on a local level are found in the files of the ministry of Minorities in 1949.

vigorous efforts to restore the majority of Greek Cypriots in the police and gendarmerie[168] were part of the struggle over identity and control of the civil services, which administratively stifled the new republic and represented a major cause of its implosion into inter-communal conflict.

Table 3: Cyprus Police Numbers during the Emergency 1954-1959 [169]

	1954	1955	1956	1957	1958	1959
Cyprus Police*	1,397	1,838	2,417	2,692	3,014	2,278
Greeks	62.0%	54.6%	28.8%	30.0%	30.5%	49.0%
Turks	37.0%	39.9%	46.9%	51.0%	47.4%	36.5%
Expatriates	0.5%	4.5%	23.0%	18.0%	21.0%	12.5%
Auxiliary Police	–	1,084	1,417	1,362	1,594	+
Mobile Reserve	–	165	569	580	523	+
Special Constables	154	750	1,475	560	304	+
Total	1,551	3,837	5,878	5,194	5,435	2,278

at 12:3 / 25 October 2012

A few years later, at the time of independence in 1960, partition was a mere political possibility that had been rejected in the series of international agreements that brought independent Cyprus into being. The Greek Cypriots accepted independence to prevent the partition of Cyprus, while the Turkish Cypriots accepted independence in order to prevent enosis, which was one of the

[168] CSA/M.I/284/1960 p. 12. Letter from A.D.J. Muftizade, undersecretary of the vice president to the minister of interior, concerning a decision to fire Turkish Cypriots from the police, November 1st, 1961.

[169] Figures calculated from Cyprus police annual reports, 1954-1959, in David Anderson (1993): "Policing and Communal Conflict: The Cyprus Emergency," 1954-1960, the Journal of Imperial and Commonwealth history, 21:3. 177-207.

main conditions in the Treaty of Guarantee, one of the three international agreement that upheld the Cypriot Constitution.[170]

The transfer of power from colonial government to independent republic on August 15th, 1960 further entrenched the dichotomy of racial and ethnic identity of Turkish and Greek Cypriots in constitutional arrangements and official documents. The official languages of the republic were declared as Greek and Turkish: civil servants were instructed that correspondence with the public must be in Greek if the person addressed was Greek, in Turkish if the person addressed was a Turk.[171] Correspondence within the government was in English, even though it was not an officially-recognized language.[172] Civil servants who failed to comply with the language requirements, such as a commander of the army and a superintendent of police who communicated in Greek, were scolded and reprimanded for not conducting official correspondence in English, or in both Greek and Turkish.[173]

Representations about language, especially from Turkish villagers, were continuously made during the three years of the republic. The vice president wrote with concerns that "on many occasions, letters and forms sent to them by government offices and departments [were] in

---

[170] Treaty of Guarantee http://www.coe.int/t/dghl/standardsetting/nationality/National%20legislation/CyprusTreatyConcerningEstablishmentofRepublicofCyprus.asp

[171] CSA/MI/ 208/1960 p. 8. Ministry of Interior directive to police, rmmigration and Registration officers. September 27th, 1960.

[172] CSA/MI/ 208/1960. Office instruction to all members of government staff, August 15th, 1960.

[173] CSA/MI/208/1960 p. 7. Ministry of Defense to Ministry of the Interior, April 5th, 1962.

Greek and that, therefore, they [were] finding it difficult to understand their contents and to comply with them."[174] The language barrier proved more acute than had been expected during negotiations toward independence. Official titles, ranks and authorities became confusing and controversial issues; this happened when the title of district officer was mistranslated into *komisar* and *kaza amiri* (titles that grant greater power in Turkey). The translation led to confusion among the Turkish Cypriot public about the scope of authority the district official actually had.[175]

Discussion over titles related directly to the continuity of the colonial regime and the broad authority vested in district commissioners during colonial rule. The transitional committee decided to abolish the role of district commissioners and replace it with district officers "that would not, like the commissioners under the colonial regime, represent government in the districts."[176] *Kaymakam* would have been a suitable Turkish title to describe the work of the colonial district commissioner, but it did not reflect the transition to district officers. Finally, after tedious correspondence, the title agreed upon was *kaza amiri*.

---

[174] CSA/MI/ 208. p. 45. Muftizade to president and attorney general, May 14th, 1963.

[175] Translation of titles was a painstaking task. The title of "district officer had been translated into *komiser, kaymakam, idare, memuru, kaza memuru, idare amiri, kaza amiri,* and more. In Turkey, provinces (vilayet) are under the charge of a governor (vali) and districts (kaza) within the provinces are under the charge of district officers (kaymakam). After vigorous debates, the district officer of Famagusta decided to adopt the title kaymakam. CSA/M.I/208/ 1960. District officer Famagusta to Ministry of Interior, September 15th, 1960.

[176] CSA/MI/208/1960. Letter from undersecretary to the vice president Muftizade to Pantalides, Ministry of Interior, October 24th, 1960.

Following independence in 1960, the identity of civil servants in the new republic was a primary point of contention between the Greek Cypriot majority and the Turkish Cypriot minority. One of the pivotal problems in the Cypriot constitution, which contributed to the constitutional collapse of the republic in 1963, was a communal quota of civil servants from each ethnic group. The constitution's Article 123 designated elaborate delegation of political, judicial,[177] and executive roles, including division of the civil service into seventy percent Greek Cypriots and thirty percent Turkish Cypriots. The 70:30 ratio in the civil service proved impossible to implement, allegedly because of a lack of trained Turkish Cypriots. Without launching a training and capacity-building program, Greek Cypriots were not willing to engage. The ratio applied not only to the total number of civil service jobs, but to the number of jobs in every department.

The Public Service Commission spent inordinate amounts of time dealing with contested appointments, while the ministries, particularly the interior ministry, were understaffed and demanding that positions be filled to aid them in their work. The Public Service Commission had very little room to maneuver itself because of communal quotas. The commission was comprised of seven Greeks and three Turks, "but [could] not take any decision relating to a Turk (even if voted for by the majority of the commission consisting of seven Greek members) without the

---

[177] Judicial appointments were considered public service appointments for the purposes of the ratio clause (article 123 of the constitution). See CSA 284/1960 p. 8. Report of the committee for the implementation of the 70:30 ratio in the civil service, December 5th, 1960.

consent of at least two out of three of its Turkish members."[178] A desperate letter from the administrative officer of the interior ministry to the commission demonstrates the desperation created by the failure of the public service commission to make appointments to the civil service:

> There is great concern at the undue delay in posting the administrative staff, which is long overdue. You are aware that the number of administrative assistants allocated to the ministry for 1962 is six, whereas the number serving at present is three. Interviews with the public amount to 50 daily. Most of the time is spent with village authorities and other members of the public who resort to this ministry for the solution of their problems. Although the staff has gladly undertaken the additional work, time has proved insufficient to cope with the increasing volume." [179]

The administrative officer requested that a Greek Cypriot administrator with previous district experience be approved immediately, yet the senior administrative staff of the interior ministry had served from the 1930s and 1940s, and continued their service after independence. A.K. Anastassiou had joined the civil service in 1931, and was appointed Director General of the ministry in 1961. The migration officers appointed in 1961 had joined the service in the late

---

[178] CSA/M.I/178/1960/2 p. 47. Minutes by the attorney general of the republic regarding the municipal corporation law.

[179] CSA/MI/290/1960 p. 153. Letter from A.K. Anastassiou to the chairman of the Public Service Commission, May 1st, 1962.

1930s. They were all Greek Cypriots,[180] so appointment of a Greek Cypriot with prior experience was legally impossible.

The implementation of the 70:30 ratio was also used to by Greek Cypriots as a method to reverse actions of the colonial government, such as the recruitment of Turkish Cypriots to the police force. An angry letter from the vice president to the interior minister condemned political use of the ration clause:

> With a view to implementing the 70:30 ratio amongst the civilian staff employed in the police, certain daily paid employs, such as cleaners, have been given notice. The posts vacated by them have been filled by members of a community other than that to which the dismissed laborers belong. As no such similar action has been taken in other ministries where the proportion between Greeks and Turks is against the Turkish community, the vice president is very concerned that in the police and gendarmerie, where the proportion is in favor of the Turks, efforts have been made to replace Turks with Greeks."[181]

The vice president demanded the reinstatement of the Turkish Cypriot cleaners, to no avail.

Despite the fact that there was a lack of trained Turkish Cypriots to fill in the quotas, Turkish Cypriot political leadership insisted that the letter of the constitution be fulfilled, and Greek Cypriots refused to offer training to Turkish Cypriots. From application forms to the

---

[180] CSA 220/1960 p. 32-45. Staff list of the Ministry of Interior, 1962.

[181] CSA/MI/ 284/1960 p. 12. Letter from ADJ Muftizade, undersecretary for the Vice President to Minister of the Interior, November 1st, 1961.

public service commission, the gap between Greek and Turkish Cypriot applicants was quite evident. While education was comparable (Turkish Cypriots were usually educated at Universities in Turkey, while Greek Cypriots were educated in British Universities, or in Greece), the work experience of the Greek Cypriot applicants was far superior. They had previous employment experience in administration, ability to type, and knowledge of shorthand, while the Turkish Cypriots had good educational backgrounds, but very little experience. [182]

The number of staff from each community were counted and recounted in every department, the totals of each type of position summed up by for each community[183] (G indicated Greek Cypriots and T indicated Turkish Cypriots. For example: registrars - G=8, T=4; court ushers G=22, T=10, and so forth), reflecting the constant preoccupation of the civil service and political representatives with staff according to the constitutional ration. Even questions on examinations that tested prospective district inspectors dealt with the communal quotas:

> "The village of Pissouri has a population of 500 Greeks and 27 Turks. The district officer has appointed 5 Greeks as the Christian village commission and 5 Turks as

---

[182] CSA/MI/290/1960 pp. 215 – 268. General form 103, applications and personal records of interchangeable staff.

[183] CSA/MI/284/1960 pp. 6-7. Report of the committee appointed to make recommendations for the application of the 70:30 ratio in the civil service, Establishment Office, October 3rd, 1960.

the Moslem village commission. Is the action of the district officer in accordance with the provisions of the law?"[184]

While the political contestation of the ratio was vocal and vehement, the statistics show that in December 1963, the ratio was actually not far from being fulfilled.

Table 4: Number and Percentage of Greek and Turkish Cypriots in the Civil Service, December 1963[185]

Public service	Government officers	Security & Police	Independent authorities	Population (census 1960)
Greek Cypriots	4041 / 75.2 %	1499 / 63.8 %	1785 / 78.7 %	448857 / 81.1 %
Turkish Cypriots	1331 / 24.8 %	851 / 36.2 %	482 / 21.3 %	104350 / 18.9%

Within three years (1960 – 1963), over two thousand civil service appointments had been contested on communal grounds and brought before the constitutional court. Due to this constant preoccupation with the communal identity of the civil service, the administration was on the verge of breakdown. In November 1963, President Archbishop Makarios submitted thirteen proposals for the amendment of the constitution entitled "Suggested Measures for Facilitating the

[184] CSA/MI/159/1963/A/1 p. 49. Examination in statute law for assistant district inspectors and administrative assistants.

[185] Table compiled from summary of statistical data for 1960-1963, CSA/MI/82/1960 p. 86-88. In the original data, classification is of Greeks and Turks, and not Greek and Turkish Cypriots, as I have labeled them.

Smooth Functioning of the State and for the Removal of Certain Causes of Inter Communal Friction."[186] The measures were justified by "the separatist nature of the constitution," which included separate municipalities for Greeks and Turks and communal chambers charged with legislative and executive authorities on matters of religion, education, cultural affairs, and personal status. The Greek Cypriots considered the provision for separate municipalities, which were to be elected by their respective communities, "unworkable."[187] The attorney general wrote in his report:

> It was impossible to define the geographical areas based on communal criteria. There are not areas exclusively inhabited by Greeks or Turks, and the inhabitants are intermingled. Greeks are living side by side with the Turks, and the ownership of property does not follow the pattern of communal areas.[188]

The most important point for Greek Cypriots was the ratio in the civil service, particularly the rigid provision whereby 30% of the posts in public service and the security forces, and 40% of the posts in the army, should be reserved for the Turkish Minority to create a discrimination favorable to the Turkish minority and unfavorable to the Greek Majority.[189] Measures in the 13-point proposal included abolishing the communal ratio in the civil service.

---

[186] Turkish communal chamber, the Turkish case, 70:30 and the Greek tactics (Nicosia Halkin Sesi, Press LTD, 1963.

[187] CSA/M.I/178/1960/2 p. 42.

[188] CSA/M.I/178/1960/2 p. 43.

[189] CSA/M.I/178/1960/2 p. 15.

Following the inter-communal troubles in 1963, Turkish Cypriot civil servants left their posts in protest. Later, they were prevented from returning to their posts in the civil service, which created the need for a separate Turkish Cypriot administration within the twenty-eight enclaves that remained under siege until 1968.[190] The clashes, also called the "Turkish rebellion" by the Cyprus government, changed the face of the civil service, which lost its Turkish Cypriot staff all at once, since the Turkish Cypriot civil servants who left were prevented from returning to their posts. The situation of the police was described in a ministry report: "the police force, which was seriously understaffed, comprised only of its Greek members, displayed many virtues and faced with incomparable courage, self-sacrifice and devotion the Turkish rebels." [191]

In Cyprus, the clashes of 1963 marked the moment at which the civil service ceased to be bi-communal in any significant way. In 1964, the Supreme Court declared that suspension of the articles in the constitution guaranteeing representation (including the 70:30), along with the absence of Turkish Cypriots in government, was constitutional because of a "doctrine of necessity" that justified suspension of the law for the sake of maintaining the order of the state.[192] As we shall see in the next chapter, from that moment until the Turkish invasion and the partition of the island in 1974, Turkish Cypriots created their own civil administration that governed their enclaves.

---

[190] Interview with Ziam Nicagil, Nicosia.

[191] CSA/M.I/ 20/1964 p.180. Review of the activities of the Ministry of Interior from the establishment of the republic until December 31, 1965, by the minister of the interior, p. 5 (F).

[192] Attorney General of the Republic Vs. Mustafa Ibrahim, 1964 CLR 195

Examination of the classification and plight of civil servants during transition from colonial rule to independent state, in the wake of plans for partition, produces very different insights from study of the actions the civil service performed. Turning the gaze toward the way the state administration saw itself, we can better understand the relationship between British colonial legacies of administration, communal conflicts, and the impact of those legacies on the administration of the independent states. In India, minority civil servants underwent a regime of suspicion and doubt based upon their communal belonging, yet during the first decade after independence, found possibilities for establishing themselves in the independent republic. In Israel, where the Palestinian minority was ruled by a military government until 1966, the role of Palestinian civil servants was negligible, usually made possible only if they were considered collaborators or useful to the Jewish state establishment. Palestinian civil servants of the Mandate government had left in the wake of the violence in 1948, and inclusion of the remainder of the Palestinian citizens in Israel, who comprised twenty percent on the population, was a slow administrative process. Despite affirmative action plans, Palestinian citizens of Israel, comprising over 20% of Israel's population make up only 6% of the civil service, mostly in the lower ranks.[193] In Cyprus, the clashes of 1963 brought an end to the participation of Turkish Cypriots in the civil service. After the Turkish invasion, partition and establishment of the Turkish Republic of North Cyprus in 1974, the Turkish Cypriot Administration assumed positions within the new state recognized only by Turkey.

---

[193] Parliamentary (Knesset) investigation committee on the issue of recruitment of Arabs into the civil service, press release from May 4th, 2010. https://www.knesset.gov.il/spokesman/heb/Result.asp?HodID=8438 downloaded March 11th, 2014.

As we turn to the gendered arena of British colonial legacy and the regulation of political membership of women according to their personal status, we must keep in mind the differences between the three cases regarding the role of a minority population in civil service, for it also impacted outcomes for women who "married outside the nation."

The Status of Married Women as an Ethno-National Project

Deniz Kandiyoti succinctly formulates the intersection of gender and citizenship:

> The regulation of gender is central to the articulation of cultural identity and difference. The identification of women as privileged bearers of identity and boundary markers of their community has had a deleterious effect on their emergence as full citizens […] evidenced by the fact that women's hard-won civil rights became the most immediate casualty of the breakdown of secular projects (Kandiyoti 1991: 443).

For this section, I have employed empirical research from anthropologists and historians who conducted interviews with women caught in the matrix between the order of the family and the order of the state. I use these secondary sources, coupled with archival research, to argue that instances of intersection between regulation of the family and the state, in which women lost their citizenship due to marriage, were not only the outcome of particular national boundaries, religious laws and exceptional communal conflicts. The three states, despite different national and religious narratives justifying the gendered order of citizenship, worked to prevent inter-communal marriage and the various mechanisms to implement it. All of them followed the logic

of the British National and Aliens Act that had governed citizenship in the British Empire. While the law changed in Britain, its legacies had repercussions in the post-colonial states for two full decades after independence.

The 1914 British Nationality and Status of Aliens Act (BNSA) stated that "the wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien." According to this reenactment of an 1870 law, a British woman who married an alien became an alien herself, losing the rights and privileges accorded to British nationality.

During the 1920s and 1930s, British feminists from around the Empire worked to change this regulation, but only in 1948 were women in the United Kingdom granted the right to their own nationality regardless of their marital status (Baldwin 2001). Until then, the British government consistently blocked the bills, citing the imperial nature of the nationality laws and the disagreement of the dominions (colonies of the British Empire and states in the commonwealth) with granting women status independently from that of their spouse.

I argue that the legacy of this law in post-colonial states represents the consolidation of a British colonial structure of split jurisdiction over family law between the state and religious bodies, which perpetuated a gendered citizenship in which women did not have the full breadth of citizens' rights and freedoms.

Women and the British Nationality and Status of Aliens Act

The construction of a legal definition of British nationality, created in 1914 to unify the Empire, was established to ensure that a "British subject anywhere is a British subject everywhere."[194] The definition was weakened under the strains of dominion nationalism to the extent that British officials were unwilling to press the commonwealth governments to alter the citizenship and nationality laws affecting married women.

The principal argument against giving women equal nationality rights at this early stage in their fight was the concept of unity of family. The emphasis on family unity substantiates the assertion that the British nationality laws were based upon a desire for coherence within both the empire and the family. "If a woman married 'out,'" Klug writes, "then she automatically put herself outside the nation" (1989). On the one hand, different nationalities within the family could produce "domestic unhappiness […] for the wife, the man, and children."[195] On the other hand, the foreign office felt it was "desirable that the family should be a unit which [was] all subject to the same administration and control." The degradation of white women in the eastern harem was also a powerful image used to fulminate against mixed-race marriages.

The British Nationality Act, promulgated in 1948, declared that marriage had no effect on the nationality of British women. Under Section 14, a woman who was a British citizen no

---

[194] Parliamentary Debates (PD), 1914, Commons, 5th ser., vol. 62, col. 1201, quoted in Baldwin 2012. This common status constructed a form of imperial nationality. See also Jayal 2013, Chapter 1.

[195] Report of the Parliamentary Select Committee on the Nationality of Married Women, pp. xv-xvi. 1923.

longer lost her British nationality upon her marriage to an alien, even though she may have acquired her husband's nationality.[196] However, in the post-colonies, the legacy of this law continued for decades after independence. In the early years of the independent post-colonies, the political status and identity of a married woman remained interlocked with her husband's status and political membership.

Regulating the Order of the Family and the Order of the New State

Regulation of the political membership of married women, which followed the citizenship or alien status of their husbands, was a colonial legacy used by the post-colonies to prevent communal and national heterogeneity and to maintain a homogenized ethno-nationality through administrative use of patriarchal traditions and social institutions.

Cyprus

In Cyprus, married women could not have a different ethnicity than their husbands, according to the Cypriot constitution, though they could have a different nationality and still be considered "natives of Cyprus."[197] This practice had been formulated during the Ottoman Empire's upgrade

---

[196] CSA/MI/ 306/1962 p. 6. Standing instructions to immigration officers in Cyprus, Section 5 (3). Any woman who married before January 1949 and lost her nationality as a result of the marriage was recognized as a British subject following the promulgation of the act in 1948.

[197] Under the Aliens and Immigration Law, cap. 105, 1959, "Alien women married to citizens of the republic are allowed entry without any formalities." See CSA/M.I/306/1962 p. 50 – introduction of a passport stamp declaring one a "native of Cyprus" to immigration officers, February 9th, 1963.

of the millet system, the Tanzimat, in 1859;[198] and, in turn, was incorporated into British colonial rule. While jurisdiction over personal law, including marriage, was reserved for the religious millets, the power of execution of the decisions of religious courts remained in the hands of the Ottoman state (Shachar 1998:295), including population registration. One of the registration practices resulted in a married woman being registered in her husband's community records. Also, local affiliation and registration of a child in community (millet) archives was defined by his or her father, which practically meant that a woman who married outside her community forfeited her administrative identity and formal recognition of her and her child's community belonging.

After independence, the Cypriot constitution incorporated these practices into the jurisdictional framework of the new republic. The Cyprus constitution requires that a married couple be of the same ethnic origin. They can have different nationalities, but not ethnicities. Members of the Greek Orthodox community cannot marry outside the Greek Orthodox Church unless they or their spouses convert.

In 1967, Cyprus incorporated this legacy into a formal citizenship arrangement. The Citizenship Law [section 7(1)] declared that if a person has acquired foreign nationality and is of full age, they will cease to be a citizen of the republic. Women are considered of full age if they are married, so married women who acquire the nationality of their husbands forfeit their Cypriot citizenship.

---

[198] The Tanzimat system defined that Quranic traditional norms applied only to Moslems; non-Moslems, so long as they remain unconverted to Islam, were permitted to be governed by their former national and religious laws (Vitta 1970:1973).

Israel

By the end of the Ottoman Empire, the diverse inhabitants of Palestine were governed by overlapping legal regimes. Civil, criminal, corporate and public law were dealt with by state courts applying European-style legal codes, while matters of family lay in the hands of shariah (Islamic law) courts (Agmon 2006); personal law matters of Jews and Christians were dealt with by their own religious courts. The British adopted the policy of split jurisdiction based upon religious affiliation during the period of the British Mandate for Palestine, from 1920 to 1947. Under the Palestine Order in the council of 1922, jurisdiction over matters of personal status was vested in the existing courts of religious communities. Rabbinical courts were conferred exclusive jurisdiction over cases involving marriage or divorce, alimony, and confirmation of wills. At the same time, the BNSA governed the citizenship of Palestinian subjects**.** The terms of the Mandate for Palestine also required that the authorities safeguard the religious rights of all inhabitants, Jewish and Muslim alike. This entailed respecting their personal status and religious interests, providing for freedom of conscience, and free exercise of worship.

British colonial policies regarding the effective management of religiously and culturally diverse colonies laid the groundwork for the reconfiguration of legal authority over family law during the Mandate for Palestine. The final years of Ottoman rule saw the loosening of the strict division of personal law regimes. Jewish women took advantage of opportunities for mobility between regimes, both to seek the most advantageous result and to pressure Jewish courts to compete for their allegiance by becoming more sympathetic to their plight. During the Mandate period, this useful flexibility in the distribution of jurisdiction was diminished in the name of efficient governance. British interests in the efficient administration of indigenous affairs led to the strengthening of rabbinical courts (Fishbayne Joffe 2012: 120).

Before independence, the Zionist leadership and the ultra-Orthodox Jewish leadership signed an agreement to insure that the status quo maintained during the Mandate regarding personal law would continue after Israeli independence, and that exclusive jurisdiction over the personal matters of Jews would be conferred to the rabbinical courts. This agreement was made in exchange for the support of the ultra-Orthodox community (who were not Zionist by belief) for an independent state (Fishbayne Joffe 2012: 103). This agreement meant that there would be no option of entering into a civil marriage in Israel; and because Jewish law prohibits intermarriage, there would be no way to marry outside of the religious community in Israel, though one could marry a Jew of any nationality. For example, if a Jewish woman married a non-Jew, she could not register the marriage with the state, which meant it was impossible for her spouse to receive any legal status in Israel. This situation changed in 1963, when the supreme court ruled that the ministry of the interior was obligated to register a civil marriage that had taken place outside of Israel between a Jew and non-Jew, and record their status as "married" in their identity cards. [199]

Most studies of the conflict between religious and state laws regarding women's rights point to the compliance of British colonial authorities with indigenous law, and understand it as a feature of indirect rule. However, in all three cases involving different religions and various narratives for preventing women from marrying outside the nation or community, the administrative structure of the BNSA attempted to regulate the personal status of women through the regulation of their political membership. In Israel, where the Jewish religion and nationality were conflated at the inception of an independent Jewish state, the result of the status quo

---

[199] HJC 143/62. Fonk-Schlesinger vs. Minister of Interior 17 (1) 225.

agreement matched the logic of the BNSA of 1914, which placed sanctions on women who married outside the nation.

Moreover, studies on the gendered aspects of inter-religious marriage (Hacker 2009; Yuval-Davis 1980; 1993) argue that religious laws, under which a child is of the religion of his or her mother, are at the heart of gendered pressure on women to convert. These studies also maintain that this socio-legal framework is accompanied by a national dimension, by which every Jew is automatically granted Israeli citizenship by the Law of Return (Peled 1992). The third and more transnational aspect of this gendered pressure lies in a very secular imperial legacy that saw women as the weakest link in nation-building, and justified women's loss of citizenship if they married outside the nation by keeping the order of the family intact and preventing the administrative hassle of intermarriage for the colonial state.

India

During the massive population transfer and violence of partition, many inter-communal marriages took place that separated families and individuals from their former geographic and religious communities. After independence, both India and Pakistan promulgated laws geared to recover and restore abducted women and children. Women were considered abducted by these laws, by default, if their religion was different than that of their spouses, according the Abducted Persons Act of 1949 in India (Butalia1993). In some cases, these women were recovered and resettled in internment camps designated for abducted women, when forced by their respective governments to leave their new families behind.

The practical result of this classification for women who were not 'resettled' was that women lost political membership in their country as a result of their marriage. However, this

categorical outcome of loss of status was not a post-colonial invention or simply the result of the inter-communal strife. It was not only a product of Hindu anxieties over conversion to Islam and Christianity that drove the fervor to reclaim and resettle the abducted women, as Menon and Bhasin (1993) argue. Nor was the logic of recovery and rehabilitation of abducted women was merely nationalistic. It followed the legal legacies of the British Nationality and Aliens Act of 1914 (BNSA),[200] which classified a woman who married a foreign national as "lost to the nation." We saw this legacy in the cases of Cyprus and Israel, and laws that followed a similar logic were used to regulate the weakest link in the homogenization of ethno-nationality: married women who married outside the community. In India, though, this logic moved the government to take extreme emergency measures in an attempt to recover women who were lost to the nation during the violence and mayhem of partition.

Women after Partition: The Abducted Person Act of 1949

In this section, I use the Abducted Persons Act to demonstrate how independent India, struggling to become secular and democratic, retained concepts of gender, religion and identity that had been constructed by colonial administrative practice. In December 1947, a special women's section was set up in the Ministry of Relief and Rehabilitation. Its mandate was to organize relief to women and children, particularly unattended women and children; to help in the recovery of

[200] British Nationality and Status of Aliens Act, 1914, 4 & 5 Geo. V, c. 17, s. 10(1).

abducted women and children, and attend to their subsequent training and rehabilitation. The section was responsible for the refugee camps in Delhi and the United Provinces. [201]

During the partition of India, mass migration and displacement had particular effects on women torn away from their communities and personal networks on the basis of identity. The government of India launched a central recovery operation in 1948, carried out until 1956, which was designed to recover women who had been abducted and forcibly converted during the upheaval of partition and restore them to their respective families, where the state thought they rightfully belonged. Menon and Bhasin argue "through legislation and executive and police action, [the state] effectively reconstituted the multiple patriarchies at work in women's lives within the family and community as embedded in institutions" (1993: WS3).

On November 17, 1947, the All India Congress Committee passed a resolution that stated: "During these disorders, large numbers of women have been abducted on either side, and there have been forcible conversions on a large scale. No civilized people can recognize such conversions, and there is nothing more heinous than the abduction of women. Every effort must be made to restore women to their original homes with the co-operation of the governments concerned." On December 6, 1947, an Inter-Dominion Conference was held at which the two countries agreed upon steps to be taken for the implementation of recovery and restoration. The primary responsibility of recovery rested with local police, and was established by an ordinance that expired in December 1949. Between December 1947 and July 1948, the number of women recovered was 9,362 in India and 5,510 in Pakistan. Official estimates of the number of abducted

[201] NAI MRR 87/13/48 p. 1. Letter from J.N. Mathur, Ass. Secretary to the Government of India to provincial governments, December 11th 1947.

women were 50,000 Muslim women in India and 33,000 non-Muslim women in Pakistan (Menon & Bhasin 1993:WS4).

The Abducted Persons (Recovery and Restoration) Bill[202] was introduced to the Lok Sabah (the Parliament), which defined an 'abducted person' as "a male child under the age of 16 years or a female of any age who is, or immediately before the 1st day of March 1947, was a Muslim, and who, on or after that day and before the 1st day of January, 1949, had become separated from his or her family and was found to be living with or under the control of any other individual or family, and in the latter case [this] includes a child born to any such female after the said date." Similarly to emergency legislation, the act gave far-reaching powers and wide discretion to the police. "If any police officer […] authorized by the Provincial Government in this behalf, has reason to believe that an abducted person resides or is to be found in any place, he may, without warrant, enter and search the place and take into custody any person found therein who, in his opinion, is an abducted person, and deliver or cause such person to be delivered to the custody of the officer in charge of the nearest camp with the least possible delay. "

Police officers had authority to recover abducted persons against their will and detain them in camps. Special tribunals were set up to determine whether people were to be considered abducted persons, and whether they could leave India or the detainee camps, and be restored to their families of origin. These decisions were final and without possibility for appeal. Article 8 prevented the intervention of the courts in administrative decisions regarding abducted persons

[202] Abducted Persons (Recovery and Restoration) Act, 1949 (Act No. LXV of 1949).

and declared that "The detention of any abducted person in a camp in accordance with the provisions of this Act shall be lawful, and shall not be called in question in any court."[203]

The provisions of the Abducted Persons Act demonstrate the vulnerability of women in times of communal violence, when each of their identities—gender, community and nationality—was set up against the other and contested, and their status was determined by the state. Quite early in the recovery process, social workers came up against resistance on the part of families or of the women to be claimed, and also those whose status could not easily be determined. These were the disputed cases, and generally consisted of women who said they were in either country out of choice, had voluntarily stayed back, or had been married to either a Hindu or a Muslim, as the case may be, before August 15, 1947. In interviews conducted by Menon and Bhasin, it is clear that the choice to be recovered and restored was made by the state and not by the abducted women themselves.

> For those who were recovered against their wishes, and there were many, the choice was not only painful, but bitter. Abducted as Hindus, converted and married as Muslims, recovered as Hindus but required to relinquish their children because they were born of Muslim fathers, and disowned as 'impure' and ineligible for membership within their erstwhile family and community, their identities were in a continual state of construction and re-construction, making of them, as one woman said to us, "permanent refugees" (Menon & Bhasin 1993: WS7).

---

[203] For a complete analysis of the legal conditions and contestations of the ordinance, see Baxi, 2009. 10-11.

The issue, in addition to focusing upon the identity of the women as either Muslim or Hindu, also extended to their being citizens of their respective countries and needing to be reclaimed.

Meanwhile, the government passed an ordinance stating that women whose babies had been born in Pakistan after partition would have to leave them behind, but those whose children had been born in India could keep them (Baxi 2009:15). Rameshwari Nehru, a prominent social worker and leader of the Women's movement in the 1940s, in view of the suffering and lack of agency or choice given to the women themselves regarding their own restoration, advised the Ministry of Rehabilitation a few months into the recovery program to stop it altogether, because she was convinced that "we have not achieved our purpose [...] figures alone are not the only criterion against which such work should be judged [...] by sending them away we have brought about grief and the dislocation of their accepted family life without in the least promoting human happiness."[204]

Menon and Bhasin frame the Abducted Persons Act within two parallel axes: the relationship of the Indian state with Pakistan, and its assumption of the role of *parens patriae* regarding women who had been abducted. The nation of India:

> Was obliged, as a "responsible and civilised" government of a civilised country, to rightfully claim its subject-citizens; as the latter, it was morally bound to relocate and restore these same subjects within their family, community and country. This dual role and responsibility simultaneously cast Pakistan itself as

[204] NMML Private Papers of Rameshwari Nehru.

> the abductor country and India as the parent-protector, safeguarding not only her women but, by extension, the inviolate family, the sanctity of the community, and ultimately, the integrity of the whole nation. Additionally, and recurrently, the moral, political and ideological importance of India's secularism was held up as an ideal that had to be vigorously championed and defended (Menon & Bhasin 1993: WS11).

This powerful framing of the intersection of the national and religious order of the state with the patriarchal order intended to protect women, even against their own judgment and decision, is useful and compelling. While I agree with most of the analysis, it is missing an important component: the imperial legacy of the citizenship law that regulated the status of married women by casting them outside the nation upon marriage to a foreigner, which, as we saw from the struggle within Britain, justified these measures by the same narrative of national prerogative and patriarchal protection.

Conclusion: the Legacies of Colonial Categories in the Post-Colonies

In the post-colonies, categories of population created by the colonial government for various uses were adapted to serve the needs of the new independent states as they struggled with population influx, uncertain borders, inter-communal violence, and the urgency of meeting the basic needs of their old and new populations. In this chapter, I discussed two of the three population categories that had been created by the colonial governments as they served post-colonial administrations: categories as a state-building project of and for the majority through the classification of civil servants, and categories as a method of control of political membership of

married women at the vulnerable intersection between the order of the family and the order of the state in a volatile political epoch. In the next chapter, I offer an analysis of population categories as a method of control through emergency legislation.

In Chapters 2 and 3, I argued that the categorization of population was used as a political and administrative tool by the colonial state in order to manage populations. Administrative categorization and classification of groups in colonies fraught with inter-communal divisions often solidified communal identities, accentuated differences, and turned old racial and religious disputes into violent conflicts.

I provided examples of how the colonial state proliferated practices of population categorization across three colonies that eventually underwent partitions due to conflict between the populations in three areas: the census, the civil service, and the family.

As the new states struggled with the necessity for administrative structure and routine, they were burdened by the legacies of the colonial administration that each had inherited to varying degrees. We saw, in India and Cyprus, how the classification of civil servants served as a communal battleground that eventually led to the collapse of the state machinery in Cyprus, and to a regime of suspicion and surveillance for Muslim civil servants in India. Although in India, after the first decade following independence, classification and suspicion practices of civil servants stabilized. In Israel, those very practices of suspicion were deployed against Jewish civil servants who had served the colonial government, since Palestinian administrators had fled during the war of independence, and those who remained were not considered suitable to serve the new government of the Jewish state. The transition from colonial rule to independence in the wake of the violence of partition created massive administrative work, and despite the awareness

of and public debate against the use of colonial methods of classification and discrimination, these were used within the civil services and justified by the conditions of emergency that existed at the time.

While in each state there existed a particular narrative to justify the control of women's personal status through regulation of their political membership, all shared the structure and logic of the British Nationality Law, which was practiced in the 20th century throughout the British Empire.

I demonstrated how the classification of population, while not written into formal laws and regulations, functioned as the primary technology of rule by colonial government, enabling effective implementation of the plethora of emergency laws and executive powers they held. The legacies of these colonial categorizations created severe economic and political implications for the populations, particularly minority populations in the post-colonial state. The regulation of movement through permit regimes, and distribution of the state's major resources (land, government positions and political membership) represent some of the outcomes of colonial population classification. Perhaps the most distinctive legacy of British colonial administrative power was its matrix of classification by racial hierarchies, coupled with racial ordering by degrees of suspicion in terms of the security threat one posed to the state.

Categories of Suspicion

In Chapters 2 and 3, I demonstrated some of the practices geared to make populations legible, to use James Scott's succinct term (Scott 1998), through processes of simplification, individualization, standardization and homogenization. These processes of population management are inherent to the modern nation-state, but in the British colonies, they acted as a

centerpiece of state-building and maintenance: ethnologies and ethnographies were used to separate between good, revenue-generating subjects and undesirables, the poor, bandits and *thugees*[205] (Mongia 2000). Under colonial rule, practices of definition according to demographic or ethnological access did not suffice due to the general hostility of the population. Another important aspect of these processes of post-colonial rule rests in the fact that classification was linked to membership, and was used as a tool of exclusion.

I argue that beyond the first axis of colonial classification of populations according to demographic traits like race and religion, there existed a second axis, a very important one, in which the state classified people according to their relationship to the government: loyal citizens; collaborators and cooperators, those of doubtful loyalty, suspects, and enemies. I explore and demonstrate the set of the practices and routines that I call the axis of suspicion in Chapter 4, but it is important to understand the central role of suspicion in all classification of population by the British colonial state, and not just in the context of security and surveillance.

Classified degrees of suspicion were developed and recorded daily in the bureaucracy of the colonial state, in files of people applying for posts as civil servants; people applying for passports[206] and various travel permits from state to state; and in applications for travel to

---

[205] *Thugees* or *Goondahs* were terms used to categorize and to describe "criminal types" and "minor security threats." The first Goondah law appeared in the Punjab in 1923, for the control of "dangerous and disorderly persons" and authorizing police to act with force, sometimes permitting officers to shoot on sight.

[206] Passports were not officially introduced for Britons until 1915; nevertheless, since then, applications for travel were of interest to the Colonial Office, the Foreign Office and the India Office. See Fisher,

sensitive areas such as Kashmir, which had its own set of published rules (the Kashmir Visitors' Rules). The fortnightly reports of district commissioners to the Ministry of Interior or Home Department included suspect lists, as monthly reports of the CID (Criminal Investigation Department) included people to whom some degree of suspicion was attributed.

There existed three possibilities for categorization as a suspicious population: 1) categorization because of one's identity and belonging to a community (political group or criminal tribe); 2) suspicion based upon activities known through intelligence; or 3) recorded legal-procedural suspicion based upon an evaluation of an application for a post, service, or a document (application for appointment to the civil service, requests for licenses, or requests for passports). Foreigners were consistently treated with high suspicion, and this was exacerbated during World War II. The Foreigners Act and its complex administrative demands become a template for the permit regimes that came later. Spatial restrictions, which tied an applicant to a specific district or province in any applications made for identity documents, were based upon security concerns and the possibility of verifying the character and antecedents of the applicant.

In Chapter 1, I argued that the colonial state was founded upon emergency law and governed through a permanent, institutionalized state of emergency. This state of emergency had a significant impact on the proliferation of classification and categorization practices. In order to effectively implement a vast array of emergency laws, the state needed to categorize population administratively so that law enforcement and the armed forces would know which population represented the target of the emergency law. Rather than aligning with the scholarly view of the

---

John. "Official Responses to Foreign Travel at the British Foreign and India Offices before 1914," *The English Historical Review,* 122.498 (2007): 937-964, p. 1939.

colonial administration as all-powerful, violent and manipulative, which represents an incomplete picture at best, I unpack the black box of classification and categorization, and show how officials tried, through the forms and templates they employed, to control both imagined and material aspects of identity through classification, according to demographic traits and suspicion.

Chapter 4 Citizens and Suspects: How Colonial Emergency Laws Shaped Political Membership

In this chapter I explore how the colonial state's classification according to loyalty and suspicion shaped citizenship in the early years of the post-colonial independent states. My argument has three parts. First, I argue that the colonial state used emergency laws to control population. The state developed practices of classification and surveillance through implementation of emergency laws, which classified people according to their degree of loyalty to the state in addition to racial and ethnic classifications that were a hallmark of colonial governance. Second, these practices of suspicion formed a repertoire of spatial legal practices that diffused throughout the British Empire in the interwar period. Third, after independence, those practices, backed by the legitimacy of the emergency laws that were inherited, shaped legal categories of belonging, which were used by the new states against the minority population as a means of exclusion.

The structure of the chapter is as follows: First, I introduce the emergency laws that shaped administrative practices of classification and surveillance in British colonial India and the techniques for managing populations developed there. Second, I elaborate on the range of spatial-legal practices developed in India, namely, border control, travel and exit permits, blacklists, and suspect lists, which laid out the institutional groundwork for permit regimes established to monitor minorities during the first years of independence. Third, I briefly explore how these administrative practices diffused and transplanted from India to Mandate Palestine and Cyprus by means of four methods, focusing on the innovation and adaptation of practices for managing populations in the last decade of colonial rule. Fourth, I underscore how specific practices of emergency, the repertoire of colonial spatial-legal practices to govern civilian

population, were used after independence and partition. During that time, the independent states used these practices of surveillance and control as methods to exclude minorities by administrative means. Therefore finally, I compare these permit regimes in Israel and India in the early 1950s and the divergent system that regulated the movement of minorities in Cyprus after 1963.

In both Israel and India, the permit regimes were enacted during a period of political and legal limbo, after independence. Populations were no longer subjects, yet formal citizenship laws had not yet been promulgated. The permit regimes created a new category of suspects, through a bureaucratic apparatus that gradually became a method to exclude people from acquiring citizenship. The permit regimes were more than mere surveillance technologies that monitor and control suspect populations, as the original practices were under colonial rule. In the permit regimes, the primary goal of these technologies was to bureaucratically prevent people from acquiring their legal rights as citizens and from having the evidence to claim their political belonging; what Hannah Arendt (1986: 295) has called "a right to have rights."[207]

The permit regime in Cyprus was of a different nature. It was a military system of spatial control that operated on the basis of binary categories: One was either Greek Cypriot or Turkish Cypriot, with very little gradation. The state administration was not interested in the management

---

[207] Arendt writes that the concept of political membership became clear only when there were millions of stateless and undefined people, as was during partition. "We became aware of the existence of a right to have rights…and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights…." Arendt, Hannah. 1958. *The origins of totalitarianism*. New York: Meridian Books. P. 295-6

of population, through classification and surveillance. This divergent outcome in Cyprus can be explained by that fact that, contrary to India and Israel, Cyprus did not inherit the colonial emergency laws but rather annulled them at independence. The colonial emergency laws were the basis for classification of population according to suspicion, and they are where this story of administrative legacy begins.

Part One: Origins

Emergency Laws and "Dangerous Populations"

Emergency laws were a central feature of British colonial government (Hussain 2003), employed as useful tools to control and crush opposition, monitor population movement and prevent disturbances to the regime or to economic extraction.[208] At the break of the First World War, the use of emergency laws for managing population escalated following the enactment of the Defense of Realm act in 1914 in Britain,[209] and the subsequent laws enacted in the colonies that suspended rights and left the power to enact decrees in the hands of officials. But in order to use

---

[208] Martial law and emergency laws were a feature of colonial rule from the early colonization by the East India Company. The first statutory legislation of emergency powers in India relegated authority to the governor general to enact decrees was enacted in 1861, after the great rebellion against the East India Company, in the Code of Criminal Procedure and the Indian Councils Act. See also Kolsky, Elizabeth. "Codification and the rule of colonial difference: criminal procedure in British India." *Law and history review* 23.3 (2005): 631-683.

[209] For the history of the Defense of the Realm Act see Simpson, Alfred William Brian. *In the Highest Degree Odious: Detention Without Trial in Wartime Britain*. London: Clarendon Press, 1992. P. 12-14; 49-50; 61-65.

emergency laws as effective executive tools, administrators had to classify and categorize the *dangerous* populations that would be targeted by those laws.

We know that British colonial rule had been preoccupied with managing occupied populations and employed an obsessive taxonomy of demographic traits – race, class, religion, gender, caste, and region (Singha 2000; Saumerz Smith 1985).[210] As we saw in chapter 2, the development of demographic classifications[211] was crucial for a rule by racial hierarchy - the

---

[210] By the end of the 19th century, the British built up ethnologies to distinguish between those who provided good material for productive, revenue generating subjects from those whose peripatetic way of life made it difficult to tax, to survey and police. Caste, religious distinctions and hereditary occupation provided useful building blocks. See Singha, Radhika. "Settle, mobilize, verify: identification practices in colonial India." *Studies in History* 16.2 (2000): 151-198; Smith, Richard Saumarez. "Rule-by-records and rule-by-reports: complementary aspects of the British Imperial rule of law." *Contributions to Indian sociology* 19.1 (1985): 153-176.

[211] A survey of the rich literature on classification of population and the role of colonial taxonomies by demographic traits in the inter-communal conflicts in South Asia is beyond the scope of this chapter. For illuminating perspectives on colonial population classification see chapter 2 and Bernard S. Cohn (1987) The Census, Social Structure, and Objectification in South Asia, in An Anthropologist among the Historians and Other Essays, pp. 224–254; Appadurai, Arjun. "Number in the colonial imagination." *Orientalism and the postcolonial predicament* 315 (1993); Jalal, Ayesha. *Self and sovereignty: Individual and community in South Asian Islam since 1850*. Routledge, 2002; for a critique of these views on colonial construction of identity and its centrality to contemporary politics in India see Devji, Faisal. "Hindu/Muslim/Indian." *Public Culture* 5.1 (1992): 1-18 and Guha, Sumit. "The politics of identity and enumeration in India c. 1600–1990." *Comparative Studies in Society and History* 45.01 (2003): 148-167.

organizing principle of colonial bureaucracy. I argue that beyond that first axis of colonial classification of populations, there was a second axis, a very important one, in which the state classified people into four groups, according to their relationship to the government: loyal citizens; collaborators and cooperators; those of doubtful loyalty; and finally, suspects and enemies.

This classification into degrees of suspicion was a ubiquitous feature of the colonial administrative experience, as we saw in the discussion about classification of civil servants in chapter 3. The different categories mentioned above were commonly recorded in the rubric marked "recommendation" on official forms. Sometimes, they were more explicitly stamped in the box for "evidence of good character," in the forms of people applying for posts as civil servants or requesting special status as British nationals or British protected persons.[212] Other times they could be found in the placeholder for describing "antecedents", a staple of every application for residency, naturalization, or nationality in India.[213] They were noted in the endorsement letters for people applying for passports and travel permits from state to state and in

---

[212] India Office Records (IOR) R/20/A/2451 p. 16. January 17th 1933. Form T 7912/473/378, a "Declaration to be made by colored seaman claiming to be a British subject or British protected person and applying for a special certificate of nationality", included a box marked "character."

[213] NAI HD 19/51/41 political external. Those of doubtful loyalty were classifies as category B in application for passports and other naturalization documents. Checking antecedents for this category was more elaborate. The registering officer had to corroborate the details of the application with the authority in his province of residence, and the province of his birth. Letter to provincial governments from political external dept. regarding application procedures for passports and naturalization, November 15th 1941.

applications for travel to sensitive areas such as Kashmir, which had its own set of published rules - the Kashmir visitors rules. Classifications of suspicion were also generated in the fortnightly reports of the district commissioners to the ministry of interior that included a list of suspects.

There were three possible grounds for including someone in a category of suspicious population: classification based on identity and belonging to a community (political group or criminal tribe); suspicion based on actions known through intelligence; and suspicion based on an evaluation of an application for a post or a service such as requests for licenses or passports. Therefore, classification was not based solely on racial and ethnic traits. There were two axes of classification in British colonial rule: categorization of population according to demographic traits and classification according to the security threat a population poses to the state.

Colonial population management was an administrative toolkit based on a plethora of emergency laws: The Defense of India Act and Rules; the Detention and Restriction of Movement Act; the Armed Forces Special Powers Act; Public Safety Acts; Disturbed Areas Acts, and more. [214] These emergency laws affected the movement of populations and individual political and civil rights of colonial subjects. But the legacy of emergency laws did much more than that. Emergency laws and practices delineated the boundaries of citizenship and belonging, shaping the organizations, regulations, documents, and spaces that would define political membership in the new independent states: citizens, residents, temporary residents, intruders, refugees or stateless people.

---

[214] See Appendix 3 for a selected repertoire of British colonial emergency laws.

In the aftermath of partition and independence, both Israel and India established permit regimes to control the movement of refugees and returnees that had fled in the wake of a war of independence and the violence of partition. These spatial-legal systems of surveillance and control, established at a time of emergency, were institutional mechanisms that shaped boundaries of belonging by administrative means. The permit regimes instituted 1) the category that the state assigned people - citizens, residents, intruders, refugees; 2) the identity document a person carried; and 3) the physical location of a person on the crucial date that determined her legal status. The permit regimes also formed *ad hoc* administrative structures and practices, such as forms and internal regulations intended to be temporary. However, as we shall see, temporary emergency measures become the very permanent foundations of new state bureaucracies.

In Cyprus, the regime that monitored the movement of the minority was different. Three years after independence, during the constitutional collapse, inter-communal violence erupted thorough the island. For five years, Turkish Cypriots lived in enclaves, with severe restrictions on their movement enforced by the Greek Cypriot forces. Different than the permit system in India and the permit regime in Israel, the sieg*e* of Turkish Cypriots was of a military nature, and the state, that had declared Turkish Cypriot leadership as rebels, was not concerned with enumeration, surveillance, and degrees of classification whatsoever. I attribute this difference between the administrative legacies to the central role that statutory emergency laws have in facilitating and legitimating authoritarian practices of population management in the democratic independent states. I now turn to the origins of postcolonial population management - the legal spatial practices for managing populations in India by emergency laws, in order to showcase the full repertoire of these technologies of rule.

The Colonial Emergency and the Origins of the Permit Regimes

As we saw in chapter 1, the state of emergency was an organizing principle of British Colonial rule. In the colonies, the rule of law was inherently linked to racial inequality,[215] where the "rule of colonial difference"[216] shaped the structure of the colonial state. The colonial was both concerned with the rule of law and at the same time, constantly created exceptions to the law.[217] Colonial government was based on a patchwork of laws, decrees and ad hoc arrangements or rather what is perceived as a single liberal rule of law. This resulted in sites of arbitrariness under the auspices of the law[218]: Foreign jurisdiction, exterritorial jurisdiction, administrative decrees, partial annexations, combat zones, martial law, and a state of emergency.

Nasser Hussain writes that "race undermines the legal identity between metropole and colony,"[219] consequently, colonial bureaucracy was used to differentiate between different

---

[215] Kolsky, Elizabeth. "Note on the Study of Indian Legal History" *Law & Hist. Rev.* 23 (2005): 703. P. 704.

[216] Chatterjee, Partha. *The nation and its fragments: Colonial and postcolonial histories*. Vol. 11. Princeton: Princeton University Press, 1993; Steinmetz, George. 2008. "The Colonial State as a Social Field: Ethnographic Capital and Native Policy in the German Overseas Empire before 1914." American Sociological Review, Volume 73 (4), pp. 589-612

[217] Comaroff, John "Colonialism, culture, and the law: A foreword." *Law & Social Inquiry* 26.2 (2001): 305-314.

[218] Franz Neumann differentiates between the rule of law and rule by law that is helpful to understand the relationship between law and administration in the British colonial state. Neumann Franz. 1942. Behemoth. New York: Harper Books.

[219] Hussain, p. 113.

political communities, as it was based on the racial distinction between 'Europeans' and 'natives'. The disparate administrative mechanisms developed for "subjects," who were European citizens, and "subject races" that are not, were the foundation of the political order. The consistent use of emergency laws provided a justification for the colonial governments, based on security concerns, to apply different laws to different populations on grounds of racial divides. At times the suspicion or security threat a community posed to the state, was conflated with racial, regional or other characteristics and included laws governing "criminal tribes"[220] "goondas",[221] and other hostile and dangerous populations based on their geographic location or occupation.

When a legal state of exception is enacted temporarily because of an emergency, but is then routinized and institutionalized as the *modus operandi* of government, the result is a chronic state of emergency that has two important effects on administration: one is a rule by decree and the other is a constant flow of decisions that are exceptions to the rule, followed by exceptions to the exception and so forth. This situation essentially means that bureaucratic officials possess law-making power, since the administrative exception becomes the law. In the colonial state, this executive power of law making was highly potent because the legislative council, or any other

---

[220] Mahmud, Tayyab. "Colonialism and Modern Constructions of Race: A Preliminary Inquiry." *U. Miami l. Rev.* 53 (1998): 1219; Major, Andrew J. "State and Criminal Tribes in Colonial Punjab: Surveillance, Control and Reclamation of the'Dangerous Classes'." *Modern Asian Studies* 33.3 (1999): 657-688.

[221] Nandi, Sugata. "Constructing the Criminal: Politics of Social Imaginary of the" Goonda."" *Social Scientist* 38.3/4 (2010): 37-54.

representative body, was not independent of the executive branch of government. Colonial officials also decided who would be enfranchised to serve on legislative councils (Sarkar 1989).

Routinization of Emergency

Emergency laws proliferated through general "Defense of the Realm" acts[222] that were then extended to the colonies, and the subsequent enactment of emergency laws as orders by the governors or viceroy, or as local acts of provincial governments that circulated from location to location in times of crisis. Carthill,[223] (whose writing we encountered in chapter 1) served as a bureaucratic representative in East Bengal. He explained how emergency justified repression in colonial India:

> Repression is justifiable when, and only when, it is necessary. If the emergency does not exist repression is inadmissible. When it does exist, and repression is decided on, repression should be carried out coldly, calmly and ruthlessly till the emergency is passed (Carthill 1924: 257)

Following the 1857 Indian uprising and the consolidation of British control, the Indian Council Act of 1861 authorized the Governor-General to legislate outside the ordinary lawmaking process in emergency situations by issuing ordinances to ensure "the peace and good

---

[222] 4 & 5 Geo. V.C 29, August 8th, 1914.

[223] Carthill, Al was a pseudonym for Sir Joseph Bampfylde Fuller (1913), a British bureaucrat who serves in East Bengal, and was later removed from his post by Lord Curzon. In *The Lost Dominion* (1924) and *The Empire of India* (1913), Carthill offers observations about British bureaucracy in India and provides a description of imperial bureaucratic theory.

government" of India. Two subsequent framework statutes, the Government of India Acts of 1919 and 1935, granted emergency ordinance-making authority.

Emergency in the colonies was an elastic legal category, allowing executive authority and administrative discretion to be stretched to cover anything from political disturbances such as riots and insurgencies, to enacting permit regimes to monitor movement of suspect populations, insure manufacturing supplies for extraction projects, or to prevent workers from leaving their plots of land due to taxation.

Colonial administrators had no imperial handbook explaining which forms of the law were best to institute in colonial settings; rather, they treated European legal traditions as a "useful collection from which they might draw selectively in crafting colonial legal systems" (Benton 2002: 261). The most useful were emergency laws that became the primary method of managing the population. The last High Commissioner to Palestine writes:

> In Palestine ... the Emergency Regulations were continually being added to and tightened up, so that at the end it might almost have been said that the whole book of regulations could have been expressed in a simple provision empowering the High Commissioner to take any action he wished.[224]

---

[224] Sir Henry Gurney, Former chief secretary of the Government of Palestine, 1946-1948 in a dispatch to the colonial office from Malaya, where he served as high commissioner, may 5 1949. In the Diary of Sir Henry Gurney, Palgrave Macmillan 2009.

Yet in order to confer these powers in the colonies, emergency laws had to be enacted. This condition was due to the view of the attorney general at the time, that there "was no such thing in English Law as a regime of martial law which could be established by the mere fact of its proclamation."[225]

Rule by emergency was not only justified because of security needs and financial crises. It gradually became institutionalized and incorporated into practices and routines of legislation, decision-making, and administration. Emergency laws, decrees, and orders proliferated during times of crisis and war, and were then incorporated into "peacetime laws." (Kalhan 2006: 112) This method, which I call the "routinization of emergency," survived after independence. Of all emergency practices that revolved around security (economic emergency measures had different trajectories), those that survived crisis were usually orders that restricted movement, created opportunities for surveillance, as well as a growing demand for documentation and evidence of one's identity in order to move.

Permit regimes for monitoring movement of population were an old British colonial method. Timothy Mitchell writes about a permit regime enacted in Egypt for economic reasons

---

[225] Attorney General Donald Somerville reprimanded the military authorities for their demand for executive powers by declaration of martial law. "In the event of war or open rebellion, troops may, by common law, employ all powers necessary to suppress the disturbance, but the legality of the powers in determined by the necessity of the case. Even at the time of the Jacobite risings in 1715 and 1745 no such powers were ever claimed by the armed forces of the crown as those recommended by the military forces." TNA CO/733/315/ 2/ Part I. Note of conference held at the colonial office, September 1936, P. 31-32.

in the late 19th century to prevent workers from leaving plantations (Mitchell 2002). Lauren Benton (1999) wrote about the Cape of Good Hope, where the movement of the Koi people was monitored by travel passes, to survey areas that had become "frontiers of lawlessness" according to colonial officials. Every European settler had a right to stop a Koi traveler, inspect their passes, and arrest them if they did not carry it.

As we shall see, during the Second World War, the government of India used the defense of India rules to enact a permit regime on the frontier with Burma to monitor foreigners and undesirables, instead of a passport system. The Foreigner Acts and rules established during the First World War demanded that police officers and district magistrates survey the movement of foreigners on a daily basis. "Disturbed" and "Dangerous" areas could not be accessed without a specific individual permit from a district commissioner. These legal spatial systems of surveillance, established by the colonial state to monitor and control population, formed practices and routines that, following independence and partition, became permit regimes that delineated the boundaries of citizenship and belonging in the new states.

I showcase examples of administrative technologies for monitoring population in India, Cyprus, and Mandate Palestine, in the decades before independence: Blacklists and Suspects Lists, monitoring movement of populations across frontiers, Exit Permits, Dangerously Disturbed Areas, the Armed Forced Special Powers Act, and preventative detention and registration of foreigners. I argue that these technologies are the origins of the permit regimes that were established shortly after independence in India and Israel and shaped the way the ministries of interior defined citizenship in the early days of the new states.

Legal-Spatial Control of Movement in Colonial India

Emergency laws in the colonies empowered officers to use extreme measures, but never specified against which populations these measures can be used. Discrimination was never directly written into the laws and separate practices and routines for subject races were not legislated. Emergency defense regulations[226] granted extensive powers to conduct (without warrant) arrests, searches,[227] seizures, and deportations; establish military tribunals, in which military personnel with little or no legal training acted as judges in civilian trials without appeal; and enact retroactive legislation and preemptive punishment, such as administrative detention without trial.[228] They enabled administrators to suspend basic rights, such as *habeas corpus* and the right to due process, to confiscate private property, and to sentence deportation or even the death penalty for political insurgents. Their regulations authorized the restriction of individual

---

226 The Emergency regulations were a variation of the Defense of India rules that were adapted in Mandate Palestine and Cyprus were drafted after a template devised by an interdepartmental committee on the defense regulations for the British Home office (headed by Sir Claude Shuster, permanent secretary of the Lord chancellor), that were to be implemented in India and Burma. IOR P&J (S)/ 1925 P. 13.

227 For example, India's United Provinces Disturbed Areas (special powers of Armed Forces) Ordinance – 1947, article 2 (b) and (c). From NAI HD file 453/47 Political Internal division.

228 Northwest Frontier Province disturbed areas (Special powers of armed forces ordinance) 1947 was concerned with giving policing powers to military personnel, extending the reach of the emergency laws.

movement [229] via the formation of checkpoints and roadblocks, the declaration of an area a closed zone, or a dangerously disturbed area, and through preventing the movement of civilians.

Blacklists

In order to make use of emergency laws as executive tools of control, the administration had to categorize the population effectively. A common method for population classification was the formation of blacklists and suspect lists that defined various levels of dangerous or undesirable persons. The lists enabled the administration of the emergency measures, turning the articles in the laws into effective administrative tools of population control. The lists adapted and produced categories of suspicion, which as we shall see, were fluid, changed over time, and were always subject to the discretion of civil servants, police officers, and border security guards.

Practices of creating and maintaining blacklists and suspect lists were a prerequisite to the permit systems established to prevent or slow down population movement. The process of obtaining a permit was an opportunity for administrators to monitor movement and gather intelligence.

The British Home Office Suspects list began in World War I as a list of criminal offenders that had escaped the law. It quickly expanded to include imposters, spies, and other enemies of the realm. During the Second World War, as borders were tightened in India and throughout the British Empire, the list gained prominence and was incorporated into the administrative practices of identification.

---

229 See in Palestine Defense Regulation Emergency1945 (Articles 108–110); Defense of India Rules 1915; Cyprus emergency regulations of 1955.

Various methodologies for the compilation of blacklists proliferated across India, but most were developed along maritime border entry points such as Calcutta. A report on the Calcutta security office control in 1942 describes the frustrating practice of checking the entry of foreigners. Four suspect lists were checked separately - war security blacklist; home office suspect list; intelligence bureau list of suspect seamen; and a miscellaneous blacklist: "Every ship submitted a crew list and each crew list means approximately 1.5 hours of work for each officer. The list is then further checked against the record of security office's own information and means a further 1.5 hours of work each for two officers."[230] Upon entry, the lists were updated and dispatched.

The suspect list was an artery of information that went out to immigration officers to enable them to prevent suspects from moving freely, but it was also a method of surveillance and intelligence gathering. In the instructions for using the index suspect list,[231] the emphasis is on surveillance: "In all cases where a passenger arrives whose name is in the index a report should be sent to the chief inspector. Reports made by telegram or telephone should be followed by a written report."

But the structure of the blacklist itself lends itself to intelligence gathering. The form consists of the following categories: Name; DOB; Nationality; and description of occupation and /or political tendencies. This last column reveals the peculiar logic of the blacklist. The

---

[230]NAI HD (political external branch) 59/43. Report of Security Control Office Calcutta – sent from the Home Department of the Government of Bengal to the Central Government Home Department.

[231] NAI MHA 13/3/47 Political External Branch. Instruction for use of the Home Office Suspect Index written by W.R.Perks on 25 November 1946

boundaries defining suspicious populations were constantly in flux and as a result a person's occupation, or political tendencies could rendered them suspect: Fascist, prostitute, ship's cook, merchant agent, soldier, lawyer, journalist, motor mechanic, tailor, assistant, salesman.[232] While the classifications were fluid, the degrees of suspicion remain steady for natives as well as foreigners. They ranged from loyal subjects, to those of dubious loyalty, to suspicious persons, and finally, enemies of the realm.

Suspect lists were both a technological device and site for collaboration and negotiation between the Home Department and district commissioners.[233] The suspect list was not used only for the purpose of finding wanted criminals or illegal aliens, it was used to indicate persons and groups that were to be surveyed and monitored.

Classification of suspicion was fluid and based on administrative discretion, with very little general guidelines. On the eastern frontier, particularly in Assam, all persons entering India from enemy occupied territory needed to pass through forward interrogation centers. After the forward interrogation centers, they were transferred into a holding camp for reconditioning and

---

[232] Example of suspect list for March 1946 NAI 13/3/47 Political External.

[233] By 1940, suspect lists were incorporated into the fortnightly reports sent by the local CID (Criminal Investigation Department) to police commissioners and reports sent by district commissioners to the Ministry of Interior. Official copies of the Home suspect index were numbered, and were kept under lock and key. Upon reception of the new suspect list, the old one would be returned to the Home Office. NAI HD 22/3/41 (political external) minutes regarding dispatch of Warning circulars for 1941.

rehabilitation. [234] Civilians were classified into blacks, whites, and greys, according to their level of suspicion, which was a matter of official discretion. As one secretary explained, "An exact definition of the tests on which this classification is made is impossible to give, circumstances of each case need to be considered regarding what is known of the enemy's activity."[235] The division was loosely based on the following formulation: Blacks were actively cooperating with the enemy and were at a high risk of spying, Greys were types that worried the authorities enough to restrict their movement, and Whites were not security risks at all. Blacks were detained and treated as dangerous security prisoners that were kept under close guard;[236] Greys were released and confined to their village for a month, Whites were released.[237] The list of Greys was sent to their respective provincial governments so they would enforce the restriction orders

Restriction orders from the central government confined persons to their villages or districts for a period of up to six months "with a view to preventing [the person] from acting in a

---

[234] NAI HD 39/55/44 political internal p. 10 policy for treatment of recovered Indian and Gurkha P.W & civilians at holding camp Jhingergacha.

[235] NAI HD 39/30/44 poll (I) letter from R. Tottenham, additional secretary, February 22, 1944 on machinery set up for examining refugees coming into India from the eastern frontier.

[236] NAI HD 39/55/44 political internal p. 10 policy for treatment of recovered Indian and Gurkha P.W & civilians at holding camp Jhingergacha.

[237] NAI HD 21/15/45 poll (I), report on status and release of security prisoners 1945.

manner prejudicial to the defense of British India."[238] ."[239] The Political Internal Department stressed the purpose of the restriction orders in the case of Purkha Ram from Jodpur state "restrictive orders…should be passed on him confining him to a given area and insuring he has not freedom of movement or association. However, he may be allowed sufficient freedom of movement within the state to enable him to earn a livelihood and yet enable the police to keep him under surveillance."[240]

Classification of former security detainees and suspects was particularly important when there was a legal change or a political decision to release prisoners or attenuate enforcement against members of the national movement.[241] The procedure for classification of blacks of Indian domicile, right before their general release at the end of WWII, shows the centrality of classification to the relationship between the police, military, provincial and central governments. "A copy of the interrogation report under which a man is recommended for

---

[238] NAI HD 39/70/45 Poll (I), restriction order of S. Vailu to Madras for 2 months, by joint Secretary Cracknell, July 20, 1945.

[239] NAI HD 39/70/45 Poll (I), restriction order of S. Vailu to Madras for 2 months, by joint Secretary Cracknell, July 20, 1945.

[240] HD 39/24/45 Political Internal Letter from political department to Rajputna on the repatriation of security prisoners classified "grey" to their home in Indian States June 14th 1945.

[241] 44/13/45 POLL (I) classification of prisoners was critical to their release. An unclassified security detainee could not be released until categorical information was received by the Home Department.

classification as "black" was forwarded by the Eastern command to the C.I.D of the province to which the man concerned is being released."[242]

After the Second World War political prisoners fell into two main categories: those that had been convicted of offences of a political nature and were undergoing sentences of imprisonment or awaiting execution of death sentences and those that were detained without trial. Those detained without trial were classified into four categories either members of the Indian congress (category I – also referred to as Gandhi-its) party or those considered dangerous "detenus" (category II and III- terrorists, saboteurs and other politico-criminals) or Goondas,[243] who were criminal security prisoners (category IV).[244]

The Colonial government struggled with classification of the prisoners and the standardization of classification across the provinces. This was a crucial policy issue because the classification of prisoners was necessary to determine conditions for their release based on political developments. Members of the Indian National Congress convicted of offences not involving violence were considered a separate category, and the categorization based on violence was a source of anxiety and debate within the home department: "all persons serving sentences

---

[242] HD 21/15/45 Political Internal orders of chief of staff to Eastern command and Home Department on powers of final classification and disposal – civilians, December 15, 1945.

[243] HD 22/7/45 political internal 6. In Bengal in 1944 there were a total of 2700 Goondas, of which 2281 were in detention without trial. Letter from Joint Secretary of the Govt. of Bengal to Home Department, February 1, 1945.

[244] HD 44/13/ A 45 Political Internal letter from Viceroy's assistant to Sir Francis Mudie of the Home Department. July 11, 1945

for crimes committed in the course of the congress rebellion had committed serious offences and it is quite safe to say that the activities for which they are in jail 'go right outside non-violent political activity." One home department official commented that "although the "difficulty of defining political crimes" and "deciding what are "crimes of violence" were a heavy burden, it was necessary that the provincial governments do so.[245] After independence, the political affiliation of political prisoners became their primary method of classification, as Congress Movement activists were no longer detained, but their political opposition.

Monitoring Population Movement Across Frontiers

Blacklists were incorporated into various permit regimes enacted by the British Colonial administration that monitored population movement in times of communal unrest or popular uprising. Permit regimes were enacted as emergency measures, but they were gradually routinized and used in peace times, until they became an inseparable part of the day-to-day administration. A good example of the routinization of a permit regime is the opening of the frontier with Burma by the colonial government in 1944. The government of India decided to use rules 24 and 25 of the Defense of India Rules in order to enact a permit system that would prevent anyone from entering India without a permit. A.W. Lovatt, the undersecretary for the Political External branch of the Home Department justified the use of the Defense of India Rules (D.I.R) in peacetime:

> The government of Assam already possesses the powers under rules 24 and 25 of the D.I.R. to control traffic across the frontier, although these powers were

[245] HD 44/13/A 45 p. 34 Letter from Sir Evan Jenkins to Home Department, November 3rd, 1945.

> originally delegated for use in the event of hostile activity in India. We may agree to their using these powers during the continuance of military administration in Burma.[246]

The rules that were enacted to regulate traffic in a time of war were now used in a civilian border control system. The incorporation of the passport rules of 1921 was only a matter of convenience, since under the Defense of India rules there was much less procedure that needed to be followed and more room for discretion.

Movement as Security threat: Circus Performers and Enemy Aliens

Monitoring the movement of foreigners was of increasing concern and scope for the home department. By 1940 the control of the movement of foreigners ballooned into one of its major concerns. The increase of work volume relating to monitoring population demanded a re-organization into political internal and political external branch,[247] The latter was charged with regulating surveillance on the movement of foreigners and effective monitoring of the home office suspect index. A year later, the political external branch divided yet again and the political external (war) Branch was established concerned mostly with enemy foreigners.[248]

---

[246] NAI HD file 111/44 political external. Notes 13.10.1944

[247] NAI HD Public Branch file 67/4 1941, Annual report of the Home Department.

[248] NAI MHA 67-5/1947 Police A; MHA 7-1/1947 A& G p. 9. The political external war branch worked on monitoring of enemy foreigners and political suspects. After independence, the political external war department became the foreigners' section of the home office that was in charge of citizenship and nationality issues.

Populations that moved around often were a major problem for the home department's Intelligence Bureau. The Home Department held two years of discussions on procedures for the administration of surveillance on foreigners. The massive correspondence on the issue reflected the different views of provincial government officials based on the borders they monitor, the disturbances they had, and the types of foreigners they attracted.[249] These practices predate World War II, but as surveillance tightened during the war, the department made repeated attempts to standardize practices of surveillance across India.[250]

Mechanics of Foreigner Registration

The Foreigner Registration Rules required foreigners to register where they lived and notify the authorities every time they were more than five miles away from their registered residence. Circus and amusement performers were especially problematic because of their peripatetic nature. They moved constantly and needed an exemption from the burden of registering every day with a different official. Correspondence on the issue of peripatetic foreigners reveals the logic of the colonial foreigner rules, one which I believe had an important effect on the formation of the permit regimes a decade later. The issue of circus performers gets to the heart of population management – it was not that acrobats were particular security threats

---

[249] NAI Home Department file, Political external Branch 1/14/41 an administrative discussion about the proposed amendment a rule 11/13/C. of the Foreigners Registration Rules 1939.

[250] During the war, the Home Department was preoccupied by the surveillance on foreigners and frequently amended the Foreigners Act, Registration of Foreigners Rules and the Enemy Foreigners Order.

to the Raj; it was that their movement was difficult to monitor, survey and record from an administrative perspective, which made them a threat that demanded attention.

Besides Circus performers, enemy foreigners were another major problem. Section 32 of the Foreigners Act of 1940 required that an enemy foreigner obtain a travel permit to visit another district. The internal administrative rule was that the registration official had to consult with the provincial government where the foreigner had stayed previously before granting a permit to her in his own province. The foreigner had to report arrival to the police at each place involving a halt over 24 hours, within 24 hours of arrival, and to supply the information in a specified form. The local police would then post the form to the office where the foreigner was registered permanently. Peripatetic travelers were granted some relaxation of the rules.

The general principles underlying the foreigner rules are that every foreigner must have some registered address so there must be one officer responsible for watching every foreigner. So far as possible this officer should be the officer within whose district the foreigner happens to be.[251]

The procedure of travel permits for enemy aliens in Assam was adapted from "the provisional instructions for the control of foreigners in war."[252] If foreigners wanted to change

---

[251] NAI HD 1/14/41 political external. File on the "proposed amendment to the registration of foreigners rules 1939 so as to make it applicable to foreigners who are constantly travelling. Minutes and correspondence p. 13-53.

[252] H.G Dennehy, Chief Secretary of the Government of Assam writes to the Deputy Inspector General of Police in Assam and all registration officers on 11th July 1941, regarding the procedure for travel permits

residence, they had to request a permit from the civil authority in the district where they wanted to move. If it was in another province, they had to get written permission of the Deputy Inspector General of Police of the new province. If an enemy foreigner was more than five miles from his registered address for more than 24 hours he had to report daily to the civil authority. Residence was not defined simply as where one lived, but determined based on documents provided as evidence for actual residency, similar to what modern states call "life center." The officers had to send a "a duplicate of every travel permit … to the registration officer of the district of the foreigners' destination."[253] The chief secretary cautioned the registration officers that "an enemy foreigner traveling without a valid permit, or varying his itinerary or not reporting daily in the absence of more than 24 duration (unless he has been definitely exempted from such reporting) is liable to severe penalties." So in order to obtain a permit one had to receive the consent of the official in the district were he resided, the official in the district in which he previously resided, and the official in the district to which he was going.

Exit permits

Exit permits were a method to monitor persons leaving the colony, particularly those that were on suspect lists. As we shall see, they were used in Palestine and Cyprus during times of popular uprising, at first to monitor the exit of suspicious persons, and closer to partition, as a general requirement of the entire population.

---

for enemy aliens. This procedure is established in paragraph 4 of the Enemy foreigners Order and paragraph 18 (1) of the Provisional Instructions for the Control of Foreigners in War.

[253] NAI HD 4/1/44. Assam &Bengal.

John Torpey argues that the invention of the passport (2000:12) as a technology of population movement began with exit permits that states established to prevent defection of young men in times of war. He posits that the initial purpose of the identity documents was part of an agenda of state penetration, to keep people within national territory so they could be drafted. However, the requirement for exit permits in the British Empire began with the Defense of the Realm Act, and diffused to India, where all person regardless of nationality were to request permits to exit. These permits were conditioned on obtaining a "no objection" certificate from the military authorities or police.[254] The demand for these certificates created opportunities for monitoring population, updating registries, and gathering information. In India, exit permits were for the sole purposes of surveillance, and not an administrative expansion of state capacity. Later, they were to become an important practice of population management during crisis in Mandate Palestine and Cyprus.

---

[254] NAI HD 1/4/47. Minutes from 25th of April 1941. An elaborate permit system for enemy foreigners was established in 1941 to prevent leakage of information. Secretary Hampton of the Home Department sketched the permit system for enemy foreigners: " I have suggested the possibility of the introduction of a unified permit system for European non British subjects. The actual permit to be in three parts: 1) "no objection certificate" from the military authorities where required; 2) "no objection certificate" from the reserve Bank; 3) permit based upon these two certificates and issued after passport issuing authorities are satisfied and have endorsed the passport."

Closed Military Zones and Dangerously Disturbed Areas

The repertoire of legal tools for monitoring population ranged from confinement to the colony itself or to a particular district or village, to authority to declare a dangerous space, and even to require permission on a regular basis across a designated area. Based on the Defense of India Rules, the Detention and Registration Order[255] provided officials with powers to confine and restrict the movement of suspicious persons or communities to an area. The Bengal Special Powers Amendment Ordinance 1946[256] gave powers to local police inspectors to declare curfews and demand people travel only with a valid permit. Breach of curfew was introduced intro these laws as a new criminal offence, punishable with up to six months imprisonment.[257] The Madras Disturbed Areas (Special Powers of Armed Forces) ordinance of 1947 granted the head constable authority to fire upon those that contravened orderd such as curfews.[258]

The Punjab Public safety Act of 1947 provided "for special measures to ensure public safety and maintenance of public order."[259] Its third section established a regime where suspicious people could be confined to any geographical area and had to obtain a permit from the

---

[255] Detention and Registration Order 1919

[256] NAI HD 25/4/47. Political Internal Branch

[257] NAI HD 1/4/47 the article was used often in particular neighborhoods in Calcutta. The Commissioner of Police in Calcutta and District Magistrate [had powers to] order [that] …. No person present within any area specified in the order shall between such hours as may be specified in the order, be out of doors except under the authority of a written permit granted by specified authority of a person."

[258] HD 13/9/46 – 49 B p. 2-3 minutes of the Home Department, July 7th, 1947.

[259] NAI HD 20/41. Political external branch

magistrate to enter or to exit a territory, which could be as large as a district (one could not be deported from his own province). Declaring an area as disturbed or dangerously disturbed also had consequences for impunity of armed forces in their action against civilians.

The technologies of rule to monitor population were on an escalating scale of severity and scope. On one end of the scale were practices that prevented an entire population from movement in a large space, such as exit permits. On the other hand were measures that prevented particular people from moving at all. Preventative detention was a measure reserved for particular persons that were considered a potential threat to the state, either for security reasons or because they stirred political opposition.

Preventative Detention

The modern form of preventative detention in India emerged between the two World Wars in the Defense of India Act of 1915, and the Emergency Powers (Defense) Act of 1939. These laws expired at the end of the wars, but were replaced by acts like the notorious Rowlett Act[260] and the Bengal Criminal Law Amendment Ordinance.[261] These acts permitted the government to detain any person thought to be a threat to public order, national security, or the maintenance of essential supplies. The Rowlett Act was a focal point of Mahatma Gandhi's noncooperation campaign against the British Raj in 1922 when popular opposition to preventative detention was intense and fierce. The government allowed the act to lapse, but continued to detain through executive decrees. Prime Minister Macdonald notoriously characterized this system as

---

[260] Anarchical and Revolutionary Crimes Act 1919 (Act No. 11 (Ind.)

[261] Bengal Criminal Law Amendment Act, 1930, Act No. 6

"government by ordinance."[262] It was really a regime of civil martial law.

In 1935, the Government of India Act changed the administrative structure of the government, redistributing legislative authority between the federation and the provinces and promoting an "Indianization" of the administration. As the Indian National Congress (INC) Party leadership entered the provincial governments, they strove to repeal the emergency powers that had been established by the British before 1935. An election manifesto from 1936 promised the INC "will take all possible steps to end the various regulations, ordinances and acts which oppress the Indian people and smother their will to freedom."[263] However, by 1937 they began to use the emergency powers themselves. The provincial governments enabled preventative detention in the Public Safety Acts.[264] The efficiency and convenience of using the British tools against militant political opposition and splinter groups of the national struggle perpetuated the legal framework, garnering the support of Congress Party members, who had previously opposed the D.I.R. vocally.

Besides preventative detention, the primary administrative legacy from the colonial government was the spillover of emergency powers from wartime to peacetime, including grants of immunity to members of the armed forces, who violated the rights of citizens by forceful entry, detention without a warrant, and custodial deaths. The Defense of India Rules were

---

[262] Quoted in Kalhan, Note 41. P. 129.

[263] NAI Home Department File 8/17/46 Political internal branch. From question 69 to Council of state

[264] These acts were not identical. The Punjab Public safety ordinance of 1946 was considered to be more drastic in its targeting of political activities than other Public safety laws. See memo from G.V Bedekar to legislative dept. October 10th, 1946 NAI Home Department file no. 6/2/1946 political 1 branch.

incorporated into Public Safety Acts, and Home Department officials advised provincial governments to use the exact same detention orders against person who are "potential threats to the state," but to issue the order with the phrase "the public safety" substituted for "the defense of British India."[265]

That said, officials were constantly debating and negotiating, and disagreeing about the use of emergency authorities. When provincial governments periodically enacted martial law ordinances, they were criticized by the legislative department that was against according military commanders the authority to declare martial law at will.[266] Some officials believed that there were a few emergency powers "it might be justifiable to retain as part of the law of the land … to deal with serious internal trouble, if it arose … in the form of another massive civil disobedience movement."[267]

Between 1946 and 1950, during the transition to independence, almost all provincial governments enacted Public Safety Acts to replace rules that had lapsed at the end of the war.

---

[265] Memo on Postwar Emergency Powers, F.G. Cracknell, Deputy secretary Political Branch I, Home Department, NAI HD 21/9/45

[266] Letter from P. Mason, War dept. secretary to Home dept. of Bombay government regarding the enactment of martial law explaining that the intention of the AFPSA was external security and not internal security and could not be used to establish martial law. February 9th, 1946. NAI HD file 21/30/46

[267] Apparently the Home Department drafted an Emergency Powers Ordinance to go alongside the defense of India rules, but decided to incorporate the measure into the local Public Safety Acts to avoid public debate. Memo on Postwar Emergency Powers, F.G. Cracknell, Deputy secretary Political Branch I, Home Department, NAI HD 21/9/45.

They included authority to detain persons because of their political action against the state, including aiding workers' strikes:

> The provincial government if convinced that any person acting or likely to act in a manner prejudicial to public safety, order or tranquility, or is fomenting or inciting strikes with the intent to cause or prolong unrest among any group or groups of employees may ... make an order ... that he be detained.[268]

Public disappointment with Congress officials was grave. An opposition leader demanded from the council of state:

> Will government state why even on the advent of national government at the center and congress ministries in most of the provinces, ordinances have been issued authorizing detention without trial, arbitrary imposition of collective fines, executive control of public meetings, serious curtailments of civil rights of the people and the continuance of the defense of India rules in some form or another?"[269]

After independence, India's provisional parliament enacted the Preventative Detention Act (PDA) in 1950. The PDA was highly contested and challenged as unconstitutional.[270] Yet, the

---

[268] Item 1 of List 2 of Seventh Schedule of the Government of India Act, 1935 (26 geo. 5 ch. 2).

[269] Question 69 of Raja Dutt Singh on the 15th of November 1946. NAI MHA File 8/17/46.

[270] The PDA had been debated so heavily debated in the Lok Sabha (India's lower house of parliament), in 1950 and 1951, that the Home Minister promised to bring a resolution in 1953 for open debate as to the

Indian Supreme Court ruled that it fulfilled the constitutional prerequisites to curb civil rights for the sake of national security.[271]

By 1952 controversy around the PDA led to establishment of a committee that was to amend the bill.[272] Despite fierce debates and promises made by Home Minister, Kailash Nath Katju, amendments to the PDA were minor - allowing the detainee an interview with his lawyer; limiting detention to 12 months,[273] and establishment of quasi-legal tribunals to combat habeas corpus applications.[274] In a similar fashion to the attempt to repeal the Emergency Defense Regulations in Israel a year before,[275] the committee failed to make a significant dent in the PDA to protect citizens from arrest without trial.

Armed Forces Special Powers Act

The Armed Forces Special Powers Act (AFSPA) is the most controversial and contested legislation in India (Akoijam & Tarunkuman 2005; Singh 2007). Originally known as the Armed

---

"necessity of continuing to make use of the preventative detention act" in order prevent the debate in 1952. Memo of H.V.R Iyengar 4.8.52. In NAI MHA 44/22/52 political 1 branch.

[271] A.K. Gopalan v. The State Of Madras. 19 May 1950. 1950 AIR 27, 1950 SCR 88.

[272] Preventative detention (second amendment) Act, 1952. See Home secretary memo from 18.8.52 NAI MHA 44/22/52

[273] NAI MHA file 21/29/59 Home Department Political Branch Report to the UN. P. 10

[274] Home secretary memo section 18, on 18.8.53. NAI MHA 44/22/52 Political 1.

[275] On December 16, 1951, the Israeli government decided to form an inter-ministerial committee that would develop security and emergency legislation that would replace the EDR 1945. Government decision 112, 1951 ISA/56/G/2199/7/10

Forces (Special Powers) Ordinance,[276] this regulation was established during World War II to protect the eastern borders of British India from the invasion of Japanese forces.[277] It was a departure from the Internal Security Instructions of 1937 that guaranteed that, "Indian States Forces units shall never be employed for internal security purposes outside the state to which they belong except in extreme emergency."[278] However, the colonial government used the ordinance throughout India in its attempt to quash the civil disobedience campaigns of Gandhi's Quit India movement.

After the war, the AFSPA was extended to certain parts of India and incorporated in local orders.[279] In 1946, the Home Department was concerned with shoot on sight orders issued in Bombay against rioting civilians, and determined that the AFSPA did not grant immunity if the soldier had not issued a warning to disperse an assembly.[280] They suggested the order be worded according to the AFSPA model:

---

[276] (Ordinance XLI of 1942)

[277] NAI Home Department File 21/30/46 Political 1 branch.

[278] Paragraph 9(b) of the Internal Security Instruction 1937. Home Department political Branch I reply to Govt. of Bengal 20.3.46. NAI HD 52/7/47.

[279] NAI MHA 64/47 police branch. The Ordinance of 1942 was extended until 1946 because of police demands, despite the Legislative department's attempt to repeal it. See Political Department memo on 7.11.46 NAI HD file 21/25/46 political internal.

[280] "The only case…that a "shoot on sight" order would be perfectly legal is where martial law has been declared." NAI HD 21/25/46 P. 26.

> Members of the public will be liable to be shot by troops or police operating in any area affected by such crimes if they failed to halt when challenged by a sentry or do anything to endanger property, which it is the duty of such troops to protect.[281]

Later, when communal violence escalated during Partition of India and Pakistan, the government of India promulgated four laws for Bengal, Assam, East Punjab, and the United Provinces, that declared the to be "disturbed areas" and granted the armed forces special powers. These powers resonated with article 34 of India's constitution that "provides for indemnity to public servants and others for any action taken by them for the maintenance or restoration of order in any area where martial law was in force."[282]

After independence, the provisions were incorporated into the Assam Maintenance of Public Order Act of 1947,[283] to confer extraordinary powers on armed forces to control the insurgency of the population in Nagaland and Manipur that had become a "constitutional problem" for the central government.

Between 1947 and 1953 "disturbed area" acts that were similar to AFSPA incorporated measures from the colonial ordinance that regulated movement of individuals, associations, and political activities. It empowered officers to shoot and kill, impose collective fines, conduct

---

[281] Wakely to political branch of Home Department. NAI HD 21/25/46 8.11.46

[282] http://www.constitution.org/cons/india/p03034.html August 9, 2013.

[283] Assam state introduced two acts based on the order: Assam Maintenance of Public Order (Autonomous Districts) Act 1953 and the Assam Disturbed Areas Act 1955.

searches and arrest people without warrant. The article that protected officers from any legal proceeding[284] was the core of the current Armed Forces Special Powers Act of 1958, promulgated as a temporary measure, but consistently used in India's Northeastern provinces and in Jammu and Kashmir.

[284] NAI MHA file 453/47 draft of United Provinces Disturbed Areas (Special Powers of Armed Forces) ordinance 1947 article 3 determines that legal proceeding against any person (not only soldiers) acting under authority of the government in a disturbed area, demand prior central government sanction.

Part Two: Diffusion of the Legal Toolkit for Managing Populations

While the diffusion of practices within the colonies in no surprise[285] because policies, information, artifacts, and personnel circulated throughout the British Empire, it is a critical component of my argument. Practices to control population in emergencies diffused from India to other colonies, each colony adapting and innovating upon the practices to suit the local conditions of the popular uprising or militant campaign. I argue that the administrative template for managing population in the colonial state diffused and was used against minorities by the independent states after independence. In this section, I briefly show four methods by which the diffusion of these practices took place, coupling the institutional theory for diffusion with the work on legal transplants. In the next part, I will discuss the legacies of the colonial emergency laws and practices of classification and surveillance of population in the independent states.

Research on diffusion of state practices in the social sciences rarely meets the fascinating literature on legal transplants, which explores the movement of legal norms from one country to

---

[285] Diffusion between postcolonial states that share a common past is of much greater interest that the circulation of laws within an imperial framework to social scientists. Likhovsky suggests that legal transplants are a form of signaling desire for membership or belonging to a particular political order. Likhovski, Assaf. "Argonauts of the Eastern Mediterranean: Legal Transplants and Signaling." *Theoretical Inq. L.* 10 (2009): 619; Kedar shows how diffusion of definitions of absentee and evacuee migrated from draft Pakistani law to Israeli law, to support his argument that comparative law is central to the study of critical legal geography. Alexandre Kedar, (Forthcoming) Expanding Legal Geographies: A Call for a Critical Comparative Approach in *The Expanding Spaces of Law: A Timely Legal Geography* (Braverman, Blomley, Delany and Kedar, Eds. (Stanford University Press).

another and is at the forefront of the comparative project[286] (Nelken 2003). Scholarship on legal transplants attempts to explain the diffusion of law inherited from one regime to another, yet does not address the administrative and institutional context in which laws are transplanted, or in other words, how legal transplantation actually works.[287] Initially, transplantation scholarship did not take into account local conditions, so the idea that a legal rule can simply be transplanted from one culture to another stirred opposition among scholars of law and globalization.[288]

Imperial and colonial laws are particular cases of transplantation. The inter-legality of colonial law becomes a veritable labyrinth when colonially manufactured laws are exported from one juridical territory to another (Baxi 2003). I see continuity between colonial and postcolonial laws as institutional processes of adaptation and innovation. Teubner's view is that the foreign rules lead to innovation:

> When a foreign rule is imposed on a domestic culture…it irritates law's binding arrangements. It is an outside noise, which creates wild perturbations within these

---

[286] Comparative law scholars are interested social scientific literature on diffusion. See Twining for an overview of scholarship institutional diffusion and comparative law. Twining, William. "Social science and diffusion of law." *Journal of Law and Society* 32.2 (2005): 203-240.

[287] William Twining maps the terrain of research on legal transplants and calls for a research agenda that uses social scientific theories to investigate the diffusion of law. See Twining 2005.

[288] For a helpful overview and typology of legal transplant literature see Cohn, Margit. "Legal transplant chronicles: the evolution of unreasonableness and proportionality review of the administration in the United Kingdom." *American Journal of Comparative Law* 58.3 (2010): 583-629.

> arrangements and forces them to reconstruct internally not only their own rules but to reconstruct from scratch the alien element itself (Teubner 1998:12)

I suggest that the emergency laws and practices of classification and surveillance diffused from colony to colony, forming a repertoire of practices used by the independent states. That repertoire was innovated upon so that practices to control and survey subject populations during times of crisis were institutionalized, and later used against minorities in order to block their claims to citizenship.

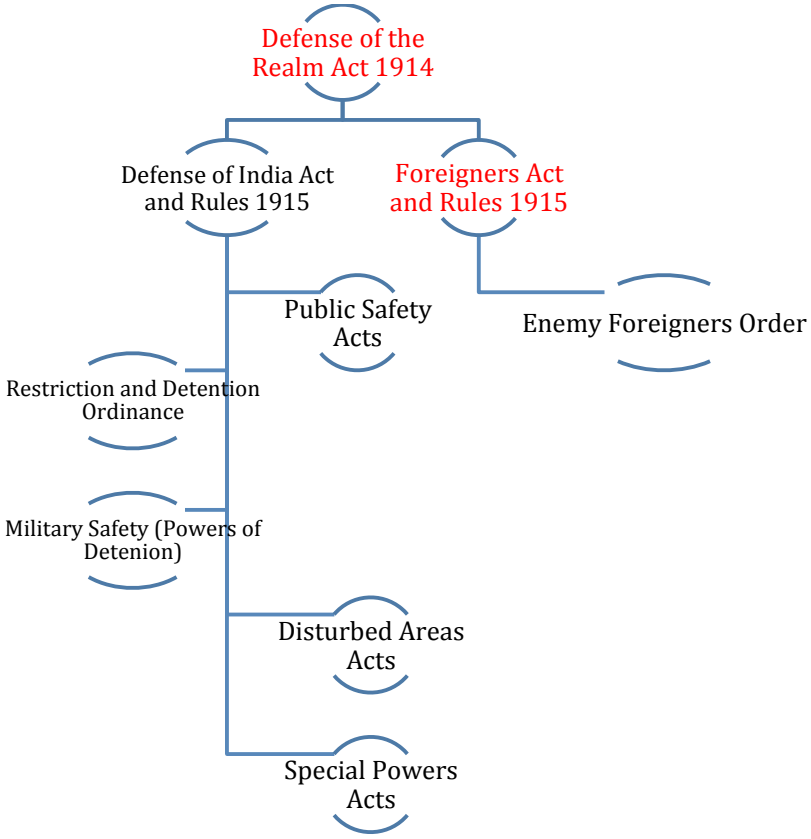


Figure 4: The colonial toolkit for managing populations

Four Methods of Institutional Diffusion

As discussed in Chapter 1, in which I outlined the model of British colonial bureaucracy, Meyer and Strang (1993) offer an institutional theory to explain diffusion of practices in a global context. They suggest that conditions for diffusion are the cultural linkages between categories or social actors. These links are part of the cognitive map of actors or organizations (Strang & Meyer 1993: 491). Common categories produce similar institutional structures through a process of institutional isomorphism (DiMaggio & Powell 1983). This homogenization is influenced by standardization of dominant organizations (like the colonial office), or by imitation in times of crisis (such as uprisings). Practices diffuse rapidly if there is a general theory or model about the cause and effect of practices. And furthermore when there is a distinct population or category of potential practitioners, called adopters (Strang & Meyer 1993: 498).

The diffusion of population management practices in the colonies fits well with this set of assumptions. The colonial office, the dominant organization in the administration of the colonies, initiated laws and practices, and attempted (with limited success), to standardize practices across the empire. Practices diffused in times of crisis through mimicry, or more simply "copying and pasting" of forms, templates and technologies of governance. Diffusion occurred where there was a formal model to a pass along to training delegation that traveled in order to learn from experts in other colonial governments, for example in the case of census enumeration in India or methods for controlling immigration in Mandate Palestine. And there was, of course, the movement of colonial officials from post to post, particularly when it came to expertise on policing in times of crisis, (Sinclair 2006; Anderson 1993) which Imperial historians have focused on as a main method of diffusion.

The table below shows the four methods of diffusion of emergency laws and practices for managing population between India, Cyprus and Israel. I then elaborate briefly about each example.

Table 5 : Methods of diffusion of Emergency laws in the British Empire

Method of Diffusion	Example
Initiation or standardization by the Colonial Office	Request of Cyprus Governor to restrict entry of suspicious native of the colony resulted in new technique offered by Colonial Office
Copying and pasting of technologies, forms and, templates	During the Arab Revolt, Government of Palestine used Bengali Anti terrorist laws as templates
Diffusion from professional delegations	Palestine Immigration Department hosted delegations that came to study methods of population control
Direct diffusion from colonial officials	Experts of Emergency and conflict zones

1. *Colonial Office*: The colonial office was the central command of the colonial administration. It promulgated laws, distributed policies, and printed up forms, codes of conduct, and circulars. It was the body through which information flowed from one colony to another as they engaged in attempts to standardize laws and practices. An example of this standardization was the response of the colonial office to the request of the Governor of Cyprus to deny entry to native subjects of the colony who were considered threats to the state. The colonial office policy was one that permitted deportation of security threats, but not denial of entry. They suggested a solution that was later implemented in other colonies: granting entry but requiring a short term permit for residency and employment that needed to be renewed frequently and allowed for surveillance.

2. *Copying and Pasting*: Indian bureaucratic forms served as templates for similar documents, such as naturalization applications and residency permits in Mandate Palestine.[289] During the Arab revolt, in 1936 the government of Palestine used laws promulgated in Bengal in the 1930s as templates for local standing orders. I found a pamphlet of laws from India in a file on the disturbances of 1936 and the enactment of martial law, which was used as an example for emergency measures.[290]

3. *Professional Delegations*: The department of immigration in the Palestine Government was a resource for administrators to learn "methods of control of foreign visitors and residents." [291] The high volume and sophisticated mechanisms for filtering requests for immigration to Palestine turned the department of immigration into a de facto training center for officials in population management across borders. At the same time, India was the training ground for many colonial administrators that began their careers in India and continued to other territories in the Empire.

4. *Diffusion of Practices by Colonial Officials*: While this is perhaps the most well researched aspect of circulation of policies and practices in the empire, most of the histories rely on the biographies of colonial officials and their writing. Important and enriching, particularly to postcolonial studies of law and colonialism, they focus on policy and devote less attention to the

---

[289] ISA M/5134/10 a file of miscellaneous forms for use in the Immigration Dept. in Palestine, included a number of forms from India, "two of which had a category of race or case or tribe and sub tribe" which were crossed out.

[290] TNA CO/733/315/2 Part II 1936, pamphlet and corresponding minutes.

[291] ISA M/5135/5 Dept. of immigration, government of Palestine, Feb. 6, 1947 I/962/46 chief secretary to representative of the government of Palestine in Cairo.

techniques and details of administration, information they did not have access to, as their sources were usually high ranking officials, who were less likely record information about specific practices.

Diffusion of Emergency Practices to Mandate Palestine

In Palestine, the ordering and control of population was a central component of colonial experience from the early days of the mandate, as immigration of Jews and the economic viability of that immigration formed a complex matrix of regulations and documentary restrictions on movement. Yet practices to control movement and monitor dangerous population reached their peak during the Arab Revolt in the late 1930s, as Arabs protested against the cooperation of the British Mandate with Jewish immigration and the political advances towards a Jewish state at the end of World War II. Armed Jewish groups began fighting the British colonial rule when British and Zionist interests collided over Jewish Immigration. The Order in Council of 1931 permitting the use of emergency powers and martial law remained unpublished until 1936, a sort of secret law.[292] As the mandate government searched for ways to crush the upraising, they turned to the emergency laws in India, specifically to a "collection of enactments which give special powers to deal with terrorists and other subversive activities" published by

---

[292] TNA CO 733/320/15 On April 19, 1936, under article IV of the Order of 1931, the High Commissioner of mandate Palestine made a set of regulations. Presumably, because of some unease over the unpublished Order of 1931, a new Order in Council was made, namely, the Palestine Martial Law (Defense) Order in Council of July 23, 1936. 3 Government of Palestine Ordinances, 259, Supp. No. 2 to Palestine Gazette Extraordinary No. 584 (Apr. 19, 1936).

the home department of India in 1934.[293] Its first use was occasioned by the Arab revolt of 1936, when regulations were enacted to enable taking possession of buildings and essential products, controlling transport and firearms, censorship, and deportation.

The colonial government compiled blacklists similar to those used in India, but focused on persons who were a security threat to colonial rule. Separate suspect lists were compiled, one for Arabs and one for Jews. The Jewish suspect list did not include occupation, since it was less relevant for immigrants, but focused instead on country of origin and particularly on political affiliations to communist organizations. The Home Office Suspect Index was a general list circulated throughout the Empire.

Between 1936 and1939, Palestine's Arab population was under severe military occupation, as collective punishment of villages and towns in which rebels were located were carried out. The Central Intelligence Department (CID), working as the investigative body for the police and British military, compiled suspect lists enumerating over 2000 individual suspects that were categorized according to their familial affiliation, their political ties, and their geographic location. The suspect list was checked during each raid and search of villages. Officers handling the suspect list used an Arab informant (hooded to prevent his identification by villagers) to identify the faces behind the names on the list.[294]

---

[293] I found the document in a colonial office file on martial law and disturbances in Palestine 1936 TNA CO/ 733/ 315/2 Part II, where the pamphlet of Bengali emergency laws served as a template to copy and paste from, or adapt to the circumstances in Palestine, as the note and markings show.

[294] TNA WO 191/88 *Notes on Operations in Palestine November 1937 and December 1939* p. 2-3.

Another technology for monitoring the movement of suspicious persons during the uprisings was the exit permits. During the Arab revolt, the government of Palestine introduced a system of exit permits, requiring every person attempting to leave Palestine to obtain permission from the director of the department of immigration. (British subjects, foreigners, and Jews who were not communists were exempt.) An Assistant secretary explained that it was more effective to demand that everyone request a permit than detain through preventative detention (the people on the suspect list) to prevent their departure.[295]

From 1945, the Jewish armed organizations decided to launch a joint struggle against British Colonial rule that stifled the immigration of Jewish refugees from post war internment camps in Europe and prevented the Zionist establishment from buying land and advance operations towards the goal of achieving a state. The armed operations involved officials in the Jewish Agency that were political figures, who were thought of as allies of the colonial government in Palestine. Following the bombing of strategic sites such as prisons, bridges, and railways, the colonial government compiled a list of over thirty-five-hundred Jews suspected of participation in military activity against the colonial regime. During one Saturday in June 1946, the police launched 'Operation Agatha,' placing all Jewish towns and villages under curfew and arresting over two thousand Jews.[296]

The classification of population in Mandate Palestine according to degrees of suspicion was simpler than the matrix of classification in India, partially because from 1935 the racial

---

[295] TNA CO/733/312/4 p. 19-20 secret letter to commanding officer of British forces on Departure from Palestine Ordinance (1936), September 23, 1936.

[296] TNA WO 275/114 Operation Agatha report.

classification was simply either "Jewish" or "Arab." Nevertheless, the entire range of spatial legal methods was used, not only because land zoning and mapping were critical to inter-communal conflict, but also particularly since border practices were highly developed, as illegal immigration occupied the administration until the end of the mandate.

Diffusion of Emergency Practices to Colonial Cyprus

After the Second World War, the institutionalization of emergency laws in Cyprus was a sensitive matter. The attorney general and governor of Cyprus, Andrew Wright negotiated the scope of emergency authorities and practices with the colonial office as they adapted the emergency measure of classification and surveillance used liberally during wartime, to peacetime. The method was to incorporate enabling powers into local laws:

> Most of the defense regulations contain enabling powers, which are exercisable under some order or other instrument … what I shall do will be to incorporate the text of the regulations in local law enabling the authority concerned to issue the necessary orders there under. [297]

The sensitivity of the Cyprus conflict was due to the international attention it received at the UN, so the diffusion of practices occurred with a high measure of scrutiny by the colonial office. One of the measures the governor wished to employ, in addition to deportation, was to deny entry to natives of the colony if they were on the suspect list or had committed a criminal offense. The problem was that British subjects who were natives of the colony could not be prevented from entering. **"**Cyprus is not a fortress colony like Gibraltar, where such powers can

---

[297] CSA SA 1689/50 Attorney general to colonial secretary John Fletcher Cook 26 July 1950.

be defended,"[298] colonial office administrators wrote in an angry draft letter to the governor. They thought the lack of metropolitan scrutiny on the local administration of the Island had resulted in exceptional measures. In response, officials in the colonial office offered an alternative – temporary permits restricting the length of stay:

> Some comparable arrangements under which British subjects could enter without restriction but could not remain in the colony for more than a stated period of time without special permission. The easiest way of exercising this sort of control seems to me clearly to be by limiting the length of time visitors can stay rather than by specifying the purpose for which they can stay.

This suggestion provided numerous opportunities for monitoring activities of those on the suspect list when they asked for permission to remain in Cyprus.[299]

From 1955 until the end of colonial rule of the Island, EOKA, a militant arm of the Greek Cypriot movement for Enosis, launched a fierce armed struggle against the colonial government and any Turkish or Greek Cypriots that they saw as collaborators with the colonial regime. British response to the emergency was quite slow, but by January 1958, the government of Cyprus launched a massive identification and surveillance system of all persons attempting to enter or leave the Island by air or sea.[300] The system included thorough and exhaustive measures of all passengers, a practice that was unheard of at the time.

---

[298] TNA CO 537/6244. Minute, Bennet in a draft letter to Governor of Cyprus. April 20, 1950.

[299] Ibid. P. 23-25 of minutes.

[300] TNA MED 374/04 (CO 926/1016) p. 24 Letter to colonial office January 1958.

Next came a system of exit permits. In 1955, the government enacted Emergency Powers (restrictions on departure from the colony) Order 1956,[301] a regulation that required all persons (except British officers) to apply for an exit permit to leave the country (in addition to a passport). Permits were given for a single journey and stated the date of departure and return. In 1956, in an attempt to restore harmony to the island, the regulations were repealed and exit permits were demanded only of people suspected of any political or military involvement with EOKA.[302]

In 1956, the Cyprus Government enacted a new set of emergency regulations declaring Danger Areas, preventing civilian movement on certain roads, and enabling commissioners to ban the movement of vehicles and pedestrians on site.[303] That same year, the emergency regulation (registration of households) was promulgated to give authority to search villages and find persons on the suspect list. "Our intention is to apply it immediately as a pilot scheme for troublesome villages,"[304] the governor wrote to district commissioners of police.

The Cyprus emergency happened a decade later than the pre-partition crisis in India and Mandate Palestine. Yet the arsenal of practices for classification and surveillance of civilian populations by legal spatial means was very similar. In part three, I show how this colonial

---

[301] TNA MED 469/67/01(CO/926/561)

[302] Ibid, p. 53

[303] TNA MED 469/64/01 Part II. June 5th, 1956 secret telegram from Governor's deputy to Secretary of State for the Colonies.

[304] Ibid, P. 106.

toolkit of emergency, used to manage subject populations, was used by the independent states of India and Israel against minorities.

Part Three: Legacies

I argue that after independence, racial and ethnic categories and categories of loyalty and suspicion converged. The technologies of classification and surveillance developed in the colonial state to monitor subject populations based on degrees of suspicion were used by the independent states to exclude minorities from political membership. This is best demonstrated by a comparison of permit regimes in India and Israel and the difference in the outcome in Cyprus.

The emergency toolkit of colonial governance included spatial regimes to monitor population movement. If we can make a rough distinction, these were practices of governmentality designed to control and monitor people – they were not meant solely to secure territorial sovereignty. Technologies of surveillance were formed during "states of emergency" in the colonies, e.g. wars, uprisings and economic crises. At first, temporary restrictions on movement were enacted through practices or emergency decrees. Those restrictions gradually solidified, and became an apparatus to control movement across frontiers and within restricted areas. These practices diffused from India to mandate Palestine and Cyprus.

After the dramatic violence of independence and partition, people fled India, Pakistan, and Israel. As they attempted to go back to their homes permit regimes were enacted to block their return: a permit system on India's western frontier of Pakistan and a permit regime in the "security zones" of the military government Israel established to control the remaining Palestinian population. People that had turned overnight from colonial subjects to refugees were now classified as intruders, infiltrators, undesirables, and security threats.

These two permit regimes that were established following the planned partition and independence in India and Israel respectively are the focus of my argument and analysis. I will outline the permit system in India, (Zamindar 2007), [305] then the permit regime in Israel,[306] and finally juxtapose the two institutions. Legal anthropologist Vazira Zamindar studied the permit system in India and claims it was developed locally and therefore was unique.[307] While her research inspired me to embark on the comparative project, from the vantage point that traces the institutional logic of emergency laws and administrative practice, I use my own data collected in India and Israel to compare between the regimes, and show how these practices were not particular and specific to India and Israel, but were rather the legacies of British colonial practices of emergency that diffused across the empire.

The Permit Regime in India

On July 14, 1948 the government of India announced that it would establish a permit system for people coming across its western frontier with Pakistan as an emergency measure. It

---

[305] Zamindar is the first scholar to write about the Permit Regime on India's Western frontier, and her work has been invaluable to my own. Beyond my own data collection on the permit system that followed Zamindar's findings, I chose to investigate its absence in West Bengal, on the Border with East Pakistan, to understand the administrative mechanisms and negotiation between ministries.

[306] Historian Shira Robinson offers the first historical systematic account of the military government and the permit regime in chapter 2 of her forthcoming book, see Shira Robinson Citizen strangers: Palestinians and the birth of Israel's liberal settler state. Stanford, California : Stanford University Press, 2013.

[307] Zamindar, Note 124, p.11.

promulgated the Influx from Pakistan (Control) Ordinance that determined that *entering* India from Pakistan without a permit was a criminal offense. In October 1948, the government of Pakistan enacted a parallel permit system, the Pakistan (Control of Entry) Ordinance 1948 in East Bengal[308] as well as West Punjab.[309] The motivation for the Pakistani permit regime was to halt the arrival of poor Muslim refugees for the sake of the Pakistani economy and had much opposition from the East Bengal government.[310] In India, the government was deeply concerned that granting permits to Muslims who wished to return to India, estimated to be between 30,000 to 40,000 a month,[311] would result in their demand for citizenship and nationality. So the security rational of suspicion was dominant and similar in Israel and India and different for the Pakistani permit regime.

---

[308] IOR/L/PJ/7/12537 Extract from secret telegram of HC to Pakistan to commonwealth relations' office. November 19, 1948 announcing that the permit regime will be extended to East Bengal.

[309] The East Bengal government initially objected to the extension of the permit system to its borders even though it had agreed to it during the first round of provincial discussions. Its premier argued that the initial agreement had been acceded to primarily threaten India into withdrawing her permit system, but its actual position was that the permit regime was opposed to "our peoples needs."

[310] The Ministry of Interior in Pakistan thought that the permit regime was the most effective way to keep the undesirable poor refugees out of Pakistan. The ministries argued between them on the best technique to prevent refugees.

[311] TNA IOR/L/PJ/7/12209 Opdom 29 Telegram from High Commissioner of the Uk in India from April 18th 1948. The telegram informs that over 45,000 Muslim have returned to India in the last 3 weeks due to lack of accommodation and occupation.

Initially, the partition plan had called for open borders and free movement across the dominions. This was not simply a declarative position. The partition council, charged with the administrative implementation of the partition plan, received a report from expert committee (#8) on domicile. The committee had recommended that Indians and Pakistanis should be exempted from any impediments on freedom of movement, or visa restriction,[312] because "… the committee came to the conclusion that partition by itself will affect no change in nationality." The committee recommended:

> A suitable adaption of the passport rules should be carried out under which the inhabitants of each dominion will be exempted from the passport regulations of the other dominion … at the start there are no passport restrictions between the two dominions. The Dominion governments can later carry out such modifications, as they considered necessary.[313]

Despite the recommendation to the partition council, the permit system was enacted shortly after. This system controlled movement across the borders until 1952, when special passports for travel

---

[312]NAI, MHA file, Establishments section 41/1/47. Report on the definition of domicile, regarding requirements for appointment to the civil service following partition.

[313] The committee recommended that partition should not impose changes in nationality and restrict freedom of movement, besides restrictions on entry into the public service, which I discuss in Chapter 3. On July 7, 1947 the steering committee wrote a note to the expert committee on domicile: "The committee came to the conclusion that partition by itself will affect no change in nationality and calls for no immediate action by the petition committee except in regard to the public service… if it is desired to restrict entry into the public service in the manner indicated but not otherwise."

between India and Pakistan were distributed. It was established in 1948, but it took time to organize an administrative mechanism for the "extensive arrangements needed to enforce the system on the frontier."[314]

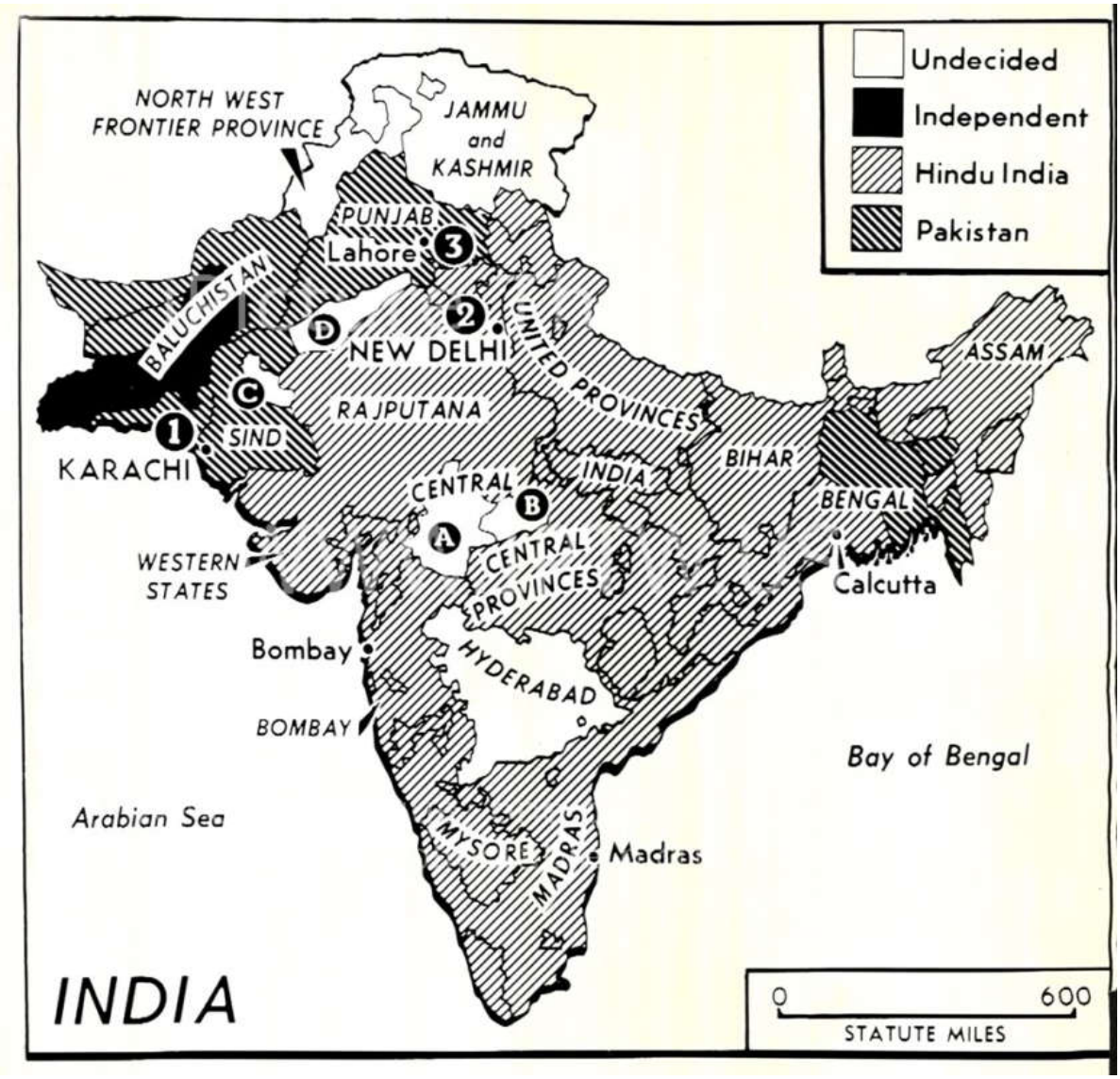


Figure 5: India just after partition [315]

[314] IOR/L/PJ/7/12537 Secret telegram from High Commissioner to Pakistan.

[315] Source: Francis Pritchett's Website at MESAAS, Colmbia University

I traced the paper trail of border security and monitoring in West Bengal to show how the practices and routines of border surveillance evolved within the administrative departments.[316] The difference in administrative practices that developed for the frontiers of East Punjab with West Pakistan and West Bengal's frontier with East Pakistan shows how different departments and Indian states chose to employ the repertoire of colonial practices for population management. The initial position of the partition council and the ministry of home affairs was that any type of documentary surveillance of population movement between the two dominions was less than legitimate. Gradually, demands for establishing an "unobtrusive watch" on population movement across the borders turned into security checks and an elaborate surveillance system:

> In view of the agreement recently reached between India and Pakistan ...The proposal to have a regular system of passports or visas or permits between the two dominions or the setting up of police posts in all road and rail crossings of the border for the purpose of checking all passengers crossing the border seems to be out of the question.[317]

However, foreigners still had to be checked, so the Ministry of Home Affairs needed a scheme for effective border surveillance, without breaking the inter-dominion agreement on free movement. The Intelligence Bureau (DIB) in the Ministry of Home Affairs proposed a solution to circumvent the inter-dominion agreement on freedom of movement. They would quietly issue

---

[316]NAI MHA Political External Branch file 10/11/47 Correspondence with Government of West Bengal and Intelligence Bureau July 1947 – March 1949.

[317] NAI MHA 10/11/47 Singh to West Bengal Government, p. 23.

> Separate instructions to the local police authorities concerned explaining that it would be desirable in the interest of security, to check all persons whether foreigners or others entering India from Pakistan and vice versa. This can easily be done under the cover of checking passports of foreigners entering India from Pakistan.[318]

In the exchange within the Home Ministry we can see the negotiation between officials who wished to keep the letter of the law and those that had wished to expand executive authority to get the job done:

> It is quite essential that we shall have some idea of the numbers of Muslims returning to India and also the numbers of non-Muslims leaving Pakistan for India. This object will be served by means of an unobtrusive watch kept by the police in uniform, as well as plainclothes at the frontier of posts and also at airports and seaports. It may be mentioned… that such unobtrusive watches under orders of Home Ministry are being kept at Delhi … Delhi police are reporting in the daily reports on the approximate number of Muslims coming into and leaving Delhi. Such a watch can be maintained without violating the spirit or the letter of inter-dominion agreement.[319]

---

[318] NAI MHA 10/11/47 Deputy Secretary G.V Bedeker writes on April 29, 1948 to R.N Banerjee, the Home Minister's secretary.

[319] Ibid, summary of discussions with Intelligence Bureau, Fateh Singh. P. 44.

R. N. Banerjee was worried about the impact of the surveillance on individual rights:

> I have some misgivings as to whether the unobtrusive observation we are contemplating would be feasible. My feeling is that in practice, subordinate police officers … may start a system of interrogation, which may inevitably prove to be inquisitorial. [320]

Fateh Singh suggested the Home Ministry relinquish the plan for a system of surveillance on the Eastern Border altogether:

> The government of West Bengal expressed the view that it would not be practicable to maintain such as surveillance unless sufficient staff was available for the purpose. The East Punjab government and the chief Commissioner in Delhi have intimated that they are maintaining some sort of watch on suspects entering India from Pakistan. In view of the fact that the permit system has since been introduced in respect of the movement of persons between India unless Pakistan, I do not think that any further action is necessary in this respect.[321]

B. Shukla, undersecretary of the West Bengal government[322] explained that the West Bengal plan for border control surveillance was met with skepticism from the Ministry of Finance, which found it outrageously expensive, compared to the permit regime on the Western Border. Officials from the Ministry of Finance shrugged off the attempt to turn surveillance of

---

[320] Ibid, Banerjee to Bedekar minute from May 12, 1948.

[321] Ibid, Fateh Singh 18 December 1948.

[322] NAI MHA 10/11/47 B. Shukla to Fateh Singh & R.N Banerjee on 28th of February 1949

the Eastern Border into a national concern. From the All-India point of view, they wrote, "we have our central intelligence organization that are expanding the activities on various Indo Pakistan frontiers and are watching the activities of such political parties and of persons entering India." Finally, the intelligence Bureau proposed a plan by which the passports checking posts would be merged with the land customs stations, and that there should be 11 such stations in west Bengal, whereas the West Bengal government had proposed 23 stations.

The debate on the Eastern border and the decision to relinquish the surveillance system show the elasticity of the terms "security," "emergency," and "suspicious populations." Different departments deploy the security argument to negotiate for resources, but the practical negotiation on resource allocation, administrative plans and outcomes reveal the political agenda of different agents. The particular political and institutional agendas of these agents contributed, together with legal and technological artifacts to an administrative system of population management that developed during these crucial months. The disparity in both the debate and the outcomes on the Western and Eastern borders strengthens the argument that the goal of the permit system was not simply to maintain order and security, but to prevent Muslims that had fled to West Pakistan from returning and claiming citizenship in India.

The File and the Check Post: The Labyrinth of Identity

The permit regime divided Muslim families. Some stayed behind in Delhi to protect homes or businesses. Others went to Pakistan in search of employment leaving their families behind,

including Many Muslim civil servants,[323] who opted to work in the new Pakistan government and continued to maintain their homes and families in India.

The Indian high commission in Pakistan began to issue five different kinds of permits: 1) for temporary visits; 2) for permanent return to India; 3) for repeated journeys for businessmen and officials; 4) for transit travel for travel across the two halves of Pakistan; and 5) for permanent resettlement for Hindus that wanted to migrate to India.[324] The different types of forms and classifications were matched to one's identity.[325] Resettlement was an option available

---

[323] MHA 35/78/49 ESTS. Many government servants, who had decided to work for the new Pakistan Government, left their families in India. The opposite was also true, and civil servants with families in Pakistan were usually categorized as those of dubious loyalty because of that fact. P. 6-7.

[324] NAI MEA 6/19/56 PSP. Resettlement for Hindus was relatively easy, compared to the plight of Muslims attempting to return. But it was also a difficult process in which loyalty of those who were in category C "Hindu Pakistani Nationals." They had to apply for short-term documents for entry, valid for only two to three months, before receiving a permit to stay for a year on the way to resettlement. Until 1953, these requirements had changed five or 6 times. Minutes to Intelligence Bureau, R.P. Sharma, January 17th, 1956.

[325] NAI MEA 646/56 p. 7-9 note of deputy secretary of the Home Department from August 21, 1956. Fateh Singh explains how the permit system worked, focusing on resettlement permits for those that had fled to Pakistan. The resettlement permits became long term visas for certain categories of returnees, which would be renewed from year to year. A similar system existed in Israel, in which people would get certificates of residency, that would be renewed from year to year (A/5), and after a number of years could apply for citizenship, which would be granted or not dependent upon recommendations of police and secret service.

for the most part only for Hindus and granted access to rehabilitation programs. Permanent return was for Muslim refugees that had to go through a bureaucratic labyrinth of uncertainty and requests took years to get past the administrative filters. In the next section I describe the organization of the border checkpoints for enforcement of the permit regime from the point of view of the state.

Bureaucratic anxieties about the ineffectiveness of the permit system and the urgent need to restrict the return of Muslim refugees led to repeated attempts to improve its techniques. This meant that Muslims that were moving were subjected to increasing regimes of control and surveillance. These difficulties also created a black market for permits and forgeries. Forgeries created a new set of regulations, which criminalized the practice and demanded higher burdens of proof for identity documents. These burdens of proof escalated over the years. One was suspect if he or she had lived in Pakistan, worked in Pakistan, or had family in Pakistan, but the official dealing with the case determined the degree of suspicion.[326]

The burden of proof grew heavier as did the policing methods and the criminalization of people who had not succeeded in obtaining permits, to the point where any Muslim living in India who wanted to visit Pakistan had to establish him or herself as belonging to India so as to not be prevented from returning. They had to obtain a "no objection certificate" from the police

---

[326] NAI MEA 646/56 File on the case of Mr. Godfrey Edward Airan. The file is an inquiry of Jawaharlal Nehru, prime minister of India into a case of an engineer that had been denied permits to enter India and was denied a visa or resettlement after the citizenship acts. The intervention of the prime minister brought about a flurry of administrative activity that revealed the discretion used in the past to delineate suspects from those deserving permits.

and district magistrate before leaving India and they had to establish themselves as belonging to India. Later those visiting from or going to Pakistan were required to report to the police station on their arrival, a colonial practice demanded of foreigners.

Muslims returning to India were most affected and a significant numbers of people were arrested for overstaying their temporary permits. Because of the increase in arrests and court cases, citizenship provisions (articles 5 to 9) in the Constitution were put in force on November 1949, in advance of the Indian Constitution itself.

Yet the permit system was not a master plan for exclusion of Muslims. In many ways, it was not planned at all. It was an example of one of the features of colonial bureaucracy – routinization of emergency. Governing by emergency occurs when the administration creates an ad hoc response to a problem, and then that practice is solidified and institutionalized into administrative regulations. Records of negotiations between the Ministry of External Affairs, primarily interested in security, and the Ministry of Home Affairs, whose priority was to reduce the number of returning Muslim refugees, reveal that there was no particular decision to exclude Muslims for future purposes of citizenship. Yet that gradually did become a goal of the permit regime. Different administrative departments at the outset of the permit regime deployed the rationale of suspicion differently, but the security and exclusion rationales merged over time into the procedural prevention of claims to citizenship.

As the statutory citizenship law was enacted, the goal of exclusion through practices became clearer to the political establishment. In 1956 Prime Minister Jawaharlal Nehru intervened in a case where a person was denied permits, and later a long term visa, despite the fact that he was cleared from classification based on suspicion. He wrote, “under our new

nationality law, a person can become an Indian citizen if he has been a resident for a certain number of years and is otherwise qualified. That means that we permit him to reside here for that number of years. If we don't permit him to do so, then no foreigner can qualify under that rule."[327] He expressed his failure to understand the confusing policies of the Ministry of Home affairs on the matter.[328] The permit system attempted to control a border that was both an international border between India and West Pakistan, and an internal border,[329] between the majority and the non- Muslim minority, their loyalty and legitimacy questioned by the conflation of their religious and ethnic identity with classifications of suspicion.

The Israeli Permit Regime

Immediately after the Israeli War of Independence, the Israeli administration was preoccupied with blocking the Palestinians who wished to return to their homes. A military government was established to control the movement of the Palestinian population in areas classified as closed military zones. The ministries of interior, minorities, and immigration were all involved in the war on returning refugees that were now classified as "infiltrators" and intruders. In practice, soldiers and border police prevented people from returning, expelled many who resided in the

---

[327] NAI MEA 646/56 p.5-6, letter from Prime ministers secretary to the home ministry. August 8, 1956.

[328] Nehru was highly engaged in issues of classification of population for the purposes of citizenship and was especially concerned with classification of Indians that were overseas or beyond India's territory. NMML B.N Rau Private Papers, P. 4. Letter from Jawaharlal Nehru to constitutional adviser B.N Rau. January 30, 1949

[329] Zamindar, note 126.

state, monitored the movement of the population, and prepared the conditions to exclude people from the future citizenship laws by bureaucratic means.[330]

But how did the actual practice of the permit regime evolve? As in India, there was no master plan; the permit regime grew out of a series of emergency administrative decisions that were institutionalized into a mammoth bureaucratic apparatus for control of movement and legal status.

---

[330] For a comprehensive theoretical analysis of the way law shaped state control of Palestinians during the military government, see Saban, Ilan. "Theorizing and Tracing the Legal Dimensions of a Control Framework: Law and the Arab-Palestinian Minority in Israel's First Three Decades (1948–1978)." *Emory International Law Review* 25 (2011): 299-378.

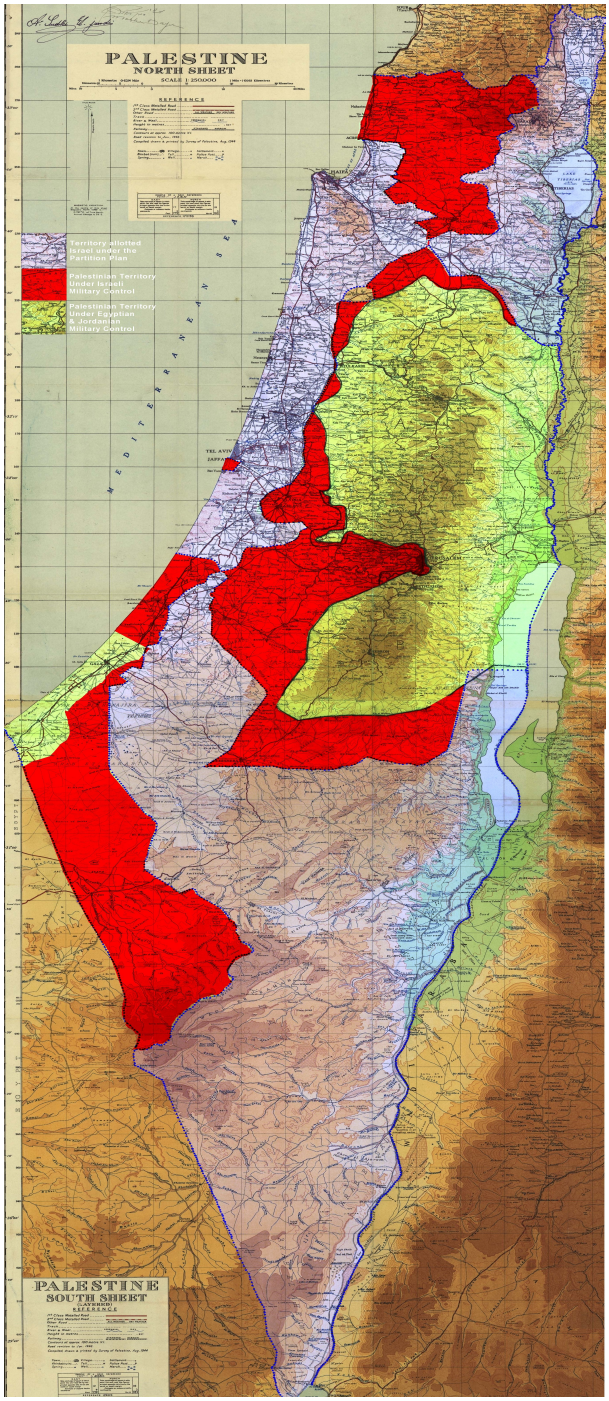


Figure 6: Map of the partition plan for Palestine and areas controlled by military governemnt [331]

[331] Areas controlled by the military government in red.

The War on Returnees

For Israel, the war on infiltration was a legal problem. The attempts to expel infiltrators and deny people status as residents and subsequently, citizens, did not have any legal anchor. Israel had declared in the UN that it would grant citizenship to Palestinians that were enumerated in the census and repatriate 100,000 refugees.

There was a year of bureaucratic mayhem in which different ministries issued different documents of identification for Palestinian residents. Then the Ministry of Minorities aimed to achieve its goals through amendment of the population registry ordinance that would enable the distribution of temporary permits instead of ID cards to certain Palestinians. The Attorney General blocked the amendment arguing that it was illegal for the Ministry of Interior to deliberately exclude residents from the ID registry. Yehoshua Palmon, the advisor for Arab affairs, was worried by an injunction the Israeli Supreme Court had given against the Ministry of Interior that refused to register Palestinians according to the population registry ordinance and give them ID cards. It was a symptom of a rivalry between officials that wanted to prioritize legality and internal law, and those that wanted the executive means to get the job done.

Despite Palmon's pressure, the Ministry of Interior hesitated to amend the law. Hartglass, the ministry's legal adviser found a creative solution: Who needed an amendment of the law, when they could carry out their policy through bureaucratic means.[332] He suggested the

---

[332] One could argue that the administration of the permit regime was the outcome of an inter-agency battle. It was the reaction of the Ministry of Minorities and the Military Government to the inaction of the Ministry of Interior that had not promulgated an amendment to the population registration ordinance.

department of general administration issue an internal directive to the registration offices.[333] That internal regulation founded the permit regime.

Led by Palmon, In September 1949, the administration distributed temporary residence permits to Palestinians instead of ID cards. Palmon reasoned,

> The ID card, even if it is just a method of identification according to the law, is a document through which one gets a ration card, is evidence for the legal residency of its holder in the state and can be used to achieve citizenship.

Other Palestinians who would receive permits were "those that were in the country, but will not get ID cards for security reasons or because we need to examine their loyalty to the state."[334] Hartglass suggested that when intruders came to register their families at the registration offices, the police would be called to arrest them. Only if the police issued a written recommendation, would they be registered. Otherwise giving them ID cards was like "giving the fifth column bread and butter through ration cards. … Aiding their struggle against "our state."

The temporary resident permits were intended for those Palestinians that had not been enumerated in the census and were considered absent. Those not eligible to receive ID cards were expelled at border controls.

---

[333] Israel Defense Forces Archives file 243/52/6 Hartglass to General Director of the Ministry of Interior August 7th, 1949 PZ/YOM/1706

[334] IDFA file 243/52 "directives to military governors." Letter from Palmon to the legal advisers of Ministries of Justice and Interior September 2. 1949. Ref. 89/1/603.

"Infiltrators" needed to apply for a permit from the military government, which sent the application to a special committee next to the Immigration Office, in charge of requests for entry from Palestinians or foreigners. The applicant was granted a temporary permit for 30 days, while he or she awaited a decision. People could only apply if they had a recommendation from a military governor. The governors were instructed only to recommend people that could be of use to the military government.[335]

The permit application then had to be accepted by both the police and the secret service. Permits were given for three months, and each renewal of a permit was a surveillance opportunity for police and secret service. Palmon directed the governors, emphasizing that the temporary nature of the permit would provide numerous occasions for intervention for monitoring and surveillance purposes:

> The military governor has authority to cancel the permit and with it the (temporary) right of residence…. the period that the permit is in effect is an examination. The behavior of the permit holder can influence on the renewal, annulment or exchange with formal ID card. [336]

Palmon further explained the relationship between the category of suspicion and the access to essential identity documents:

> A person holding aresidency document will be able to reside in the state for a certain period, at the end of which he would have to renew it. The renewal

---

[335] IDFA 243/52/6 Major Lavy to head of the military Government branch September 5. 1950

[336] IDFA 243/52/6 Palmon to registration office of Ministry of Interior 29 June, 1949 89/13467.

> depends on the circumstances and the decision of the local military government and every renewal will require the consent of the security services. The military governor has the authority to cancel the residency document and the rate of residency in the state. Moreover the period that the residency permit is in effect is an examination of the behavior of its holder, which can influence the decision to prolong, annul or exchange [the permit] with formal ID card. [337]

The permit regime was a system that enabled constant surveillance of the population. People were monitored on a daily basis through the permits, as the bureaucratic lines between residents, refugees, intruders, suspects and security threats crystallized into formal categories in anticipation of the citizenship laws.

I want to give an example of the bureaucratic labyrinth people encountered when they applied for a permit. A rare document, this application for a permit described the experience of the legal spatial measures of the permit regime. On 4 September 1950, the military governor of Galilee recommended the committee grant a temporary permit for Yusef Asad Kides, 55 years old, married without children. In his application Kides wrote:

> I was born in Ein el Sit and stayed there with my family until March 1948. Then I move the family to Majdal Krum and remained there until the Army conquered the village.
>
> A few days after the occupation of the village I was sent from the labor office to Lyd to work in the fields. I stayed there for a few days and then returned. Two

[337] 243/52/6 Palmon to registration office of Ministry of Interior 29 June, 1949 89/13467.

> months after the village was occupied, there was a search, and I was taken with the rest and expelled to Jenin.[338] I stayed in Jenin one month and returned after that. After six months there was another search in the village. I was caught and expelled to Jenin for a second time. I stayed in Jenin three days and returned. Since then I stayed in Majd al Krum without leaving. My wife moved to Acca and received an ID card.

The military governor that had recommended the permit was reprimanded because the requester had returned into the country illegally after multiple expulsions. Basically if one was expelled and then requested a permit, one would be refused because she was illegal, but those that needed to apply for temporary permits were those that were unregistered or expelled in the first place.

The Israeli permit regime had transformed colonial practices of population management, which had originated in the interwar emergency laws, into a method of administrative exclusion, reducing the number Palestinians that could claim citizenship once the statutory laws were enacted. The Israeli case illuminates the permit system in India and underscores how ad hoc measures first justified by security reasons and emergency following the influx of population movement are institutionalized into administrative routines. Both Israel and India had inherited the set of emergency laws the British colonial government used as legal spatial measures to control population. Cyprus had annulled the emergency laws at independence. At the outset of

[338] Jenin was in Jordan at the time.

this study, I did not know just how critical this issue would be to explain the divergence of the outcome in Cyprus from those in India and Israel.

Cyprus: The Siege and Convergence of Identity and Suspicion[339]

In 1960, Cyprus gained independence from British colonial rule through a set of international agreements between Britain, Greece and Turkey. The international agreements included an elaborate constitution that guaranteed the rights of the Turkish Cypriot minority in great detail. The constitution created a binary of identity: one could either belong to the Greek Cypriot

---

[339] Note on method for research of the Turkish Cypriot administration after the constitutional collapse 1963: there are no accessible archival documents on the Turkish Cypriot administration. From November 1963 – 1965, the Ministry of Interior of the republic did not effectively administer the Turkish Cypriot population and there are no documents that refer to daily life in the Turkish Cypriot enclaves, or the relationship of the Turkish Cypriot population with the state. Scholarship on the period between 1963 and the Turkish Invasion and the partition of Cyprus is scarce. The "Turkish Republic of North Cyprus" archive in Kyrenia does not contain primary sources of documents prior to 1974. In order to bridge these gap, I interviewed six high ranking civil Turkish Cypriot civil servants and also relied on the Nancy Crawshaw papers at the MNSC library at Princeton University, and a dissertation conducted at the time (1963-1971) that serves as a resource of historical information for scholars of Cyprus: Patrick R. A. 1976. A Political Geography of the Cyprus Conflict: 1963-1971. Ontario: University of Waterloo, Dept. of Geography Publication Series. I am grateful to the scholars at PRIO Nicosia, and particularly Mete Hatay for their invaluable time, energy and deployments of networks that enabled me to sketch this administrative history.

community or the Turkish Cypriot community (even if one Armenian or Maronite),[340] so in postcolonial Cyprus, "being singly and simple a Cypriot, is a constitutional impossibility" (Constantinou 2007).

The Cypriot constitution established a system of proportional representation that required a ratio of 70:30 Greek to Turkish Cypriots in the administration and civil service, and provided for separate municipalities,[341] also called "municipal partition"[342] by Turkish Cypriot Leadership at the time. A crucial cause of the constitutional collapse and the violent inter-communal riots that overtook the Island in 1963 was contestation over appointments to the civil service. Over a period of two years, over two thousand appointments were contested on the basis of identity to the public service commission.

After the constitutional collapse, the Turkish Cypriots fled to the enclaves due to the violence, and then barricaded themselves in their own neighborhoods and villages that were first put under military and later economic siege by the Greek Cypriot Government (Bryant & Hatay

---

[340] The binary classification of Greek and Turkish Cypriot excluded other minorities from the formal constitutional and administrative order of the republic, which resulted. See Varnava, Andrekos 2009. *The Minorities of Cyprus: Development Patterns and the Identity of the Internal-Exclusion.* Andrekos Varnava, Nicholas Coureas and Marina Elia, ed. Newcastle upon Tyne: Cambridge Scholars Publishing.

[341] Article 173 of the constitution of the republic of Cyprus. For the centrality of the municipal issue to the constitutional collapse in Cyprus see Markides, Diana Weston. *Cyprus 1957-1963: from colonial conflict to constitutional crisis: the key role of the municipal issue*. University of Minnesota, 2001. P. 71-80.

[342] TNA CO 926/805 Letter of Turkish Cypriot leadership to Foreign office, February 27, 1959.

2011).[343] The Turkish Cypriot Civil servants and politicians left their offices and positions, and created a separate Cyprus Temporary Turkish Administration.[344] The Attorney general of Cyprus justified the suspension of the provisions in the constitution that guaranteed representation for Turkish Cypriots because of a "state of necessity" caused by the Turkish Cypriots had left their ministerial positions. The Turkish Cypriot civil servants declared that they had fled to the enclaves in the wake of the violence.[345] They were declared as rebels by the Greek Cypriot government. This doctrine of necessity was approved by the Cypriot Supreme Court is Ibrahim Aziz vs. the Attorney General in 1964, the case that solidified the Cypriot emergency and constitutional suspension de facto (Constantinou 2008; Trimiklioniotis & Bozkurt 2012).

---

[343] Bryant and Hatay use the Turkish Cypriot enclaves to examine sovereignty and the state of exception through historical ethnography. The lack of any administrative documents from the Turkish Cypriot Enclaves turn every interview has become a valuable source of data.

[344] At first, in December 1963 the Cypriot Turkish General Committee was formed. Using some of the government buildings in Nicosia that stayed on the Turkish side, the committee formed a legislature, police force, and courts.

[345] CSA 227/160 P. 33/1-10 Opinion of the attorney General Tornaritis, March 27, 1964.

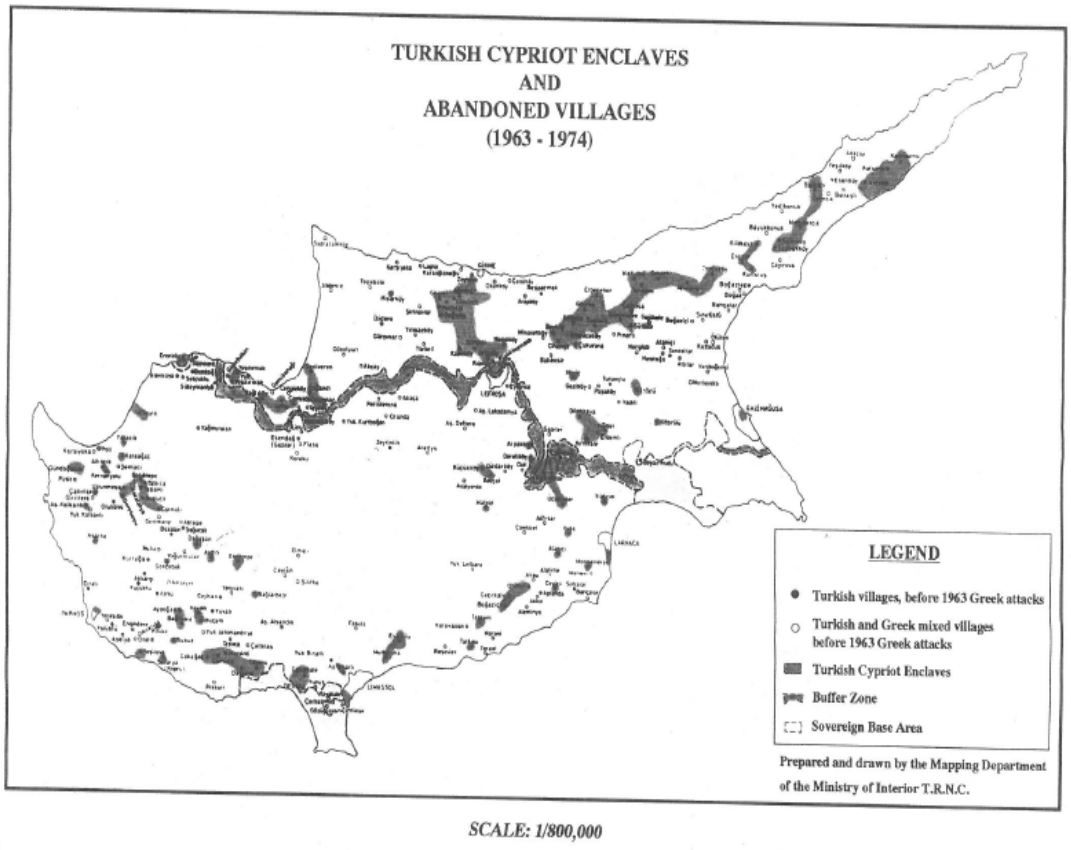


Figure 7: Map of Turkish Cypriot Enclaves 1963-1974[346]

The siege of the Turkish Cypriot enclaves was initially organized as a military operation, a separation of population in a civil war, and gradually developed into an economic siege.[347] Three circles of forces surrounded the enclaves. Turkish Cypriot paramilitaries, members of the TMT (the pro partition Turkish resistance movement) protected the enclaves, but also monitored movement from the enclave to prevent desertion of men of military age. In the winter of 1964 a permit system was established for men of military age that were leaving the enclave, by the Turkish Cypriot administration.

---

[346] Source: TRNC Public Information office.

[347] Interview with Rustem Tatar, former Auditor General of Cyprus 1960-1963 and minister of finance of the Temporary Turkish Cypriot Administration 1967-1976. Nicosia, June 2, 2012.

This system of permissions was not regularized, and once a permit was issued, it was no longer monitored or registered. Permits for leaving the enclave became increasingly important when the number of missing persons escalated in encounters with Greek Cypriots.[348] The enclaves were surrounded by United Nations force in Cyprus (UNFICYP) forces, and another ring of Greek Cypriot irregular military forces. These permits had two justifications: to monitor the population's movement for reasons of their safety and security from interception and arrest by the Greek Cypriots and to prevent desertion by military aged males.[349]

The Greek Cypriot military forces and police established checkpoints and roadblocks around all Turkish Cypriot enclaves. Yet, the scarce references of the Ministry of Interior and police to these measures are concerned with the image of the republic as a police in the eyes of tourists and visitors that encounter the checkpoints and roadblocks. When asked to supply a list of roadblocks for the sake of visitors to the Island, the ministry of interior replied it could not gather the information.[350]

The siege of the Turkish Cypriot enclaves was fashioned by a military logic of separation, not one of population management. Greek Cypriot forces and police were seemingly not concerned with enumerating and classifying the Turkish Cypriot civilian population. The

---

[348] Interview with Zaim Nicatigil, former attorney general of the "TNRC"/ Occupied Cyprus, and Minister of justice in the Turkish Cypriot Administration 1963-1968, Nicosia, May 31, 2012.

[349] Interview with Zaim Nicatigil, former attorney general of the TNRC/ Occupied North Cyprus, and Minister of justice in the Temporary Turkish Cypriot Administration 1963-1968, Nicosia, June 2, 2012.

[350] CSA 167/959/1 p. 33 Letter from High Commissioner Ashiotis to Director General, Ministry of foreign affairs, January 24th, 1967.

Ministry of Interior of the republic of Cyprus made no attempt to conduct a census of displaced Turkish Cypriots, or register population at all. The movement of Turkish Cypriots was monitored by military means, not administrative ones. Despite the spatial impediments on movement and the state of emergency, I did not find evidence for an institutional legacy of colonial population management practices in Cyprus, or any relationship between the restrictions on movement of Turkish Cypriots and their political membership. Turkish Cypriots have been and remain citizens of the Republic of Cyprus since its independence, despite partition.

I believe the absence of population management practices stems from the lack of a legal framework to carry out the project of controlling the population by administrative means. At independence, Cyprus had annulled the Emergency Defense regulations and any remnants of emergency legislation of provisions. It has never declared a state of emergency during the riots of 1963 or even during the Turkish invasion of 1974 that led to partition of the Island.

The current presidential commissioner in Cyprus, and a major figure in issues of displaced persons and refugees, Giorgios Iacouvos attempted to help me solve the conundrum of the absence of critical legal tools of emergency in times of crisis in Cyprus. From his stories of administrative struggles and negotiations, I sketched the following explanation for the absence of emergency laws.

Cyprus had gained independence through international agreements that attempted to solve the inter-communal conflict. The lack of trust between Greek and Turkish Cypriots did enable the inclusion of emergency measures in the constitution. In 1974, during the Turkish invasion of Cyprus, Iacouvo was asked to conduct the relief and rehabilitation operations for the Greek Cypriots that had fled North Cyprus. He asked the cabinet for emergency powers and they

sent him to talk to the attorney general. The attorney general replied that he had considered declaring a state of emergency, but found the enactment of emergency laws unconstitutional.[351]

Conclusion: the Administrative Outcomes of Emergency

I argue that the permit regimes in Israel and India after independence both originated in colonial administrative practices of classification of surveillance, developed to implement spatial legal measures in emergency laws. I showed how the practices developed in India in the interwar period diffused to mandate Palestine and Cyprus during anticolonial campaigns of local nationalist movements. Although their similarities are not surprising, they remain quite striking. In this section, I point to the shared logics of both permit regimes, the institutional logic of population management and the divergent outcome in Cyprus where the legal-spatial measures were of a military nature. I believe emergency laws in Israel and India, and their absence in independent Cyprus, mediates this difference.

The primary similarity between the permit regimes in Israel and India was the prominence of the population registry and specific uses of refugees and "infiltrators." Both governments arranged for an urgent census of population and specifically enumerated the displaced persons or refugees. In September 1948 the Israeli military government took a special census, because not all of the Arabs had been included in the general census. The Israeli government issued orders to count Arab inhabitants quickly so authorities could assess population numbers after the massive flights and expulsions and also to help locate infiltrators that had returned after the census and expel them (Leibler & Breslau 2005).

---

[351] Interview with Georges Iacouvo, June 5, 2012, Nicosia.

The newly founded ministry of rehabilitation in India, similarly, took a special census[352] of five million displaced persons from West Pakistan in October 1948 and a million and half from East Pakistan in July 1949.[353]

In Cyprus, there was no registration or attempt at enumeration of the population of the republic. Each community, Greek Cypriots and Turkish Cypriots, enumerated themselves as part of the demographic battle for municipal autonomy. [354]

The second similarity between the permit regimes is the coupling of two related but different goals: to survey and monitor the Muslim population that was described as a suspicious, dangerous population that may be a "fifth column", and prevent return of refugees physically, blocking their legal claims for citizenship through bureaucratic means.

Each goal perpetuated a different set of bureaucratic practices and routines. The surveillance apparatus was directly inherited from the colonial regime, as legal advisors "cut and pasted" (Berda 2012) ordinances, practices and document templates. The administrative exclusion from citizenship was a postcolonial innovation in which categorical suspicion was deployed by the bureaucracy in order to deny rights. While in the metropolis, emergency meant that the government had to suspend citizens' rights. In the post-colony, citizenship rights had yet

---

[352] TNA UK pol: col: 131/1 p. numbers are until April 1949. Press release no. 1194 from the office of the high commissioner of India in London, issues July 16th, 1949.

[353]NDM Ministry of rehabilitation 1949 to 1950. Report on the working of the Ministry of rehabilitation. New Delhi: Government of India.

[354] See Markides, note 157. P. 95-98.

to be carved out of an emergency state that had ruled subjects. So in order to deny rights, the administration had only to prevent people from gaining status as citizens or residents.

In the Israeli permit regime, the military government worked toward both goals. In India, however, surveillance and exclusion practices were carried out differently on the frontiers of Western and Eastern Pakistan. In the West, the focus was on excluding population from citizenship. In the east they focused on surveillance. In the Israeli case I focused on the permit regime and some of its surveillance practices in the military government. In India I studied the administrative discourse on two separate frontiers – the permit system in East Punjab on the border with West Pakistan, and attempts at surveillance and border controls in West Bengal.

The rationale of suspicion was similar, but had different applications in Israel and India. In India, intelligence reports claimed that some returning Muslim refugees could be made into loyal citizens while others were "potential saboteurs and fifth columnists" that needed to be quarantined and policed. Indian officials feared the creation of "mini Pakistans" and that " influx of a large number of Muslims to this place is due to a deep conspiracy aimed at the establishment of a Muslim rule."[355]

The permit system was not a strategic decision, because free movement was a principal of partition. It grew out of bureaucratic practices of emergency. Delhi's new chief Commissioner Shankar Prasad noted "it reduces the growing menace of enemy espionage" and the pressure on population caused by "one-way traffic" (Zamindar 2007: 94).

---

[355] Quoted in Zamindar note 126, p. 92 - source report, May 12, 1948. Delhi State Archives cc 55/48 conference P. 8

So in India Muslims were suspects, but enjoyed the hypothetical possibility of being loyal citizens. The scale of suspicion for Palestinians was clearer and harsher. At best, they could be collaborators with the military government, but even then they remained suspect.

Citizenship After Partition

The colonial practices that categorized populations as suspect, and then created or adapted technologies to control movement formed an administrative repertoire of emergency. These sets of practices, administrative scripts of the state, affected the structure of the permit regimes. The permit regime administrators copied and pasted from the procedures for monitoring foreigners, for managing a suspect list, and for confining or preventing people from entering their own districts.

But it was the partition plans that played a crucial role in shifting the goals of postcolonial permit regimes away from what had been the focus of the colonial practices: security, surveillance and gathering intelligence for the purpose of understanding and controlling the population. Partition was a response to conflict that creates the demographic logic of otherness. In Israel and India, partitions positioned the newly created minorities as a problem that could not be dealt with directly through formal law, because of the formal democracy, but instead were managed through administrative regulations, routines, and evidentiary demands. Partition plans legitimized bureaucratic practice of exclusion intended to prevent people from demanding their rights, by administrative means.

The bureaucratic power to determine political membership was made possible because of the absence of formal citizenship and nationality laws. Instead, powerful home ministries and intricate permit regimes governed the lives of minorities in the postcolonial states. While the

labyrinth of bureaucracy was complex and sophisticated, the method of exclusion was simple: the permit regimes created a variety of identity documents and registries. If people could not get the identity documents they needed as evidence to prove their rights as citizens, they could be classified as residents, aliens or infiltrators. For the minorities, the boundaries of political membership had been drawn by administrative practices that had been developed in the colonial state through emergency laws. These practices were no longer reserved for the sake of population legibility and management, but were used to solidify the borders of the nation against those that were perceived as enemies.

For the majority, we could say that boundaries of political membership were drawn by a new national imagination. But for the minorities, the colonial categories of race and ethnicity converged with the classification of suspicion. Classification of minorities based on the loyalty to state determined access to registration and documentation that were critical both for freedom of movement and maintaining a physical presence in the independent states, critical to claiming political rights.

These administrative practices of exclusion from political membership evolve. They were not a premeditated institutional strategy that the political leadership in Israel and India decided upon in an official (or unofficial) meeting. Because these states inherited the British colonial model of bureaucracy, administrative measures were enacted to respond to emergencies, and then the emergency became the routine. There was a general idea of the direction that needed to be taken: that the fewer Muslims, or fewer Palestinian that could claim citizenship the better; that preventing return of those who had fled in the wake of violence was crucial to maintaining the status quo that was so fragile during those first years of emergency. But there is no strategic

decision regarding methods of governance and their consequences. The legacies of colonial emergency laws seem to have grown into administrative labyrinths of exclusion.

The continuity of emergency laws in India and Israel had forged the institutional logic of population management into the fabric of both struggling democracies, where the power to define and rule the boundaries of political membership remained for decades, to the administrators of the Ministry of the Interior in Israel and Ministry of Home Affairs in India. The logic of population management as a strategy of security has proliferated across the globe the since 9/11, as emergency laws and executive discretion impact classification of political membership on a transnational level. The coupling of emergency powers with the logic of population management is central to the rise of laws and institutions that form the complex of what is called in some countries "homeland security". As use of emergency laws and practices of exclusion based on identity proliferate in the name of global security, understanding the legacies of colonial law and administration can help us identify those pockets of executive power and administrative practice that are a threat to struggling democracies.

Appendix 1: Mechanisms of Continuity Following Regime Change

I develop four mechanisms of administrative continuity to show the various ways institutional routines persist in new states. I argue that while sociological institutional theory provides us with concepts for understanding the homogeneity of organizational practices (DiMaggio and Powell 1983) and political scientists explains how institutional functions and design affect state interaction in a given regime (Martin 1999; Immergut 2006), a lacuna exists in the scholarship regarding how continuity occurs at the inception of an organization, including new states. I explore the institutional conditions of legal transplants using two criteria1) the juridical framework existing at the time of transition and how it shapes and influences the new regime, and 2) the administrative personnel and their fate in the new regime.

I propose these mechanisms of continuity in order to compliment the literature on legal transplants in comparative law, that has focused on the transfer of laws from one country or regime to another, but lacks an analytical sociological framework to study how laws are received in a different institutional environments (Twining 2005: 204).

Studies in the sociology of organizations place personnel at the center of organizational continuity (Thornton and Ocasio 1999; Ruef and Aldich 2006) so changes of personnel in state bureaucracy are indicative of the type of administrative continuity. In legal scholarship, continuity of juridical frameworks is taken for granted as an inherent feature of the law. While I disagree with the tendency to portray law as functional, universal, and stable, I assume, for heuristic simplification, that clear boundaries define legal structures, and that there is a binary possibility of continuity or change in the domain of public law. The following table shows the explanations and parameters.

Table 6: Mechanisms of Administrative Continuity

	Law – survival	**Law – change**
Personnel – survival	Institutional inertia	Administrative memory
Personnel – change	Juridical memory	Historical emulation

Institutional Inertia

Political institutions are viewed as cumbersome entities that follow economic, technological, and social changes quite slowly. They either cling to the status quo or inevitably change towards modernization, rationalization, bureaucratization, and democratization (Olsen 2009).

Structural inertia is an assumption of evolutionary organizational theory that there are endogenous forces that encourage reproduction of practices and discourage organizational change. Structural inertia applies to generalist organizations, like state bureaucracies, and is motivated by sunk costs in plant, equipment, and personnel; political coalitions; and the tendency of precedents to become normative standards (Hannan and Freeman 1984: 149). Structural inertia explains how organizations preserve administrative modules from the previous regime, keeping both the juridical framework and administrative personnel. Because the need to maintain or regain legitimacy of the organization are often stronger than the demands of the political environment, institutional inertia can explain continuity of administrative practice in new states.

This mechanism can explain continuity of routines in a functioning organization, but disputable in cases where we would expect new states deliberately to distinguish themselves from the colonial regime and establish democratic institutions. Organizational ecologists argue that institutional persistence enhances legitimacy, but in postcolonial bureaucracies the effect

seems to be reversed: In most cases of colonial rule, continuity of administrative measures used to crush uprisings against the colonial power, may create a severe crisis of legitimacy for its citizens. Institutional inertia fits political transition in which juridical framework and administrative personnel are retained, like elections, or when one constitutional regime replaces another.

Juridical Memory

Juridical memory is continuity of a juridical framework following the transition into independence. It is not only continuity of formal law, but also of its implementation by the administrative staff and the public (Olsen 2009). The juridical framework survives and delineates boundaries of decision-making for the new personnel appointed after the transition.

Sometimes called "critical junctures" (Starr 2004) or "turning points" (Abbott 1997), studies show that antecedent conditions set a specific trajectory of institutional development that limit decision-making power during events such as regime transitions, revolutions, or reforms. In legal theory continuity is crucial because modern legal systems aspire to maintain order, stability, certainty, and predictability (Hathaway 2001), particularly common-law systems in which judicial decision-making is bound by precedents (Eisenberg 1991: 26).

One type of critical juncture is "lock-in" (Arthur 1994) that explains why technologies used by consumers in markets produce irreversible results because of projected "increasing returns" (David 1985; Leibovitz and Margolis 1995). However, maintaining a juridical framework does not yield "increasing returns" but does prevent high costs of changing a legal system: work on legal amendments; adjustments of the courts to the new laws; notification of the public; public reliance on the previous legal regime (Van Alstine 2001); administrative training and more. Avoiding high costs of legal transition is a strong incentive for the preservation of the

juridical framework.

Administrative Memory

"Administrative memory" is the dynamic agglomeration of processes, templates of classification, and strategies of action in an organization, that can be traced back to a previous regime in a specific locale.

Collective memory or "social mnemonic practices" (Olick and Robbins 1998), in which individuals remember historical events, or in which agents (education systems, media, political movements) deliberately shape events to be remembered or condemned to collective amnesia is mostly an orchestrated process. Administrative memory involves automatic cognition, which is less deliberative and more directed by schemas and scripts that exist within the organization. Levitt and March (1988) write about organizational learning and memory:

> Routine-based conceptions of learning presume that the lessons of experience are maintained and accumulated within routines despite the turnover of personnel and the passage of time. Rules, procedures, technologies, beliefs and cultures are conserved through systems of socialization and control. [...] These organizational instruments record history and shape its future path, which depends on the processes by which the memory is maintained and consulted (326).

This mechanism of continuity fits instances in which political transition occurs through revolution, liberation, or occupation, when the juridical framework of the regime is overturned but administrative staff of is retained.

New Institutionalism and Historical Emulation

The new institutionalists set a research agenda around organizational fields, first in governmental organizations and later on market organizations (Meyer and Rowan 1977; Davis and Greve 1997) and showed that organizations operate within a field in which they are constrained, and tend to become similar by incorporating policies and practices through isomorphic processes. DiMaggio and Powell (1983) used Weber's metaphor of the iron cage, claiming, "organizations may change their goals and develop new practices ... But, in the long run, organizational actors making rational decisions construct around themselves an environment that constrains their ability to change further in later years" (148).

In this tradition, Westney studied the transposition of administrative organizational models across geographical borders, and established that cross-national imitation requires organizational innovations. She coined the term "organizational emulation" to capture how organizational models in their original setting inevitably differ from the ones they are transplanted to, so "even the most assiduous emulation will result in alterations of the original patterns to adjust them to their new context" (Westney 1987: 6). This finding complements the new scholarship on legal transplants and underscores the salience of organizational environment for the transfer of laws.

I show that similarly to importing organization models across countries, organizations mimic institutions in previous regimes by "cutting and pasting" from history, through a mechanism I call "historical emulation." It is when organizations make a deliberate choice to adopt an administrative model from the past in a specific locale. This mechanism fits instances of change of the juridical framework as well as the replacement of the administrative personnel.

Appendix 2: Organizational Chart of the Permit Regime in Israel

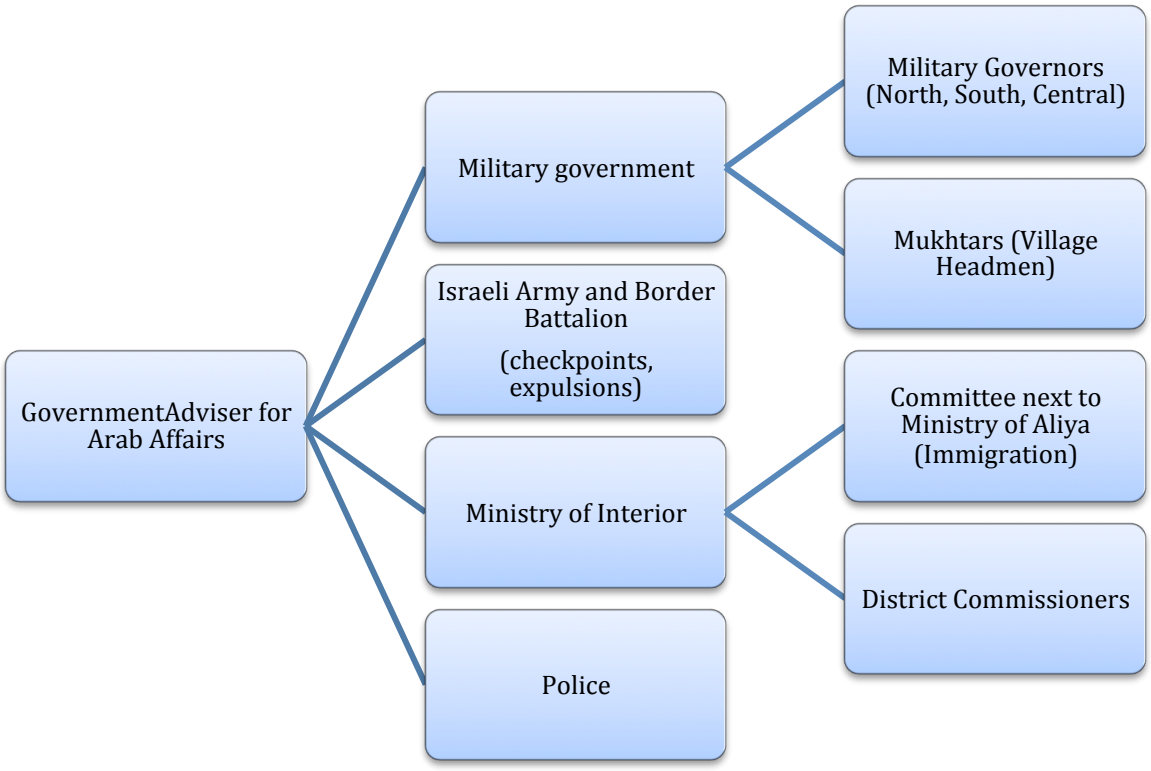


Figure 8: Structure of Permit Regime in Israel 1949-1953

Appendix 3: Selected Repertoire of British Colonial Emergency Laws

India

Defense of India Act 1915

Martial Law (Extension) Ordinance 1919

Bengal Criminal Law Amendment Ordinance 1924

The North West Frontier Province Emergency Powers Ordinance 1931

The Bengal Emergency Powers (Supplementary) Ordinance 1932

The Special Powers Ordinance, 1932

The Foreigners Ordinance 1939

Armed Forces Special Powers Ordinance 1942

The Restrictions and Detention Ordinance 1944

The Military Safety (Powers of Detention) Ordinance 1944

The Registration (Emergency Powers) Ordinance 1944

The Military Operational Area (Special Powers) Amendment Ordinance 1945

The Armed Forces (Special Powers) Amendment Ordinance 1945

The Punjab Disturbed Areas (Special Powers of Armed Forces) Ordinance 1947

Palestine:

Defense Order in Council 1931

Defense (Emergency) Regulations 1945

Emergency Laws (continuation of certain defense legislation) (amendment) order 1947

(Absentee Property) Regulations 1948

Cyprus:

Emergency Laws (Transitional Provisions) Cyprus Order 1946

The Supplies and Services Transitional Order (Cyprus) 1946

English Emergency Laws (Miscelaneous Provisions) (Colonies, etc.) Order in Council 1947

The Provisional Powers Law 1950

Emergency Powers (restrictions on departure from the colony) order 1956

Bibliography:

Archives

United Kingdom

British Library, Asian and African Studies Collection, London

India Office Records: L/P&J – Political and Judicial, L/P&S –Political & Secret

The National Archives at Kew

Colonial Office files: CO 733; CO 926; CO 67; CO 323

Foreign Office files

War Office files

Mediterranean Department of the Commonwealth Relations office

Cromer Papers FO 633

Middle East Center Archive, St. Anthony's College, Oxford

Sir Charles Tegart Private papers

India

National Archive of India, New Delhi

Home Department files

Legislative Department files

Ministry of External Affairs

Ministry of Home Affairs

Ministry of Relief and Rehabilitation files

NMML- Nehru Memorial Museum and Library, New Delhi

N Gopalaswami Ayyangar Papers

R.N Banerjee Papers

G.V Bedekar Papers

Rameshwari Nehru Papers

B.N Rao Papers

Dharma Vira Papers

Cyprus

Cyprus State Archive, Nicosia

Ministry of Justice and Public Order files

Governor's files

Ministry of Interior

Ministry of Justice

National Archive of North Cyprus, Kyrenia

Maps and statistical tables of population

Princeton University Manuscript Collection

Nancy Crawshaw Papers CO881

Israel

Israel State Archive, Jerusalem

High Commissioner files

Immigration Department files

Legislative Department Files

Police and Prisons department files

Situation Committee of the Interim Government files

Ministry of Interior files

Ministry of Minorities files

Ministry of Immigration (Aliya)

Bureau of Statistics files

Herbert Samuel Private Papers

Israel Defense Forces Archive, Kiryat Ono

Military Government Head Quarters files

Military Government files North, South, Central Districts

Central Zionist Archive

Jewish Agency files: Statistical Department

Palestine

Birzeit University Institute of Law

Al-muqtafi online archive of the Palestinian legal and judicial system

Books and Journal Articles

Abdel-Basset, N. (2009). *Developing commitment towards change in bureaucracies: The case study of the Egyptian civil service sector*. (Unpublished doctoral dissertation), University of Stirling, Scotland.

Adler, P., & Bryan B. (1996). Two types of bureaucracy: Enabling and coercive. *Administrative Science Quarterly*, 41, 61-89.

Agmon, I. (2006). Family and court: Legal culture and modernity in Late Ottoman Palestine. NY: Syracuse University Press.

Akoijam, A, & Th, T. (2005). Armed Forces (Special Powers) Act 1958: Disguised war and its subversions. *Eastern Quarterly 3(1)*, 5-19.

Al-Hout, B. N. (1979). The Palestinian Political Elite during the Mandate Period. *Journal of Palestine Studies*, 85-111.

Alroe, G. (2006). Feminine pioneers who were not laborers: Female immigration to Palestine at the beginning of the 20th century. Cathedra - for the History of Eretz Israel and its Yishuv. 67-88 [in Hebrew].

Anderson, B. (1991). Census, map, museum. In *Imagined communities: Reflections on the origin and spread of nationalism*, 163-185.

Anderson, B. (2006). *Imagined communities: Reflections on the origin and spread of nationalism (new edition)*. NY: Verso.

Anderson, D. (1993). Policing and communal conflict: The Cyprus emergency, 1954–60. *The Journal of Imperial and Commonwealth History 21(3)*, 177-207.

Anderson, D. M., & Killingray, D. (1992). An orderly retreat? Policing the end of empire. In Anderson, D., & Killingray, D. (Eds.). (1992). *Policing and decolonisation: politics, nationalism, and the police, 1917-65*. Manchester University Press, 1-21.

Anghie, A. (2004). *Imperialism, sovereignty and the making of international law*.

Cambridge: Cambridge University Press.

Appadurai, A. (1993). Number in the colonial imagination. In Breckenridge, C. A., & Van der Veer, P. (Eds.) *Orientalism and the postcolonial predicament: perspectives on South Asia*. University of Pennsylvania Press.

Appiah, K. A. (1991). Is the post-in postmodernism the post-in postcolonial?. *Critical Inquiry*, *17*(2), 336-357.

Arendt, H. (1951). *The Origins of Totalitarianism*. New York: Harcourt, Brace.

Arendt, H. (1963). *Eichmann in Jerusalem: A report on the banality of evil.* New York: Viking.

Arnold, D. (1992). Police power and the demise of British rule in India, 1930-47. In Anderson, D., & Killingray, D. (Eds.). (1992). *Policing and decolonisation: politics, nationalism, and the police, 1917-65*. Manchester University Press, 42-61.

Atran, S. (1989). The surrogate colonization of Palestine, 1917–1939. *American Ethnologist*, *16*(4), 719-744.

Aubert, V. (1989). Law and social change in ninetieth-century Norway. In June Starr and Jane F. Collier (Eds.) *History and Power in the Study of Law* (pp.55-80). Ithaca: Cornell University Press.

Azoulay, A., & Ophir, A. (2009). The order of violence. In Ophir, A., Givoni, M., & Ḥanafī, S. (Eds.). (2009). *The power of inclusive exclusion: anatomy of Israeli rule in the occupied Palestinian territories*. New York, NY: Zone Books. 99-140.

Baldwin, P.M. (2001). Subject to empire: Married women and the British nationality and status of aliens. *Journal of British Studies, 40(4),* 522-556.

Balibar, E. (2009). *We, the people of Europe? Reflections on transnational citizenship*. NJ: Princeton University Press.

Baron, J.N., & T.W. Bielby. (1986). The proliferation of job titles in organizations. *Administrative Science Quarterly*, 36, 561-586.

Bauman, Z. (1989). *Modernity and the Holocaust*. New York: Cornell University Press.

Bayly, S. (1995). Caste and 'race' in the colonial ethnography of India. The concept of race in South Asia. In Peter Robb (Ed.) *The concept of race in south Asia* (165-218). Delhi: Oxford University Press.

Baxi, P. (2009). *Habeas Corpus, Juridical Narratives of Sexual Governance*. Centre for the Study of Law and Governance, Jawaharlal Nehru University.

Baxi, U. (2003). The colonialist heritage. In Legrand, P., & Munday, R. J. (Eds.). *Comparative legal studies: Traditions and transitions*. Cambridge University Press., 46-58.

Bendix, R. (1956). *Work and Authority in Industry*. Berkeley: University of California Press.

Bendix, R. (1962). *Max Weber: An intellectual portrait*. New York: A Doubleday Anchor Book.

Bennis, W. (1973). *Beyond bureaucracy: Essays in the development and evolution of human organization*. New York: McGraw Hill.

Benton, L. (1999). Colonial law and cultural difference: Jurisdictional politics and the formation of the colonial state. *Comparative Studies in Society and History* 41(3), 563-588.

Benton, L. (2002). *Law and colonial cultures*. Cambridge: Cambridge University Press.

Berda, Y. (2012). The bureaucracy of the occupation: The permit regime in the West Bank 2000-2006. *Jerusalem and Tel Aviv: The Van Leer Institute and Hakibbutz Hameuchad. [In Hebrew]*

Berger, M. (1957). *Bureaucracy and society in modern Egypt*. Princeton: Princeton University Press.

Benvenisti, E., & Downs, G. Toward global checks and balances. *Constitutional Political Economy* 20(3-4), 366-387.

Bernstein, J. (2004). Bare life, bearing witness: Auschwitz and the pornography of horror. *Parallax* 10(1), 2-16.

Bhagavan, M. (2003). *Sovereign spheres: Princes, education and empire in colonial India.* Oxford: Oxford University Press.

Bharadwaj, P., Khwaja, A., & Mian, A. (2008). The big march: migratory flows after the partition of India. *Economic and Political Weekly*, 39-49.

Bivona, D. (1998). *British imperial literature 1870-1940: Writing and the administration of empire*. Cambridge: Cambridge University Press.

Blackwood, W., & Edward, C. (1921). *The leisure of an Egyptian official*. Kilkerran: Hardinge Simpole.

Blake, S. (1979). The patrimonial-bureaucratic empire of the Mughals. *The Journal of Asian Studies* 39(1), 77-94.

Blank, Y. (2007). Spheres of citizenship. *Theoretical Inquiries in Law* 8(2), 411-452.

Blau, P. 1955. *The dynamics of bureaucracy.* Chicago: University of Chicago Press.

Blau, P., & Scott, W.R. (1962). *Formal organizations*. San Francisco: Chandler.

Bloemraad, I. (2004). Who Claims Dual Citizenship? The Limits of Postnationalism, the Possibilities of Transnationalism, and the Persistence of Traditional Citizenship 1. *International migration review* 38(2), 389-426.

Bose, S. (2007). *Contested Lands: Israel-Palestine, Kashmir, Bosnia, Cyprus, and Sri Lanka*. Harvard University Press.

Bourdieu, P. (1977). *Outline of a Theory of Practice*. 16. Cambridge University Press.

Braibanti, R. (Ed.) (1966). *Asian bureaucratic systems emergent from the British imperial tradition*. Durham: Duke University Press.

Braverman, H. (1974). Labor and Monopoly Capital (New York. *Monthly review*, 181-182.

Brown, M. (2001). Race, science and the construction of native criminality in colonial India. *Theoretical Criminology, August 5*, 345-368; 347.

Brown, M. (2003). Ethnology and colonial administration in nineteenth-century British India: the question of native crime and criminality. *The British Journal for the History of Science*, *36*(2), 201-219.

Browning, R. C. (1983). The German bureaucracy and the Holocaust. In Alex Grobman & Daniel Landes (Eds.) *Genocide: Critical issues of the Holocaust*. Los Angeles: The Simon Wiesenthal Centre. 145-149.

Browning, R. C. (1992). *Ordinary men*. New York: HarperCollins Publishers, Inc.

Brubaker, R. (1992). *Citizenship and nationhood in France and Germany*, 21. Cambridge: Harvard University Press.

Brubaker, R. (1994). Nationhood and the national question in the Soviet Union and post-Soviet Eurasia: An institutionalist account. *Theory and Society, 23(1)*, 47-78.

Brubaker, R. (1996). Nationalism reframed: nationhood and the national question in the new Europe Cambridge University Press. *New York*.

Bryant, R. (2003). Bandits and "Bad Characters": Law as Anthropological Practice in Cyprus, c. 1900. *Law and History Review*, *21*(02), 243-270.

Bryant, R., and Mete H. (2011). Guns and guitars: Simulating sovereignty in a state of siege. *American ethnologist* 38(4), 631-649.

Burawoy, M. (1979). *Manufacturing consent: Changes in the labor process under monopoly capitalism*. Chicago: University of Chicago Press.

Burbank, J., & Cooper, F. (2010). *Empires in world history: Power and the politics of difference*. Princeton: Princeton University Press.

Burrel, G. (2003). The future of organization theory. In Haridimos Tsoukas and Christian Knudsen (Eds.), *The Oxford Handbook of Organization Theory (525-535)*. Oxford: Oxford University Press.

Burroughs, P. (1999). Imperial institutions and the government of empire. In Andrew Porter (Ed.), *The Oxford History of the British Empire: The Nineteenth Century* (170- 197). Oxford: Oxford University Press.

Butalia, U. (1993). Community, state and gender: On women's agency during partition.

Economic and Political Weekly, 28(17), 24.

Canovan, M. (1974). *The political thought of Hannah Arendt*. London: J.M. Dent

& Sons Ltd.

Caplan, J., & Torpey J. (2002). *Documenting individual identity: The development of state practices in the modern world*. NJ: Princeton University Press.

Carthill, A. (1924). *The lost dominion*. Edinburgh and London. W. Blackwood.

Cell, J. (1999). Colonial rule. In Andrew Porter (Ed.), *The Oxford history of the British empire: The nineteenth century (*232-254). Oxford: Oxford University Press.

Charrad, M. M., & Adams, J. (2011). Introduction Patrimonialism, Past and Present. *The ANNALS of the American Academy of Political and Social Science*, *636*(1), 6-15.

Chatterjee, P. (1994). *The nation and its fragments; Colonial and postcolonial histories*. Princeton: Princeton University Press.

Chatterji, J. (2002). *Bengal divided: Hindu communalism and partition, 1932-1947*. Vol. 57. Cambridge: Cambridge University Press.

Chatterji, J. (2007). The spoils of partition: Bengal and India, 1947 – 1967. Cambridge: Cambridge University Press.

Chatterji, J. (2009). New Directions in Partition Studies. In *History Workshop Journal* 67 (1). Oxford University Press. pp. 213-220

Christopher, A. (2005). Race and the census in the commonwealth. *Population, Space and Place 11(2*), 103-118.

Clawson, D. (1980). *Bureaucracy and the labor process: The transformation of US industry, 1860-1920* (pp. 134-44). New York: Monthly Review Press.

Clegg, S. (2008). Bureaucracy, the Holocaust and techniques of power at work. *Management Revue, 20 (4)*, 326-347.

Coen, T. (1971). *The Indian political service: a study in indirect rule*. London: Chatto & Windus.

Cohn, B. (1987). The census, social structure, and objectification in South Asia. In *An anthropologist among the historians and other essays* (224–254). New Delhi: Oxford University Press.

Cohn, B. (1989). Law and the colonial state in India. In June Starr and Jane F. Collier (Eds.) *History and Power in the Study of Law (*131-152). Ithaca: Cornell University Press.

Cohn, B. (1996). *Colonialism and its forms of knowledge: The British in India*. NJ: Princeton University Press.

Cohn, B. (2004). *The Bernard Cohn omnibus*. "The study of Indian society and culture." Pp. 136-171 in *The Bernard Cohn Omnibus*. New Delhi: Oxford University Press

_____. 2004b. "From Indian status to British contract." Pp. 463-482 in *The Bernard Cohn Omnibus*. New Delhi: Oxford University Press.

_____. 2004c. "Some notes on law and change in North India." Pp. 554-574 in *The Bernard Cohn Omnibus*. New Delhi: Oxford University Press.

Cohn, M. (2010.) Legal transplant chronicles: The evolution of unreasonableness and proportionality review of the administration in the United Kingdom. *American Journal of Comparative Law* 58(3), 583-629.

Comaroff, J. (1998). Reflections on the colonial state, in South Africa and elsewhere: Factions, fragments, facts and fictions. *Social Identities, Volume 4(3),* 321-361.

Comaroff, J. (2001). Colonialism, culture, and the law: A foreword. *Law & Social Inquiry* 26(2) (2001), 305-314.

Comaroff, J. (2007). Beyond bare life: AIDS, (bio) politics, and the neoliberal order. *Public Culture*, *19*(1), 197

Constable, M. (2011). Law as claim to justice: Legal history and legal speech acts. *UC Irvine L. Rev.* 1, 631-633.

Constantinou, C. (2007). Aporias of identity: Bicommunalism, hybridity and the "Cyprus problem." *Cooperation and Conflict 42(3),* 247-270.

Constantinou, C. (2008). On the Cypriot states of exception. *International Political Sociology* 2(2), 145-164.

Cooke, B. (2003). The denial of slavery in management studies. *Journal of Management Studies*, 40, 1895-1918.

Cooper, F. (2011). From chief to technocrat: Redefining colonial authority in post-World War II Africa. Paper presented at Empires & Bureaucracy, a Colloquium Exploring the

Comparative History of European Empires from Late Antiquity to the Modern World. Dublin: Trinity College.

Courpasson, D. & Clegg, S. (2006). Dissolving the Iron Cages? Tocqueville, Michels, Bureaucracy and the Perpetuation of Elite Power. *Organization*, *13 (3)*, 319-343.

Courpasson, D., & Francoise, D. (2003). Indifference or Obedience? Business Firms as Democratic Hybrids. *Organization Studies*, *24*, 123-60.

Cromer, the Earl of. (1908a). The government of subject races. *Edinburgh Papers,* January: 1-27.

Cromer, the Earl of. (1908b). *Modern Egypt*. New York: The Macmillan Company.

Cromer, E. (1969). Political & literary essays, 1908-1913. New York: Macmillan and Company.

Crozier, M. (1964). *The Bureaucratic Phenomenon*. Chicago: University of Chicago Press.

Dancy, J. (2004). Ethics without principles. Oxford University Press: Clarendon.

De, R. (2011). Emasculating the executive: The federal court and civil liberties in late colonial India. In T. Halliday, L. Karpik, M. Feeley (Eds.), *Fates of political liberalism in the British post-colony: The politics of the legal complex* (59-90). Cambridge: Cambridge University Press.

Delaney, D. (2010). *The spatial, the legal and the pragmatics of world-making: Nomospheric investigations*. New York: Routledge.

Dery, D. (1998). " Papereality" and Learning in Bureaucratic Organizations. *Administration & Society*, *29*(6), 677-689.

De Vries, D. (1997). National construction of occupational identity: Jewish clerks in British-ruled Palestine. *Comparative studies in society and history*, *39*(02), 373-400.

Devji, F. (1992). Hindu/Muslim/Indian. *Public Culture* 5(1), 1-18.

Devji, F. (2013). *Muslim Zion: Pakistan as a Political Idea*. New York: Hurst Publishers.

DiMaggio, P., & Powell, W. (1983). The iron cage revisited: Institutional isomorphism and collective rationality in organizational field. *American Sociological Review*, 48(2), 147-160.

DiMaggio, P., & Walter W. (1991). *The new institutionalism in organizational analysis*. Chicago: The University of Chicago Press.

Dirks, N. (2001). Castes of mind: Colonialism and the making of modern India. Princeton, N.J.: Princeton University Press.

Dobbin, F. (1994). Cultural models of organization: The social construction of rational organizing principles. In Diana Crane (Ed.), *Sociology of culture: Emerging theoretical responsibility* (117-141). Oxford: Basil Blackwell.

Dotan, Y. (2013). *Lawyering for the rule of law: Government lawyers and the rise of judicial power in Israel*. *Vol. 9*. Cambridge: Cambridge University Press.

Drori, G., & Meyer, J., & Hwang, H. (2006). *Globalization and organization: World society and organizational change*. Oxford: Oxford University Press.

Du Gay, P. (2000). *In praise of bureaucracy: Weber, organisation, ethics*. London: Sage Publications.

Edney, M. H. (1997). *Mapping an empire: The geographical construction of British India, 1765-1843*. IL: University of Chicago Press.

Edwards, R. (1979). *Contested terrain: The transformation of the workplace in the twentieth century*. Basic Books.

Ermakoff, I. (2011). Patrimony and Collective Capacity An Analytical Outline. *The ANNALS of the American Academy of Political and Social Science*, *636*(1), 182-203.

Evans, I. T. (1997). *Bureaucracy and race: Native administration in South Africa* (Vol. 53). Univ of California Press.

Fallers, L. (1965). *Bantu bureaucracy*. Chicago: University of Chicago Press.

Fanon, F. (1965). The wretched of the earth. *Grove Press.*.

Farazmand, A. (2009). *Bureaucracy and administration*. New York: CRC Press.

Feingold, H. (1983). How unique is the Holocaust? In Alex Grobman & Daniel Landes (Eds.), *Genocide: Critical issues of the Holocaust* (397-401). Los Angeles: The Simon Wiesenthal Centre.

Fernandes, Walter. (2005). IMDT Act and immigration in north-eastern India." *Economic and Political Weekly*, 3237-3240.

Fernandes, D. (2011). *Targeted: Homeland security and the business of immigration*. New York: Seven Stories Press.

Fieldhouse, D. K. (1967). *The colonial empires: A comparative survey from the eighteenth century*. New York: Delacorte Press.

Fishbayne Joffe, L. (2012). Gender, colonialism and rabbinical courts in mandate Palestine. *Religion & Gender*, *2*(1), 101-127.

Fleming, M. (2003). Genocide and the body politic in the time of modernity. In Gellately, Robert and Ben Kiernan (Eds.), *The Specter of Genocide: Mass Murder in Historical Perspective* (97-116). Cambridge: Cambridge University Press.

Forman, G., & Kedar, A. (2003). Colonialism, colonization, and land law in Mandate Palestine: the Zor al-Zarqa and Bārrat Qisarya land disputes in historical perspective. *Theoretical Inquiries in Law* 4, 491-540.

Foucault, M. (2003). *Society Must Be Defended: Lectures at the Collège de France, 1975-1976*. No. 3. Paris: Picador.

Foucault, M. 2009. *Security, territory, population: Lectures at the College de France 1977-1978*. No. 4. Paris: Picador.

Frenkel, M., & Shenhav, Y. (2003). From Americanization to colonization: The diffusion of productivity models revisited. *Organization Studies* 24(9), 1537-1561.

Frenkel, M., & Shenhav, Y. (2006). From Binarism back to hybridity: A postcolonial reading of management and organization studies. *Organization Studies*, 27(6), 855-876.

Friedland, R., & Alford R. (1991). Bringing society back in: Symbols, practices, and institutional contradictions. In J. Paul DiMaggio and Walter W. Powell (Eds.), *The New Institutionalism in Organizational Analysis* (232-263). Chicago: The University of Chicago Press.

Friedrichsmeyer, S. (1998). Christoph Hein's Horns Ende: Gypsy Essences and Germān Community. *The Imperialist Imagination: German Colonialism and Its Legacy. Ed. Sara Friedrichsmeyer, Sara Lennox, and Susanne Zantop. Michigan: U of Michigan P*, 281-93.

Fuller, Bampfylde. (1913). *The empire of India*. London: Sir Isaac Pitman & Sons Ltd.

Galanter, M., & Krishnan, J. (2000). Personal Law and Human Rights in India and Israel. *Isr. L. Rev.*, *34*, 101.

Gallagher, J., & Seal, A. (1981). Britain and India between the Wars. *Modern Asian Studies*, *15*(3), 387-414.

Gilroy, P. 2005. *Postcolonial melancholia*. NY: Columbia University Press.

Go, J. (2011). *Patterns of empire: The British and American empires, 1688 to the present*. Cambridge: Cambridge University Press.

Gorny, J. (2013). *The British Labour Movement and Zionism, 1917-1948*. Routledge.

Gorsky, P. (2005). The Protestant ethic and the bureaucratic revolution: Ascetic

Protestantism and administrative rationalization in early modern Europe. In Camic Charles, Philip Gorsky and David Trubek (Eds.) *Max Weber's 'economy and society'* (267- 296). Stanford: Stanford University Press.

Gottlob, M. (2007). India's unity in diversity as a question of historical perspective. *Economic and Political Weekly*, 779-789.

Gould, W. (2007). The dual state: The unruly "subordinate", caste, community and civil service recruitment in North India, 1930–1955." *Journal of Historical Sociology* 20(1-2), 13-43.

Gouldner, A. (1954). *Patterns of industrial bureaucracy*. New York: Free Press.

Guha, S. (2003). The politics of identity and enumeration in India c. 1600–1990. *Comparative Studies in Society and History 45(1),* 148-167

Guillen, M. (1994). *Models of management: Work, authority, and organization in a comparative perspective*. Chicago: University of Chicago Press.

Gupta, A. (2006). Blurred boundaries: The discourse of corruption, the culture of politics and the imagined state. In *The anthropology of the state: A reader (169-186),* Aradhana Sharma, Akhil Gupta (Eds.), MA: Blackwell Publishing.

Haan, M. (2005). Numbers in nirvana: How the 1872–1921 Indian censuses helped operationalise 'Hinduism'. *Religion*, *35*(1), 13-30.

Hall, H. L. (1937). *The Colonial Office: A History* (Vol. 13). London: Published for the Royal Empire Society by Longmans, Green.

Hall, R. (1963). The concept of bureaucracy: An empirical assessment. *American Journal of Sociology*, 69, 32-40.

Halliday, T., Karpick, L., & Feeley, M. (Eds.) (2012). *Fates of political liberalism in the British post-colony: The politics of the legal complex*. MA: Cambridge University Press.

Hanafi, S., & Long, T. (2010). Governance, governmentalities, and the state of exception in the Palestinian refugee camps of Lebanon. *Journal of Refugee Studies* 23(2), 134-159.

Hansen, T. (2006). Performers of sovereignty: On the privatization of security in urban South Africa. *Critique of anthropology* 26(3), 279-295.

Harel-Shalev, A. (2010). *The challenge of sustaining democracy in deeply divided societies: Citizenship, rights, and ethnic conflicts in India and Israel*. Lexington Books.

Hareuveni, Y. (1990). The Jewish element in the mandate government. *State, Government and International Relations, 3,* 43-75. (Hebrew)

Hareuveni, Y. (1993). *The mandate government in Palestine – A historical and political analysis.* Jerusalem: Bar Ilan University Press. (Hebrew)

Harris, M., & Hopfl, H., & Clegg, S. R. (Eds). (2010). *Managing modernity: Beyond bureaucracy*. Oxford: Oxford University Press.

Haslam, A., & Reicher, S. (2007). Beyond the banality of evil: Three dynamics of an interactionist social psychology of tyranny. *Personality and Social Psychology Bulletin*, 33, 615-622.

Heimer, C. A. (2011). Doing your job and helping your friends. *Sociology of Organizations: Structures and Relationships*, 53.

Herzfeld, (1992). *The social production of indifference*. IL: University of Chicago Press.

Hoisington, W. (1995). *Lyautey and the French conquest of Morocco*. New York: St. Martin's Press.

Holland, R. (1993). Never, never land: British colonial policy and the roots of violence in Cyprus, 1950–54. *The Journal of Imperial and Commonwealth History*, *21*(3), 148-176.

Horkheimer, M., & Adorno. T. 1947/1994. *Dialectic of enlightenment*. New York: Continuum.

Horowitz, I. (1982). *Taking lives: Genocide and state power*. New Brunswick: Transaction Books.

Hughes, M. (2009). The banality of brutality: British armed forces and the repression of the Arab revolt in Palestine, 1936–39. *The English Historical Review 124(507)*, 313-354.

Hull, M. S. (2012). *Government of paper: The materiality of bureaucracy in urban Pakistan*. California: University of California Press.

Hussain, N. (2003). *The jurisprudence of emergency: Colonialism and the rule of law*. Ann Arbor: The University of Michigan Press.

Hyam, R. (1999). Bureaucracy and 'trusteeship' in the colonial empire." *Oxford History of the British Empire* 4, 255.

Immergut, E. M. (2006). Historical-institutionalism in political science and the problem of change. *Understanding Change. Models, Methodologies and Metaphors, New York: Palgrave Macmillan*, 237-259.

Iyer, L. (2010). Direct versus indirect colonial rule in India: Long-term consequences. *The Review of Economics and Statistics* 92(4), 693-713.

Jalal, A. (2002). *Self and sovereignty: Individual and community in South Asian Islam since 1850*. London: Routledge.

Jayal, N. (2013). *Citizenship and its discontents: An Indian history*. Boston: Harvard University Press.

Johnston, R. (1973). *Sovereignty and protection: A study of British jurisdictional imperialism in late nineteen century*. Duke: Duke University Press.

Joppke, C. (Ed.). (1998). *Challenge to the nation-state: Immigration in Western Europe and the United States*. MA: Oxford University Press.

Joppke, C. (2005). Selecting by origin: Ethnic migration in the liberal state. Cambridge: Harvard University Press.

Kalberg, S. (1980). Max Weber's types of rationality: Cornerstones for the analysis of rationalization processes in history. *American Journal of Sociology*, *85(5)*, 1145-1179.

Kalhan, A., et al. (2006). Colonial continuities: Human rights, terrorism, and security laws in India. *Colum. J. Asian L.* 20(93), 112.

Kalhan, A. (2010). Constitution and "extraconstitution": Emergency powers in post-colonial Pakistan and India. In Ramraj, V. V., & Thiruvengadam, A. K. (Eds.). *Emergency powers in Asia: Exploring the limits of legality* Cambridge University Press, *89-120.*

Kalpagam, U. (2000). The colonial state and statistical knowledge. *History of the human sciences*, *13*(2), 37-55.

Kandiyoti, D. (1991). Identity and its discontents: Women and the nation. *Millennium-Journal of International Studies, 20(3)*, 429-443.

Kedar, A. (2003). On the legal geography of ethnocratic settler states. In Jane Hoder and Carolyn Harrison *(Eds.), Law and geography: Current legal issues* Vol. 5 (404-441). London: Oxford.

Kedar, A. (Forthcoming) Expanding legal geographies: A call for a critical comparative approach. In Braverman, Blomley, Delany and Kedar, (Eds.), *The expanding spaces of law: A timely legal geography*. California: Stanford University Press.

Kelly, E. L., & Kalev, A. (2006). Managing flexible work arrangements in US organizations: formalized discretion or 'a right to ask'. *Socio-Economic Review*, *4*(3), 379-416.

Kelman, H. (1973). Violence without moral restraint. *Journal of Social Issues*, *29*, 29-61.

Kemp, A. (2004). Dangerous populations: State territoriality and the constitution of national minorities. In Joel Migdal (Ed.) *Boundaries and belonging states and societies in the struggle to shape identities and local practices.* MA: Cambridge University Press.

Kennedy, D. (2003). Two globalizations of law & legal thought: 1850-1968. *Suffolk UL Rev.* 36, 631-935.

Khalidi, R. (2010). *Palestinian identity: The construction of modern national consciousness*. New York: Columbia University Press.

Kim, J. (2011). Establishing Identity: Documents, Performance, and Biometric Information in Immigration Proceedings. *Law & Social Inquiry*, *36*(3), 760-786.

Kirk-Greene, A.H.M. (1980). The thin white line: The size of the British colonial service in Africa. *African Affairs*, 25-44.

Klug, F. (1989). 'Oh to be in England': The British case study. In Nira Yuval-Davis and Floya Anthias (Eds.), *Woman- Nation-state*. New York: Macmillan,16 -35

Kolsky, E. (2005). Codification and the rule of colonial difference: Criminal procedure in British India. *Law and History Review* 23(3), 631-683.

Kornai, J. (1992). *The Socialist System: The Political Economy of Communism: The Political Economy of Communism*. Oxford University Press.

Koskenniemi, M. (2007). The fate of public international law: Between technique and politics. *The Modern Law Review* 70(1), 1-30.

Kuper, L. (1981). *Genocide: Its political use in the twentieth century.* New Haven: Yale University Press.

Lange, M. (2009). *Lineages of despotism and development: British colonialism and state power*. IL: University of Chicago Press.

Lazar, N. C. (2006). Must exceptionalism prove the rule? An angle on emergency government in the history of political thought. *Politics & Society*, *34*(2), 245-275.

Lazreg, M. (2008). *Torture and the twilight of empire: From Algiers to Baghdad*. NJ: Princeton University Press.

Lee, A., & Schultz, K. (2012). Comparing British and French colonial legacies: A discontinuity analysis of Cameroon. *Quarterly Journal of Political Science 7(4*), 365-410.

Legg, S. (2008). *Spaces of colonialism: Delhi's urban governmentalities*. NJ: John Wiley & Sons.

Leibler, A., & Breslau, D. (2005). The uncounted: Citizenship and exclusion in the Israeli census of 1948. *Ethnic and racial studies, 28(5*) 880 -902.

Lerner, H. (2011). *Making constitutions in deeply divided societies*. Cambridge University Press.

Levine, P. (2009). *Gender and empire*. Oxford: Oxford University Press.

Likhovski, A. (2009). Argonauts of the eastern Mediterranean: Legal transplants and signaling. *Theoretical Inq. L.* 10, 619.

Liviatan, O. (2009). Judicial Activism and Religion-Based Tensions in India and Israel. *Ariz. J. Int'l & Comp. L.*, *26*, 583.

Loizides, N. (2007). Ethnic nationalism and adaptation in Cyprus. *International Studies Perspectives* 8(2), 172-189.

Lopez S., Vincent, R., Hodson, R., & Martin, A. (2010). Paper presented at the 2010 Meetings of the Eastern Sociological Society, Boston: Eastern Sociological Society.

Loveman, M. (2005). The modern state and the primitive accumulation of symbolic power 1. *American Journal of Sociology* 110(6), 1651-1683.

Low, D. A. (1917). 'Civil Martial Law': The Government of India and the Civil Disobedience Movements, 1930-34. In *Congress and the Raj: Facets of the Indian Struggle* (Vol. 47, pp. 165-198).

Lucassen, L., & Willems, W. (2003). The weakness of well-ordered societies: Gypsies in Western Europe, the Ottoman Empire, and India, 1400-1914. *Review (Fernand Braudel Center)*, 283-313.

Lugard, F. (1922). *The dual mandate in British tropical Africa*. Edinburgh and London: William Blackwood and Sons.

Maheshwari, S. (1996). The census administration under the Raj and after. New Delhi: Concept Publishing.

Mahoney, J. (2003). Long-run development and the legacy of colonialism in Spanish America. *American Journal of Sociology* 109(1), 50-106.

Major, A. (1999). State and criminal tribes in colonial Punjab: Surveillance, control and reclamation of the 'dangerous classes' modern Asian studies, 33(3), 657-688.

Mamdani, M. (1996). *Citizen and subject: Contemporary Africa and the legacy of late colonialism.* Princeton, N.J.: Princeton University Press.

Mamdani, M. (2012). *Define and rule: Native as political identity*. MA: Harvard University Press.

Mann, M. (1993). Nation-states in Europe and other continents: Diversifying, developing, not dying. *Daedalus*, 115-140.

Manasse, E. M. (1947). Max Weber on race. *Social Research*, *14*(2), 191-221.

March, J., & Simon, H. (1958). *Organizations*. New York: John Wiley.

March, J., & Olsen, J. (1976.) *Ambiguity and choice in organizations*. Norway: Universitetsforlaget.

Markides, D. (2001). *Cyprus 1957-1963: From colonial conflict to constitutional crisis: The key role of the municipal issue*. MN: University of Minnesota.

Marsot, A. (1999). The British occupation of Egypt from 1882. In Andrew Porter (Ed.), *The Oxford history of the British Empire: The nineteenth century* (651-664). Oxford: Oxford University Press.

Martin, R. B. (1981). Bibliographic Notes on the Indian Census. In, N.G Barrier (Ed.), *The Census in British India*. New Delhi: Manohar 61-72.

Martin, L. L. (1999). An institutionalist view: international institutions and state strategies. *International order and the future of world politics*, 78-98.

Martín, D. (2008). Rules, red tape, and paperwork: The archeology of state control over migrants. *Journal of Historical Sociology* 21(1), 82-119.

Massad, J. A. (2013). *Colonial effects: The making of national identity in Jordan*. Columbia University Press.

Mattar, P. (1992). *The Mufti of Jerusalem: al-Hajj Amin al-Husayni and the Palestinian national movement*. NY: Columbia University Press.

Mawani, R. (2009). *Colonial proximities: Crossracial encounters and juridical truths in British Columbia, 1871-1921*. British Columbia: UBC Press.

Merry, S. (2003). From law and colonialism to law and globalization. *Law & Social Inquiry* 28(2), 569-590.

Messick, B. (1993). *The calligraphic state: Textual domination and history in a Muslim society*, 16. California: University of California Press.

Metzer, J. (1998). *The divided economy of mandatory Palestine*. *No. 11*. MA: Cambridge University Press.

Mintz, S. (1985). *Sweetness and power: The place of sugar in modern history*.

New York: Vicking.

Mir, R., Mir, A., & Upadhyaya, A. (2003). Toward a postcolonial reading of organizational control. In A. Prasad (Ed.) *Postcolonial theory and organizational analysis: A critical engagement* (48-73). New York: Palgrave Macmillan.

Mintz, S. W. (1985). *Sweetness and power* (p. 157). New York: Viking.

Misra, B.B. (1977). *The bureaucracy in India*. Delhi: Oxford University Press.

Mitchell, T. (1991). *Colonizing Egypt*. Berkeley: University of California Press.

Mitchell, T. (2002). *Rule of experts: Egypt, techno-politics, modernity*. Berkeley: University of California Press.

Moir, M., Peers, D. & Zastoupil, L. (Eds.) (1999). *JS Mill's Encounter with India*. Toronto: University of Toronto Press.

Mommsen, W. (1959/1984). *Max Weber and German politics 1890-1920*.

Chicago: The University of Chicago Press.

Mommsen, W. (1974). *The age of bureaucracy: Perspectives on the political sociology of Max Weber*. New York: Harper & Row Publishers.

Mongia, R. (1999). Race, nationality, mobility: A History of the passport, *Public Culture*, 11(3), 527-556.

Moore, R. (1999). Imperial India, 1858-1914. In Andrew Porter (Ed.), *The Oxford history of the British empire: The nineteenth century*. Oxford: Oxford University Press, 422-446

Morgan, G. (1986). *Images of organization*. Thousand Oaks: Sage.

Mukherjee, M. (2010). *India in the shadows of empire*. Oxford: Oxford University Press.

Nelken, D. (2003). Comparatists and transferability. In Legrand, P., & Munday, R. J. (Eds.) *Comparative legal studies: Traditions and transitions* . Cambridge University Press 437-466.

Neumann, F. (1942). *Behemoth*. New York: Harper Books.

Nkomo, S. (1992). The emperor has no clothes: Rewriting "race in organizations." *Academy of Management Review 17*, 487-513.

Nobles, M. (2000). *Shades of citizenship: Race and the census in modern politics*. California: Stanford University Press.

Nonet, P., & Selznick, P. (1978). *Law and society in transition: Toward responsive law*. New York: Harper and Row.

Ong, A. (1999). *Flexible citizenship: The cultural logics of transnationality*. North Carolina: Duke University Press.

Orton, D., & Weick, K. (1990). Loosely coupled systems: A reconsideration. *Academy of Management Journal*, *15(2)*, 203-223.

Ouchi, W. (1980). Markets, bureaucrats and clans. *Administrative Science Quarterly, 25*, 129-141.

Owen, R. (2004). *Lord Cromer: Victorian imperialist, Edwardian proconsul*. Oxford: Oxford University Press.

Patrick, R. A. (1976). *A political geography of the Cyprus conflict: 1963-1971*. Ontario: University of Waterloo, Dept. of Geography Publication Series.

Peach, C. (1996). *Ethnicity in the 1991 census: Office of population censuses and surveys. Vol. 2.* Issued by the Office for National Statistics. London: HMSO.

Peled, Y. (1992) Ethnic democracy and the legal construction of citizenship: Arab citizens of the Jewish state. *American Political Science Review* 86(2), 432-443.

Peristianis, N. (2006). Cypriot nationalism, dual identity, and politics. In Papadakis, Y., Peristianis, N., & Welz, G. (Eds.) *Divided Cyprus: Modernity, history, and an island in conflict*. Indiana University Press,100-120.

Peristianis, N. (2008). *Between nation and state: Nation, nationalism, state, and national identity in Cyprus.* Doctoral dissertation, Middlesex University. Retrieved from eprints.mdx.ac.uk

Perrow, C. (1986). *Complex organizations*. New York: Random House.

Pfeffer J., & Sutton, R. (2000). *The knowing-doing gap*. Boston: Harvard Business School Press.

Pfeffer, J. (1982). *Organizations and organization theory*. Boston: Pitman.

Pfeffer, J., & Davis-Blake, A. (1987). Understanding organizational wage structures: A resource dependence approach. *Academy of Management Journal*, *30*(3), 437-455.

Pinney, C. (1994). Colonial Anthropology in the. *Laboratory of Mankind'', in ed. Christopher Bayly, The Raj: India and the British*, 1600-1947. London: National Portrait Gallery Publications

Porter, A. N., & Stockwell, A. J. (1987). *British imperial policy and decolonization, 1938-64* (Vol. 1, pp. 293-5). London: Macmillan.

Potter, D. (1973). Manpower shortage and the end of colonialism: The case of the Indian Civil Service *Modern Asian Studies* 7: 47-73.

Potter, D. C. (1986). *India's political administrators, 1919-1983*. Oxford: Clarendon Press.

Prasad, A. (2003). *Postcolonial theory and organizational analysis*. New York: Palgrave Macmillan.

Raman, B. (2012). *Document Raj: Writing and scribes in early colonial South India*. IL: University of Chicago Press.

Rath, S. K. (2011). Census of India 2011 and the issues of national security: a dangerous gambit. *Revista de Cercetare şi Intervenţie Socială*, (33), 91-113.

Rees, L. (2005). *Auschwitz: The Nazis and the Final Solution*. London: BBC Books.

Reskin, B. F., & McBrier, D. B. (2000). Why not ascription? Organizations' employment of male and female managers. *American sociological review*, *65*(2), 210-233.

Richens, P. (2009). The Economic Legacies of the" Thin White Line": Indirect Rule and the Comparative Development of Sub-Saharan Africa. *African Economic History*, 33-102.

Riles, A. (2005). New agenda for the cultural study of law: Taking on the technicalities, A. *Buff. L. Rev.* 53, 973.

Robin, C. (2007). Dragon-slayers. Review essay on Hannah Arendt. *London Review of Books,* 18-20.

Robinson, S. (2013). Citizen strangers: Palestinians and the birth of Israel's liberal settler state. California: Stanford University Press.

Robson, L. (2011). *Colonialism and Christianity in Mandate Palestine*. Texas: University of Texas Press.

Roscigno, V. J. (2011). Power, revisited. *Social Forces*, *90*(2), 349-374.

Saban, I. (2011). Theorizing and tracing the legal dimensions of a control framework: Law and Arab-Palestinian minority in Israel's first three decades (1948-1978). *Emory International Law Review, 25*, 299-378.

Smooha, S., & Hanf, T. (1992). The diverse modes of conflict-regulation in deeply divided societies. *International Journal of Comparative Sociology*, *33*(1-2), 1-2.

Sarkar, S. (1989). Autonomy for whom? *Social Scientist* 17(9/10), 27-33.

Schleneur, C. et. al. (1970). *The twisted road to Auschwitz*. Chapel Hill: University of Illinois Press.

Schmitt, C. (1985). *Political theology: Four chapters on the concept of sovereignty*. University of Chicago Press.

Scott, R., & Meyer, J. (1994). *Institutional environments and organizations*. Thousand Oaks: Sage.

Scott, J. (1998). Seeing like a state: How certain schemes to improve the human condition have failed. New Haven: Yale University Press.

Scott, R. (2003). *Organizations: Rational, natural, and open systems*. N.J.: Prentice Hall.

Scott, James C. 2009. The Art of Not Being Governed: an Anarchist History of Upland Southeast Asia. New Haven: Yale University Press.

Sen, S. (2013). Unfinished Conquest: Residual Sovereignty and the Legal Foundations of the British Empire in India. *Law, Culture and the Humanities*, *9*(2), 227-242.

Shachar, A. (1998). Group identity and women's rights in family law: The perils of multicultural accommodation. *Journal of Political Philosophy 6(3),* 285-305.

Shachar, A. (2009). *The birthright lottery: Citizenship and global inequality*. Boston: Harvard University Press.

Shafir, G. (2004). Citizenship and human rights in an era of globalization. In Brysk, A., & Shafir, G. (Eds.). (2004). *People out of place: Globalization, human rights and the citizenship gap*. Routledge. 11-25.

Shafir, G. (1989). *Land, labor and the origins of the Israeli-Palestinian conflict, 1882-1914* (Vol. 20). Univ of California Press.

Shah, A. (2013). The tensions over liberal citizenship in a Marxist revolutionary situation: The Maoists in India. *Critique of anthropology* 33(1), 91-109.

Shamir, R. (2000). The colonies of law: Colonialism, Zionism, and law in early mandate Palestine. Cambridge, UK: Cambridge University Press.

Shamir, R. (2005). Without borders? Notes on globalization as a mobility regime*. *Sociological Theory* 23(2), 197-217.

Shenhav, Y. (1994). Manufacturing uncertainty and uncertainty in manufacturing: Managerial discourse and the rhetoric of organizational theory. *Science in context*, *7*(02), 275-305.

Shenhav, Y., & and Berda, Y. (2009). The political-theological and racial foundations of colonial state bureaucracy: Juxtaposing the Israeli occupation of Palestinian territories with colonial history. In Ophir, Givoni & Hanafi, (Eds.), *The power of inclusive exclusion: Anatomy of Israeli rule in the occupied Palestinian territories*. Boston: Zone Books, MIT press.

Shany, Y. (2005). How Supreme Is the Supreme Law of the Land-Comparative Analysis of the Influence of International Human Rights Treaties upon the Interpretation of Constitutional Texts by Domestic Courts. *Brook. J. Int'l L.*, *31*, 341.

Simpson, B. (1995). Round up the usual suspects: The legacy of British colonialism and the European convention on human rights. *Loyola Law Review 41*, 629.

Simpson, B. (1992). *In the highest degree odious: Detention without trial in wartime Britain*. London: Clarendon Press.

Sinclair, G. (2006). 'Get into a Crack Force and earn£ 20 a Month and all found…': The Influence of the Palestine Police upon Colonial Policing 1922–1948 1. *European Review of History: Revue europeenne d'histoire*, *13*(1), 49-65.

Sinclair, G. (2006). *Colonial policing and the imperial endgame 1945-1980: 'At the End of the Line'*. UK: Manchester University Press.

Sinclair, G., & Williams, C. A. (2007). 'Home and away': The Cross-fertilisation between 'colonial'and 'British'policing, 1921–85. *Journal of Imperial and Commonwealth History*, *35*(2), 221-238.

Singhi, N. (1974). *Bureaucracy: Positions and persons*. New Delhi: Abhinav Publications.

Singh, U. (2007). *The state, democracy and anti-terror laws in India.* New Delhi and London: Sage.

Singha, R. (2000). Settle, mobilize, verify: Identification practices in colonial India. *Studies in History* 16(2), 151-98.

Skocpol, T., & Somers, M. (1980). The uses of comparative history in macrosocial inquiry. *Comparative Studies in Society and History*, 22(2), 174-197.

Smith, C. (1917). Communal conflict and insurrection in Palestine, 1936–48. In Anderson, D., & Killingray, D. (Eds.). (1992). *Policing and decolonisation: politics, nationalism, and the police, 1917-65*. Manchester University Press, 62-83.

Smith, P. A. (1986). The Palestinian Diaspora, 1948-1985. *Journal of Palestine Studies*, 90-108.

Smith, R. (1985). Rule-by-records and rule-by-reports: Complementary aspects of the British Imperial rule of law. *Contributions to Indian sociology 19(1),* 153-176.

Soysal, Y. (1994). *Limits of citizenship: Migrants and postnational membership in Europe*. IL: University of Chicago Press.

Spangenberg, B. (1976). *British bureaucracy in India*. Delhi: South Asia Books.

Spektorovski, A (2000) The French new right. *Polity XXXIII*, 2, 283-303.

Spencer, J. (1990). Collective violence and everyday practice in Sri Lanka.

Modern Asian Studies, 24(3), 603-623.

Starbuck, W. (2003). The origins of organization theory. In Haridimos Tsoukas and Christian Knudsen (Eds.) *The Oxford Handbook of Organization Theory* (143-182). Oxford: Oxford University Press.

Stein, K. W. (1984). The Jewish National Fund: land purchase methods and priorities, 1924–1939. *Middle Eastern Studies*, *20*(2), 190-205.

Steinmetz, G. (2008). The colonial state as a social field: Ethnographic capital and native policy in the German overseas empire before 1914. *American Sociological Review*, *73(4)*, 589-612.

Stoler, A. (2002). Carnal knowledge and imperial power: Race and the intimate in colonial rule. Berkeley: University of California Press.

Stoler, A. L. (2008). Epistemic politics: Ontologies of colonial common sense. In *The Philosophical Forum* 39(3), 349-361. Blackwell Publishing.

Strang, D., & Meyer, J. (1993). Institutional conditions for diffusion. *Theory and society* 22(4), 487-511.

Subrahmanyam, S. (2006). A Tale of three empires: Mughals, Ottomans, and Habsburgs in a comparative context. *Common Knowledge* 12(1), 66-92.

Sundar, N. (2000). Caste as census category: Implications for sociology. *Current Sociology, 48,* 111-126.

Sundar, N. (2013). Reflections on civil liberties, citizenship, Adivasi agency and Maoism: A response to Alpa Shah. *Critique of Anthropology*, *33*(3), 361-368.

Swedberg, R. (2000). *Max Weber and the idea of economic sociology*. NJ: Princeton University Press.

Swedberg, R. (2003). The changing picture of Max Weber's sociology. *Annual Review of Sociology*, 29, 283-306.

Swedberg, R. (2005). *The Max Weber dictionary*. Stanford: Stanford University Press.

Tawil-Souri, H. (2011). Colored identity the politics and materiality of ID cards in Palestine/Israel. *Social Text*, *29*(2)107, 67-97.

Teubner, G. (1998). Legal irritants: Good faith in British law or how unifying law ends up in new divergencies. *The Modern Law Review* 61(1), 11-32.

Thomas, M. (2008). *Empires of intelligence: Security services and colonial disorder after 1914*. California: University of California Press.

Tilly, C. (2006). *Regimes and repertoires*. Chicago: University of Chicago Press.

Titunik, R. (2005). Democracy, domination, and legitimacy in Max Weber's political thought. In Camic Charles, Philip Gorsky and David Trubek (Eds.), Max Weber's *'economy and society'* (143-163). Stanford: Stanford University Press.

Tompson, J. (1967). *Organizations in action*. New York: McGraw-Hill.

Torpey, J. (1998). Coming and going: On the state monopolization of the legitimate "means of movement." *Sociological Theory 16(3*), 239-259.

Torpey, J. (2000). *The invention of the passport: Surveillance, citizenship, and the state.* Cambridge, UK: Cambridge University Press.

Trimiklioniotis & Bozkurt. (2012). Beyond a divided Cyprus: A state and society in transformation. Introduction. New York: Palgrave Macmillan.

Twining, W. (2005). Social science and diffusion of law. *Journal of Law and Society* 32(2), 203-240.

Varnava, A. (2010). The state of Cypriot minorities: Cultural diversity, internal-exclusion and the Cyprus 'problem'. *Cyprus Review*, *22*(2), 205 -218.

Vismann, C., & Winthrop-Young, J. (2008). *Files: Law and media technology*. California: Stanford University Press.

Vitta, Edoardo. (1970). The Conflict of Personal Laws. *Israeli Law Review 5*, 170.

Wagner, S. (2008). British intelligence and the Jewish resistance movement in the Palestine mandate, 1945–46. *Intelligence and National Security 23(5),* 629-657.

Wallerstein, I. M. (1961). *Africa: The politics of independence and unity*. U of Nebraska Press.

Walters, W. (2002). Deportation, expulsion, and the international police of aliens. *Citizenship studies* 6(3), 265-292.

Wasserstein, B. (1977). 'Clipping the claws of the colonisers': Arab officials in the government of Palestine, 1917–48. *Middle Eastern Studies*, *13*(2), 171-194.

Weber, M. (1946). Characteristics of bureaucracy. In H.H. Gerth and C. Wright Mills (translators and Eds.), *From Max Weber: Essays in sociology*. Oxford: Oxford University Press.

Weber, M. (1946). Politics of Vocation": in From Max Weber: Essays in Sociology, edited by HH Gerth & CW Mills.

Weber, M. (1949). *On the methodology of the social sciences*. Glencoe, Ill: The Free Press.

Weber, M. (1968). *Economy and society: An outline of interpretive sociology*. Roth G. and C. Wittich (Eds.), New York: Bedminister Press.

Weber, M. (1978). *Economy and society. In two volumes.* Berkeley: University of California Press.

Weick, K. (1976). Educational organizations as loosely coupled systems. *Administrative Science Quarterly*, *21*, 1-19.

Whetstone, T. (2002). Personalism and moral leadership. *Business Ethics*, *11(4)*, 385-392.

Whimster, S. (2011). Max Weber: the bureaucratic analysis of imperial structures. Paper presented at Empires & Bureaucracy, A Colloquium Exploring the Comparative History of European Empires from Late Antiquity to the Modern World. Dublin: Trinity College.

Wilder, G. (2005). *The French imperial nation-state: Negritude and colonial humanism between the two world wars*. University of Chicago Press.

Young, C. (1994). *The African colonial state in comparative perspective*. Yale University Press.

Yuval-Davis, N. (1980). The bearers of the collective: Women and religious legislation in Israel. *Feminist Review* 4(1), 15-27.

Yuval-Davis, N. (1993). Gender and nation. *Ethnic and Racial Studies* 16(4), 621-632.

Zamindar, V. (2007). *The long partition and the making of modern South Asia: Refugees, boundaries and histories.* NY: Columbia University Press,

Zureik, E. (2011). Colonialism, surveillance, and population control: Israel/Palestine. In Zureik, E., Lyon, D., & Abu-Laban, Y. (Eds.). (2010). *Surveillance and control in Israel/Palestine: Population, territory and power*. Taylor & Francis. 3-46.