Migration, Identity & the Colonial Encounter

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The postcolonial exist as an aftermath, as an after-after being worked over by colonialism.¹

Movement between cultures, languages, and complex configurations of meaning and power have always been the territory of the colonized.²

Sense of words like “nation”, “people”, “sovereignty”... “community”... are leaking out of so many cracked vessels.³

A specter is haunting the “new world order:” the specter of the immigrant. To live with this specter is to live with desires and anxieties of the state and the nation. It is also to live with the heritage and genealogies of empire and imperialism. The public debate about, and legislative responses to, this specter remain preoccupied with characterizing the immigrant as an outsider and a threat, with immigration configured as a problem to be solved, a flaw to be corrected, a war to be fought, and a flow to be stopped.⁴ This posture rests on some implicit assumptions of fixed identities, unproblematic nationhood, indivisible sovereignty, ethnic homogeneity, and exclusive citizenship. These assumptions posit a picture of the inter/national system that consists of complete, differentiated, and closed living spaces, con-

¹ Gyan Prakash, Postcolonial Criticism and Indian Historiography, 31 Social Text 8 (1992) (internal citation omitted).

² Chandra Mohanty, Feminist Encounters: Locating the Politics of Experience, 1 Copyright 42 (Fall 1987) (emphasis omitted).

³ On Jean-Luc Nancy: The Sense of Philosophy 13 (Darren Sheppard et al. eds., 1997) (quoting Jean-Luc Nancy) (internal citation omitted).

stituted by the pivotal organizing principle of sovereign nation-
states. The immigrant does not fit this picture well. She remains
an outsider, an alien body, to be normalized, homogenized, and
assimilated. As a non-citizen, she is to be marginalized in distri-
bution of legal rights and political protections. As a cultural sig-
nifier, she is to be erased. As a violator of borders, she provides
the rationale to ever strengthen the territorial divides. The
threat perception triggered by the immigrant traverses two fields:
that of the state, and that of the nation. The immigrant puts at
issue the inviolability of borders, territoriality of sovereignty,
particularity of jurisdiction, and uniformity of citizenship—fun-
damental characteristics of the modern state. The immigrant
calls into question cultural homogeneity, linguistic commonality,
shared history, a sense of belonging, and security of identity—the
key ideologies of the nation.

These assumptions and postures warrant a reexamination of
some fundamental questions that surround the phenomenon of
migration. Are the causes, sources, and processes of migration
uniform and predictable? Is the migrant available for sover-
eignty’s demand for complete allegiance? Can the migrant par-
take of the pre-existing imagined community, the nation? Is the
migrant compatible with the institutional designs of the state? Is
migrant identity commensurable with requisites of citizenship?
This Article explores these questions by locating them in spatial
and temporal sites removed from the common foci of the immi-
gration debate. It argues that the relationships of empire and
imperialism between “the West and the Rest” are central to the
inter/national imagining and construction of the immigrant; that
progressive incorporation of different parts of the world into a
unified system of accumulation and the resulting global division
of labor is the primary context within which the interface of the
migrant and the inter/national system unfolds. The relationship
of empire and imperialism with migration, however, is not a
mechanical or deterministic one. The terrains of empire and im-
perialism are contested sites, where contradictions between im-
peratives of exchange and sovereignty, and conflicts between
domination and resistance, are played out. Using stories from
colonial and postcolonial South Asia I argue that within the gen-
eral contexts of empire and imperialism, the determinants and

5 See Stuart Hall, The West and the Rest: Discourse and Power, in Modernity:
An Introduction to Modern Societies 184, 185 (Stuart Hall et al. eds., 1996).
processes of migration in the modern world system are multiple, as borders are porous, identities flexible, and sovereignties malleable. Additionally, I argue that the compatibility of migration with sovereignty, nation, and state is always partial, contingent, and unstable.

The first part of this Article narrates three stories of migration that unfolded in the context of India’s encounter with British colonialism. While these were not the only migrations triggered by colonialism both within and from India, these particular stories highlight this article’s central thesis that inter/national imaginations of the immigrant must take account of the relationships of empire and imperialism, and that within the context of these relationships, the causes, processes, and results of migration, and the accompanying constructions and deployments of identities, are diverse. This examination of the colonial encounter aims not simply to document its record of exploitation and domination, but also to track its failures and silences, in order to focus on displacements and identities produced by its functioning. Implicated in this study are not only the successfully implemented designs of colonialism, but also its accommodations, ambivalences, and breakdowns. Center stage here are not only the strategies of colonial power but also native designs of resistance. Of the three migrations examined, one was the product of colonial design, one of anti-colonial resistance, and one occasioned by the collapse of colonial rule. These three narratives locate determinants of migration and constructions of migrant identities at the intersection of the demands of global systems of production and imperatives of the principles of sovereignty and nation-state, and suggest that migrant identities are forged through both operations of power and strategies of resistance.

The second part of the Article addresses the issue of construction and deployment of post-migration identities. This part narrates a brief story of post-migration existence of a particular South Asian community in order to draw conclusions about the relationships of immigrants with the nation, the state, and citizenship. I argue that these relationships are contingent and unstable because the construction and political deployment of the immigrant’s identity is subject to the shifting alignments of political forces in any particular setting. Whether the immigrant is privileged or marginalized in the national imagination may not be the consequence of migration, but rather of specific political con-
junctures that determine the extent to which the nation may be reimagined, the state reordered, and norms of citizenship restructured.

I

MIGRATION AND THE COLONIAL ENCOUNTER

The two basic features of the modern world system furnish the essential framework within which to parse out the determinants of migrations and constructions of migrant identities. These features are the increasing incorporation of different parts of the world into a single division of labor in the capitalist world-economy and the construction of political units under the organizing principle of the sovereign nation-state. As a result of these two features, the modern world system exhibits two dominant imperatives: establishing sovereignty and expanding levels of exchange. The fundamental tension between these two tendencies has crucial implications for questions of migration and identity. The sovereignty impulse locates the citizen within firm territorial

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8 See generally Michael J. Shapiro, Reading "Adam Smith": Desire, History and Value 1-44 (1993); Immanuel Wallerstein, Historical Capitalism (1983); David Held, Central Perspectives on the Modern State, in The Idea of the Modern State 29 (Gregor McLennan et al. eds., 1984).
boundaries, constitutes individual and collective identities, privileges a homogeneous subjectivity eligible for political recognition, and posits identities of ineligible others. In contrast, the exchange impulse encourages flows of capital, commodities, and labor power, and thus demands the dilution of specifications of eligible subjectivities and relaxation of territorial boundaries. The conflict between exchange and sovereignty comes into sharp relief around questions of identity and location of the self. It involves a priority either of maintenance of order and control within bounded spaces or of relaxation of territorial control in order to facilitate circulation and exchange. However, the relationship between sovereignty and exchange is not one of simple opposition. In particular settings, the sovereignty and exchange imperatives can be either antagonistic, mutually reinforcing, or relatively autonomous.

The genesis of the sovereignty and exchange imperatives of the modern world are intrinsically linked to the historical experience of the colonial encounter between the West and the rest. This linkage is so fundamental that any discussion of sovereignty and exchange must be framed in the context of the colonial encounter. The sovereignty doctrine directly grew out of the European encounter with the colonized. It is not a construct that developed in Europe and was then diffused around the world. Rather, it was fashioned as a legitimizing framework for colonial subjugation, was primarily concerned with the alterity the colonized native presented for the colonizer, and was "explicitly shaped in such a manner as to empower certain cultures while suppressing others." The sovereignty doctrine and its attending representations of the colonized native were then deployed in Europe itself. Sovereignty furnished the scaffolding to construct the modern state, one that is territorially bound, judicially defined, and

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11 It is important to bear in mind that "[i]t is unavoidable redundancy to speak of the modern 'state,' for there is no other kind of state properly understood. No less is it redundant to speak of the 'sovereign state,' and no less avoidable. Sovereignty
equipped to "subvert and annex the primary loyalties attached to more intimate collectivities." In Europe, colonial representations of native alterity concurrently facilitated imagining the undifferentiated "nation" as a rationale for the territorial sovereign state, and subaltern classes of the continent were often understood in terms that derived their force from these representations. Similarly, the contours of the modern exchange imperative were shaped in the context of Europe's outward expansion and colonial encounters. Capitalism did not mature within the territorial bounds of Europe and then spread across the globe. From the very beginning, capitalism as a mode of production and accumulation was tied to colonial penetration, a global division of labor, and articulation with non-capitalist modes of production. It is in this context that sovereignty served as "a bridge between national capitalism and world capitalism."

The interplay between exchange and sovereignty in the context of the colonial encounter has a particular bearing on questions of migration, identity, and political eligibility. While conventional discourse on migration remains imprisoned within the territorial imperative of the sovereign nation-state, locating the migrant in inter/national imaginations necessitates an accounting of the colonial encounter and the traces of that encounter on the sovereignty/exchange dynamic. Locating a subject outside the boundaries of the modern state "requires specific genealogical recoveries which denaturalize those boundaries and thereby destabilize discursive hegemonies attached to spatial configurations associated with the system of state sovereignty." This section aims to do just that by focusing on a particular site; that of


British colonial rule over the Indian subcontinent. Within this site, I examine three specific migrations triggered by colonialism to highlight their diverse determinants, processes, and impacts, as well as the varied identities posited and deployed in the process. The first migration is that of indentured labor from colonial India to other parts of the British empire, as part of the single global division of labor. The second migration is from colonial India as part of resistance to colonial rule, propelled by notions of sovereignty, nationhood, and statehood which are incompatible with their Eurocentric counterparts. The third migration is the one triggered by the "divide and quit" end game of colonial rule, one that partitioned India into two distinct "sovereign" "nation-states."

A. Cheaper Than a Slave: Migration and Commodified Labor

Between 1834 and 1937, 30 million Indians left India as part of the global division of labor, and just under 24 million returned. Most of this migration formed part of the "coolie system" that came into existence in the early nineteenth century, whereby Asian labor, primarily from India and China, went to colonies governed by Europeans to work on plantations, mines, railroads, canals, and similar projects. The "coolie system" was a mixture of various labor systems and stood somewhere between slavery and "free" wage labor. In the case of colonial India it included indentured labor, the kangany system, the maistry system and

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17 The slave trade from India, though on a relatively small scale, also formed part of European colonial plantation economies until the end of the eighteenth century. The Dutch began the direct slave trade from South India to Mauritius. In the late eighteenth century, slaves from South India were regularly sold to French planters in Mauritius and Reunion, even in the face of a 1789 proclamation by the Governor General prohibiting the export of slaves. D.R. Banaji, Slavery in British India 59, 171 (2nd ed. 1933); Hubert Gerbeau, Engagees and Coolies on Reunion Island: Slavery's Masks and Freedom's Constraints, in Colonialism and Migration: Indentured Labour Before and After Slavery 211 (P.C. Emmer ed., 1986). By 1800 there were some 6,000 Indian slaves in Mauritius and 2,000 in Reunion. Hugh Tinker, A New System of Slavery: The Export of Indian Labour Overseas 1830-1920 44 (1974).
18 The kangany system, used to recruit Indian labor for Ceylon and Malaya, was oriented towards extended family structures: each kangany (headman), who was himself an Indian immigrant, supervised a group of related coolies. See C. Kondapi, Indians Overseas 1838-1949, at 29-46 (1951).
19 The maistry system was very similar to the kangany system except that it used advances to bind the indebted labor. Additionally, the maistry system had an exten-
penal transportation. For purposes of this Article, I examine only the indentured labor system, whereby 1.5 million Indians went overseas between 1834 and 1920.

The indenture system formed part of the "unfree" labor systems that Robert Miles termed "an anomalous necessity" of the early stage of global expansion of capitalist production and the resulting articulation of different modes of production. Viewed on a global scale, "unfree" labor was the predominant form of labor control until much later than might be supposed. This is where "unfree" labor and migration intersect. The European mercantile powers underwrote their trading empires by the production of tropical commodities and precious metals, and introduced mass slavery and coerced labor to the Americas to sustain this production. The triangular trade between Europe, Africa, and the Americas was the precursor of modern global capitalism. The main successor to modern slavery was the institution of invasive hierarchical structure. The maistry system was used chiefly to recruit Indian labor for Burma and Straits settlements. Id. at 46-52.

The rapid expansion of colonies and settlements in the Indian Ocean region created a demand for labor to construct public works like roads, harbors, offices, and jails. Convicts often performed this labor as a substitute for the death penalty or long-term imprisonment. Convicts labored in Bencoolen in southeast Sumatra, and from 1825 until 1873, in Penang, Singapore, and Mauritius. Tinker, supra note 17, at 45.

See generally Robert Miles, Capitalism and Unfree Labour: Anomaly or Necessity 196-222 (1987). His explanation for the survival and reproduction of unfree methods of production in a world economic system increasingly dominated by the capitalist mode of production is that under certain historical conditions:

(1) forms of unfree labour . . . can be a constitutive element of the process of primitive accumulation preceding the emergence of a capitalist mode of production; (2) forms of unfree labour can exist because the commodification of labour power is either obstructed or breaks down; and (3) forms of unfree labour can coexist with free labour where non-capitalist modes of production are sustained in some form of interrelation with the capitalist mode of production, either within or between different social formations. Id. at 222.

Even in Europe, "free" labor (conceived in the sense of the freedom to choose one's employer) did not become a dominant legal ideal until the late eighteenth century and not the dominant paradigm until the nineteenth century. See generally Philip D. Curtin, The Rise and Fall of the Plantation Complex: Essays in Atlantic History (1990); Orlando Patterson, Slavery and Social Death: A Comparative Study (1982).

See generally Eric Williams, Capitalism and Slavery (1961). Native American slavery was the first large-scale system in the history of capitalism to exploit the workers of conquered territories outside of Europe. In terms of its scale and destructive significance, it exceeded the later enslavement of the African people. See Lydia Potts, The World Labour Market: A History of Migration 9-31 (1990).
dentured labor, which served as a bridge between slavery and modern forms of contract labor.\textsuperscript{24} This switch in the form of labor also involved a switch in the source of the labor supply from Africa to Asia. With this switch in location, another continent, previously linked only by trade, was more firmly integrated into the modern world system.\textsuperscript{25}

The abolition of slavery and the emancipation of the slave population marked a turning point in the history of the colonial plantation. The British government passed the Act of Emancipation in 1833, freeing a slave population of around 665,000 in the British Caribbean.\textsuperscript{26} In the following years, slavery was similarly abolished in the French (1848), Danish (1848), and Dutch (1863) Caribbean.\textsuperscript{27} The regional economy, which held a key position in each respective imperial political economy, centered on labor-intensive plantation agriculture, especially sugar production. Emancipation caused an immediate crisis among the planters, who perceived their success as being founded upon a critical ratio between abundant land and cheap labor—a ratio which slavery had served well and which after abolition needed to be replaced by “a new system of slavery.”\textsuperscript{28} Initially, the planters attempted to employ ex-slaves as formal wage labor. Planters’ unchanged attitudes, however, ensured a rapid post-emancipation movement of ex-slaves away from estates, characterized as “a protest


\textsuperscript{25} With the establishment of the coolie system, “it was the turn of the Asian peoples to become victims of exploitation and to be traded on the world market for labour power. . . . The population of yet another continent was to be transformed into a reservoir of labour power and shunted around the world.” Potts, supra note 23, at 62.

\textsuperscript{26} See B.W. Higman, Slave Populations of the British Caribbean 1807-1834 (1984). To ensure a stable supply of labor for the plantations, slavery was replaced with a system of forced apprenticeship whereby freed slaves were tied to their former masters for four to six years. However, this system fell apart due to new internal migrations: many former slaves quit the plantations of the coastal lowlands and settled the interior highlands. See generally Robin Blackburn, The Overthrow of Colonial Slavery, 1776-1848 (1988); Eric Foner, Nothing But Freedom: Emancipation and its Legacy (1983); William A. Green, British Slave Emancipation: The Sugar Colonies and the Great Experiment 1830-1865 (1976); Nigel O. Bolland, Systems of Domination after Slavery: The Control of Land and Labor in the British West Indies after 1838, 23 Comp. Stud. in Soc’y & Hist. 591 (1981).

\textsuperscript{27} Tinker, supra note 17 passim.

\textsuperscript{28} I adopt the phrase from the title of Tinker, supra note 17.
against the inequalities of early 'freedom'."  

After abolition, sugar production dramatically decreased and the market value of Caribbean estates declined. Planters saw the labor shortage as the heart of the problem, and soon initiated various immigration schemes, including the introduction of Africans "liberated" from other nations' slave ships and brought directly from other Caribbean islands or Africa. For various reasons, the planters found none of these groups suitable. They demanded, instead, a wholly controllable, extremely cheap workforce that was accustomed to agricultural labor. Enter colonial India. Following the Battle of Plassy in 1757, the British East India Company gained control of Bengal, which was progressively expanded towards Central and Southern India. By the end of the eighteenth century, the East India Company was deploying Indian labor outside India. It was in this context that in the 1820s sugar planters in Reunion and Mauritius experienced some success in importing laborers from India whose "cost [was] not one-half that of a slave." Learning of such success, John Gladstone, representing Caribbean planters, contacted an English recruiting firm with a presence in Calcutta regarding the possibility of similarly obtaining Indian labor for the Caribbean. The response of the firm was

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31 The early attempt by the British East India Company to set up a trading station in lower Burma in 1753-59 depended upon labor from India. The establishment of a British port at Penang in 1786 was soon followed by the growth of an Indian colony. The development of settlements in the Malacca Straits was founded upon the availability of an Indian labor force, described as "‘but a modified form of slave trade.’" Tinker, supra note 17, at 44 (quoting Madras Government to Government of India, in EMIGRATION PROCEEDINGS (1883)).


33 While making this inquiry, the January 1836 letter by John Gladstone, representing plantation interests to a shipping agency in Calcutta, explained the context of the inquiry:

You will probably be aware that we are very particularly situated with our Negro apprentices in the West Indies . . . and that it is a matter of doubt and uncertainty how they may be induced to continue their services on the plantations after their apprenticeship expires in 1840. This is a subject of great moment and deep interest in the colonies . . . . It is of great importance to us to endeavour to provide a portion of other labourers, whom we
encouraging: ""We are not aware that any greater difficulty would present itself in sending men to the West Indies . . ., the natives being perfectly ignorant of the place they go to or the length of voyage they are undertaking.""34 Thus started the systematic introduction of Indian indentured labor to the plantation colonies of the Caribbean, and later to East Africa, South Africa, and the South Pacific.

Before continuing, it must be noted that contingent constructions of subjects and identities were pivotal to this changing pattern of labor migration within the increasingly global division of labor. Gladstone's letter reveals the motives behind the scheme: besides providing cheap labor, the Indian workers were to be the medium through which planters would reassert control and discipline over Afro-Caribbean workers. The unfolding of this stratagem was accompanied by enabling constructions of identities of both African and Indian labor. Planters' claims that the Afro-Caribbean labor available to them was inadequate numerically and morally became orthodoxy: African workers were portrayed as lazy, unreliable, untruthful, and unable or unwilling to understand or honor a contract.35 The reports of parliamentary and royal commissions appointed to investigate the condition of the sugar colonies, in almost every decade into the twentieth century, reproduced and sanctified these portrayals. The significance of the genealogy of these unfavorable representations of African labor, both for the introduction of indentured labor from India and for the subsequent emergence of distinctive communities and

might use . . . [to] make us, as far as it is possible, independent of our negro population; and it has occurred to us that a moderate number of Bengalees, such as you were sending to the Isle of France [Mauritius], might be very suitable for our purpose.

Madhavi Kale, Projecting Identities: Empire and Indentured Labor Migration from India to Trinidad and British Guyana, 1836-1883, in Nation and Migration: The Politics of Space in the South Asian Diaspora 73, 74-75 (Peter van der Veer ed., 1995) (quoting John Gladstone). Gladstone informed the Calcutta company that several similar importations had taken place from other places "and so far with good effects on the minds of the blacks." Id. (emphasis added).

34 Tinker, supra note 17, at 63.

strained relations among them is considerable.\textsuperscript{36}

The direct linkage between constructions of identities with the exigencies of plantation economies, and the interconnection of unstable and shifting identities of different labor groups, are central to this story of migration. Disparaging characterizations of Afro-Caribbean labor were critical to constructing the identity of Indian labor in the plantation colonies. The Indian workers were extolled for their docility, industriousness, familiarity with agriculture, strong family ties, respect for authority, and respect for the sanctity of contracts. These constructions, however, did not last very long. Once Indians were on the plantations and had adopted strategies of self-preservation and resistance, planters’ praises were leavened with distaste and dissatisfaction. Indians, they now observed, were steadier workers than those of Afro-Caribbean descent, but they were also avaricious, jealous, and less robust, not to mention dishonest, idolatrous, and filthy.\textsuperscript{37} As the catchment area of Indian labor expanded, corresponding with the territorial expansion of colonial rule in India, planters began to distinguish among labor from different parts of India.\textsuperscript{38} As dissatisfaction with Indians spread among the planters, and as they began looking into opportunities to recruit workers from China, the Indians came to be increasingly and unfavorably compared with the Chinese.\textsuperscript{39}

\textsuperscript{36} Ethnic tensions and political conflicts between indigenous communities and descendants of Indian labor continue to animate the social and political landscape of many postcolonial societies in the Caribbean, East Africa, South Africa, and Fiji. See generally \textit{Expulsion of a Minority: Essays on Ugandan Asians} (Michael Twaddle ed., 1975); \textit{Modern Caribbean Politics} (Anthony Payne \& Paul Sutton eds., 1993); \textit{Donald Rothchild, Racial Bargaining in Independent Kenya: A Study of Minorities and Decolonization} (1973); Selwyn D. Ryan, \textit{Race and Nationalism in Trinidad and Tobago: A Study of Decolonization in a Multiracial Society} (1972); \textit{South Asians Overseas: Migration and Ethnicity} (Colin Clarke et al. eds., 1990).

\textsuperscript{37} A leading member of Trinidad's elite noted that, "The Hindoos . . . are a mild and timid race, obsequious, wanting in firmness and perseverance, more prudent and wily than energetic and straightforward. They are intelligent, rather industrious and saving." Kale, \textit{supra} note 33, at 77-78 (internal quotation marks omitted).

\textsuperscript{38} One observer in Trinidad noted that indentured workers from Calcutta proved to be "valuable, steady labourers, while those from Madras are for the most part useless . . . the scum and refuse of the city of Madras—stray waifs who have sunk very low in their lives before they find their way into the hands of the shipping agent." \textit{Id.} at 78 (internal quotation marks omitted).

\textsuperscript{39} Chinese labor was portrayed as "fully alive to the necessity of authority for their regulation and control . . . generally tractable and manageable,' strong, tough, 'not averse to foreigners' . . . 'highly intelligent and discerning, steady laborers, and well versed in the tillage of the soil.'" \textit{Id.} On Chinese migration see Persia Craw-
Characterizations of Indian labor were directly linked to the role they were to play in the sugar colonies, in relation primarily to Afro-Caribbean workers over whom planters were determined to reassert authority. The early consensus was that the planter had "found in the meek Hindu a ready substitution for the Negro slave he had lost." If India became the primary recruiting ground for sugar colony planters, it was not because Indians' characters, as laborers or otherwise, had made them ideal immigrants; rather, it was because Indian workers were, for political reasons, more readily accessible than workers from other parts of the world. The claims that Indians were innately suited to agricultural labor, to taking directions, and to working hard for low wages were justifications for seeking and securing Indian indentured workers, especially once other areas proved inaccessible and importation of labor from India had become a permanent strategy for sugar production on plantations.

In 1838, British Guyana was the first Caribbean territory to receive indentured Indians; several other Caribbean colonies began importing Indian labor in succeeding years. Between 1838 and 1917, more than half a million Indians went to the Caribbean as indentured labor. Though it started with the Caribbean sugar plantations, the Indian indentured labor system was soon extended to Africa and the South Pacific. The considerable expense of recruiting and shipping laborers from India to the West

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Indies was originally met in its entirety by local colonial governments; over subsequent years, however, planters were required to pay an increasing share of these costs. Initially, recruiting and transportation of such labor were unregulated. In 1837, however, the colonial government of India, under Act V of 1837, laid down specific conditions and an accompanying administrative framework. This legislation, while institutionalizing the system of indentured labor and bringing it under political supervision, took pains to ensure that, pro forma, the system was one of "free" labor based on contract. The difference between indentured and "free" labor, however, was quite clear to planters, one of whom stated, "We want Indians as indentured laborers but not as free men." Indenture was akin to what we would now call a standard form contract, and the rights and duties embodied in it were not negotiated or negotiable by the migrant. The sanctions for breach of terms by the migrant were penal, not civil, denying the form of his contractual engagement. An extensive set of regulations defined the terms of engagement and tied him to a particular employer and a particular residence. The extensive regulation and the lack of legal capacity of the migrant to change employment meant that this form of labor, like slavery, was not driven by market rationality and did not fulfill the classic liberal criteria of free alienation of labor power.

Under license from the Protector of Emigrants in Calcutta and Madras, emigration agencies sought recruits throughout the Indian countryside. While there is little evidence of fraud, deception or kidnapping being widely used to gain indentured migrants, many Indians did not fully understand all the implications

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43 The intending emigrant was to appear before a designee of the colonial government, along with the emigration agent, who was required to produce a written statement of the terms of the contract. The length of service was to be five years, renewable for another five. The emigrant was to be returned to the port of departure at the end of his service. Vessels taking the emigrants were required to conform to specified standards of space, diet, and health. The superintendent of police was charged with carrying out the duties under the Act. TINKER, supra note 17, at 64.

44 For a comparative study of legal frameworks that accompanied migrations of slave labor, indentured labor, and modern free labor, see Yash Ghai, Migrant Workers, Markets, and the Law, in Global History and Migrations 145 (Wang Gungwu ed., 1997).

45 KONDAPI, supra note 18, at 7 (internal citation omitted).

46 This office was created by the Indian colonial authorities to administer the indentured labor system. The counterpart in the plantation colonies was named Protector of Immigrants. The latter position replaced the Protector of Slaves. See TINKER, supra note 17, at 18, 105.
of indentureship and migration.\textsuperscript{47} The colonial encounter furnished both the "pull" and "push" factors for labor migration. A historical assessment of the conditions prevailing in India during British rule reveals a crucial connection between colonial entrenchment and the international commodification of Indian labor. The transportation en masse of Indians through the indenture system was a direct consequence of British penetration into the entire economic and social fabric of Indian society. So-called "push factors" probably had more to do with migrants' decisions to indenture themselves abroad than did "pull factors" of promised opportunities. In the second half of the nineteenth century, peasants throughout India faced privations due to colonial emphasis on export-oriented agriculture and massive disruption of livelihoods with the demise of traditional industries, relocated local economies, new demands of cash payments for upwardly spiraling rents, a high incidence of evictions, and widespread unemployment.\textsuperscript{48}

Rather than being an avenue of opportunity, for the majority of Indians indenture was an "exile into bondage" as "many found they had exchanged one form of poverty and servitude for another, and many more found only death and disease."\textsuperscript{49} It is important to note that indigenous people of the plantation colonies had little say in the induction of Indian labor, a fact that was to have a profound effect on future inter-ethnic relations. The colonial authorities regulated the recruitment, importation, allocation, and employment of labor; control over the repressive apparatus, such as the courts, police, and prisons, all of which acted to repress workers, was also in their hands. Despite regional variation, it is possible to paint a general picture of plantation life which remained unchanged from the days of slavery.


\textsuperscript{49} Tinker, \textit{supra} note 17, at 60.
Indenture, like slavery, was premised on an elaborate system of coercion that restricted the free movement of laborers outside the estates; it not only regulated their labor power but also isolated them on plantations. Planters deployed many formal and informal systems of control not only to confine workers on the estates but also to keep them in indenture. In Natal and Mauritius, for example, an annual tax was introduced to force workers to reindenture; vagrancy laws and licenses were imposed to restrict worker mobility outside the plantation and to reduce the alternatives available upon termination of contract. While the stipulated conditions of work, pay, housing, and medical facilities were similar for all the colonies, in reality their interpretation was left to the discretion of employers, overseers, and managers. The everyday reality for workers was marked by grinding overwork, low wages, malnutrition, persistent illness, and poor housing, as well as a range of punitive measures that included beatings, fines, and imprisonment. The colonial administrations functioned in the interests of the employers rather than to protect workers. In Mauritius between 1849 and 1862, for example, the administration acted on the planters’ behalf by arbitrarily reducing wages and lengthening indenture contracts from one to three and then to five years. Conditions of contracts were enforced harshly through labor-coercive techniques, such as those in Mauritius, where workers could be imprisoned for up to six months for desertion, neglect of work or indolence, and where refusal to obey an order could result in the loss of two weeks’ pay or imprisonment with hard labor. Legislation introduced to improve the workers’ conditions was often ineffectual and commissions investigating worker abuse rarely made recommendations detrimental to planters. The Protectors of Immigrants were frequently friends of the planters and shared their class background and interests. The colonial authorities and sugar planters colluded to draw “a cloak of secrecy over actual conditions on the estates and in whitewashing the system.” The harshness of conditions for the indentured Indians is evidenced by a very high rate of suicide, a third of which took place in the first year of indenture. In Natal, for example, the rate was sixty-four per

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thousand.\textsuperscript{52}

While the experience of Indian women under indenture has remained under-explored, some generalizations are possible based on available information.\textsuperscript{53} Although they performed many crucial productive and reproductive functions, employers were reluctant to recruit women, whom they viewed as a burden. Women received a fraction of the male wage and half of the rations allotted to men. Women also played a critical sexual role and many were subjected to intense oppression. The paucity of women (the ratio of women to men was 40:100 in Natal and 33:100 in Mauritius)\textsuperscript{54} led to much sexual harassment and even murder of "unfaithful" wives. In Fiji, for example, between 1885 and 1921, 230 cases of murder due to "sexual jealousy" were recorded.\textsuperscript{55}

The structural conditions of indenture, adverse working conditions, and persistent abuse frequently led to worker action, which manifested itself in a variety of passive and active ways through formal and informal acts.\textsuperscript{56} Most protest was expressed through day-to-day actions. In Fiji, for instance, Indians acquired a reputation for their "murderous intent:" thirty-two charges of assault on overseers were brought against workers in 1900, resulting in eleven convictions; in 1902, there were thirty-five charges with twenty-eight convictions. Mass worker protests took place in Mauritius in 1872. There was a strike and protest march in Fiji in 1886 and a general strike in Natal in 1913. Indentured laborers developed an array of forms of everyday resistance\textsuperscript{57} and avoid-


\textsuperscript{54} North-Coombes, \textit{supra} note 42, at 12.


\textsuperscript{57} According to James Scott, everyday resistance consists of:

\begin{quote}
[T]he ordinary weapons of relatively powerless groups: foot dragging, dissimulation, false compliance, pilfering, feigned ignorance, slander, arson,
\end{quote}
These included absenteeism, idleness, petty larceny, destruction of employers' property and tools, desertion, and drunkenness. Workers also established a system of self-help by setting up funds based on voluntary subscriptions that were used to pay fines. Free Indians frequently harbored deserters. Resistance by the indentured labor was often met with stringent legislation aimed at deterring collective action, and those perceived as protest leaders were invariably criminalized and banished. Nevertheless, labor resistance, however expressed, persisted and grew stronger as laborers became more accustomed to their new environment.

Resistance by indentured labor was not the only factor that injected instability into the system. The history of indentured migration from India is complex because the British government, the colonial governments of India and plantation colonies, and the plantation owners were all involved and had fluctuating and often conflicting demands. Although the state organized the sys-

sabotage and so forth. These Brechtian forms of class struggle have certain features in common. They require little or no co-ordination or planning; they often represent a form of individual self-help; and they typically avoid any direct symbolic confrontation with authority or with elite norms. To understand these commonplace forms of resistance is to understand what much of the peasantry does "between revolts" to defend its interests as best it can.


58 Michael Adas argues that through avoidance protest "dissatisfied groups seek to attenuate their hardships and express their discontent through flight, sectarian withdrawal, or other activities that minimize challenges to or clashes with those whom they view as their oppressors." Michael Adas, From Avoidance to Confrontation: Peasant Protest in Precolonial and Colonial Southeast Asia, in 23 Comp. Stud. in Soc'y and Hist. 217 (1981). In a later work, Adas portrays these avoidance protests in more detail. There are:

Flight[s] to sparsely settled frontier areas or the domains of rival patrons, banditry, formal petitions, 'sit-ins' before the residences of state officials, as well as clandestine retributive acts involving crop and implement destruction or arson and 'witchcraft' . . . . These modes of defence and protest are far more dramatic and dangerous than everyday acts of defiance and retribution and much more disruptive, even dangerous, for the social systems in which they occur.


59 Defending a repressive 1867 ordinance, the Procureur-General of Mauritius stated: "The Indians require to be protected against themselves." Tinker, supra note 17, at 242.

60 Haraksingh, supra note 56, at 61-80.
tern on behalf of the plantation owners’ interests, these were not the only interests to which the state responded. The Colonial Office in London was sensitive to continuing agitation by the anti-slavery movement. Colonial authorities in India had to contend with groups of local reformers, belonging to both the Indian and British communities, who became involved with the indenture migration from its very inception. In response to their demands, they convened a “Committee appointed to inquire respecting the exportation of Hill Coolies” in 1838. In light of the committee’s report, the Governor-General’s council passed Act XIV of 29 May 1839, whereby overseas emigration for manual labor was prohibited and any person effecting such an emigration became liable to a fine of two hundred rupees or three months of imprisonment. Within two years of its initiation, the indenture system came to a sudden halt. In the following years, the planting interests and the anti-slavery groups vied intensely for the hearts and minds of the British public and legislators. The planters’ first success came in 1842 when the colonial government repealed the prohibition on emigration to Mauritius, followed by legalization of emigration to the Caribbean in 1844. This concession to the planters was balanced by limiting the indenture period to one year. A struggle over the time limit of indenture ensued, and in 1862 the British Government accepted five-year contracts, extendible by another five years, for all sugar

61 While rejecting an 1835 draft of a Mauritius ordinance defining the terms of indenture upon which Indian labor was to be imported, Lord Glenelg, the Secretary for the Colonies, said:

The design of the law might more accurately have been described as the substitution of some new coercion for that state of slavery which had been abolished; the effect of it, at least, is to establish a compulsory system scarcely less rigid, and in some material respects even less equitable than that of slavery itself.

TINKER, supra note 17, at 17 (quoting EMIGRATION FROM INDIA; THE EXPORT OF COOLIES AND OTHER LABOURERS, TO MAURITIUS 29 (1842)). The Aborigines Protection Society was established in 1837 and in 1839 the British and Foreign Anti-Slavery Society was founded. Both groups drew upon the support of old abolitionists and emancipators. The Order in Council of July 12, 1837, that legalized the venture proposed by Gladstone was first published in the anti-slavery journal British Emancipator. This prompted questions in the Parliament, and a Natives of India Protection Bill was placed before Parliament. Another Order in Council of 1938 limited the duration of the labor contract to one year and required the contract to be executed within the colony where the indentured person would serve his time. See TINKER, supra note 17, at 64.

62 TINKER, supra note 17, at 66.

63 TINKER, supra note 17, at 69.

64 TINKER, supra note 17, at 73-75, 80-81.
colonies. Emigration to Mauritius was again suspended in 1856 following eighty-one deaths among a shipload of Indians abandoned on an island off the north coast of Mauritius. A by-product of this incident was the Indian Act XIX of 1856, empowering the Governor-General to suspend emigration to any territory where he had cause to believe that conditions for the Indians were unsatisfactory.\(^6\) For the next sixty years, the system continued to operate with only minor modifications. But during this time it remained a system criticized by a host of forces. Anti-slavery societies, some colonial administrators, and the developing Indian nationalist movement all kept the indentured system in public view.

The crucial role of the indenture system in the forging of an Indian identity and the development of Indian nationalism has remained largely unexamined. While a detailed exposition is beyond the scope of this Article, a few observations are in order. Empire and imperialism are not only territorial and economic but inevitably also a subject-constituting project. Indentured labor transported from the Indian subcontinent became “Indian” in the context of its sandwiched placement with regards to both its European employers and indigenous populations. Identity is always related to what one is not—the other; identity is conceivable only in and through difference. Spatial identities are powerfully shaped by the accompanying processes of deterritorialization and displacement. In pre-colonial India, identities coalesced around religious, caste, ethnic, linguistic, and regional differences. In the indenture system the diverse and heterogeneous labor drawn from India found itself similarly positioned by this regime of colonial economy. Institutional and discursive practices accompanying indenture constituted this heterogeneity as a singularity. Religious, ethnic, linguistic and regional differences were also downplayed by the indentured as they forged a collective identity in resistance to a shared experience of a singular form of colonial oppression. Indian identity, thus, became a field of possibility through suppression of internal difference, at least temporarily, occasioned by similarities of conditions created by the colonial regime of indentured labor. The construction of an Indian identity in the terrain of the indenture system, in turn, had two direct impacts on the evolution of a nationalist movement in India: one, the indenture system furnished the first sus-

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\(^6\) Tinker, supra note 17, at 91.
tained target for the nationalist movement during its embryonic phase, and, two, Mohandas K. Gandhi, the leading Indian nationalist leader, developed his political philosophy and political tactics in the context of his direct involvement with the Indian indentured labor in South Africa.66

In the early twentieth century, the nascent nationalist move-


A recent account of the support provided by the Indian plantation workers in Southeast Asia, many descendants of indentured labor, to the anti-colonial Indian Independence League and the rebel Indian National Army during the Second World War captures the connection between diasporic existence and national identity graphically:

The most enthusiastic recruits and supporters of the Indian National Army came from an entirely different quarter—Tamil workers of Malaya's rubber plantations. . . . Throughout Japanese-occupied Southeast Asia—not just Malaya but Thailand, French Indochina, and Burma as well—Indians sought out the league's offices. This rallying together seemed to happen spontaneously, even though the Indians of the region were a disparate group. They were divided by language, ethnicity, caste, and religion. Before the war, they would never have gathered under the same roof: they worshipped in different places, ate different kinds of food, and belonged to different clubs, unions, and associations. Still, at this moment of crisis they invented a collective identity centered on the cause of a land that some of them, as second- and third-generation expatriates, had never seen. . . . I talked to many who had grown up in and around the rubber estates. "Slavery" was the term they invariably used to describe the life of prewar plantation workers. Many of these workers joined the rebel army because they saw a direct connection between their own situation and that of their country of origin: they believed that they would never be treated with respect as long as India remained a colony. For them the rebellion was something like a Jacquerie—a peasant revolt. The men and women I met wept, almost without exception, as they recalled the exhilaration of those days. This was the first time in their lives that they had been something other than an invisible underclass; in the rebel training camps, living with people of many different castes, regions, and religions, many had their first experience of comradeship. In a Kuala Lumpur café, an eighty-year-old man who had almost died fighting in Burma told me, with tears streaming down his cheeks, "I had no one here in Malaya, no family—nothing. In the Indian National Army I found myself surrounded by brothers and sisters. We all ate together—there were no differences between us. There were so many of us, but we were the children of one mother. If I am reborn ten times, I will not know such happiness again."

ment in India initiated a direct assault on the system. This phase of resistance was partly prompted by moves of the white settlers in Natal to redesign the indenture system. The demographic distribution was of concern to the white settlers; while they wanted continued access to indentured Indian labor, they wanted to ensure that it did not exceed the white population.\textsuperscript{67} Natal wanted the Indian colonial government to restructure the indenture system so that reindenture for five years would be compulsory, at the end of which the indentured must accept return passage. The colonial government in India capitulated to the South African settlers' views. In 1895, the Natal legislature went further and imposed a special tax on local Indians after their period of indenture ended. This is what prompted widespread agitation spearheaded by Gandhi, who had recently settled in South Africa. Gandhi drafted a petition to the Secretary of Colonies protesting the treatment of Indians in Natal and concluding that "'[i]f the Colony cannot put up with the Indians, the only course . . . is to stop . . . future immigration to Natal.'"\textsuperscript{68} The British government, however, chose to accept the actions of the Natal legislature and formally declared that white settler colonies had a right to control migration of Indians and Chinese.\textsuperscript{69} On the other hand, the colonial government of India, which was increasingly sensitive to public opinion in India, started to take public notice of concerns of indentured labor regarding conditions of work, special taxes, right to return, and civil rights.\textsuperscript{70} In 1905, the In-

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\textsuperscript{67} It was claimed by the white settlers that in 1894 the population of Natal included 470,000 Africans, 45,000 whites, and 46,000 Indians. \textit{Tinker, supra} note 17, at 281.
\end{flushright}

\begin{flushright}
\textsuperscript{68} \textit{Tinker, supra} note 17, at 284.
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\textsuperscript{69} Joseph Chamberlain announced at the 1897 Imperial Conference:

We quite sympathize with the determination of the white inhabitants of these Colonies which are in comparatively close proximity to millions and hundreds of millions of Asiatics that there should not be an influx of people alien in civilisation, alien in religion, alien in customs, whose influx moreover would most seriously interfere with the legitimate rights of the existing [European] labour population . . . .

\textit{Tinker, supra} note 17, at 285.
\end{flushright}

\begin{flushright}
\textsuperscript{70} Symptomatic of the concern held by colonial authorities is the following January 1908 communication from John Morley, Secretary for India to Lord Minto, Vice-roy of India:

The great topic of the hour is the question of Asiatics in the Transvaal—only a part, however, of one of the largest questions concerning the Empire as a whole and indeed not only the Empire but all white governments against all yellow, brown and black immigrants. It is and will grow to be more and more a World question, if ever there was one.
\end{flushright}
dian National Congress adopted a formal resolution protesting the treatment of Indians in South Africa and "called for retaliatory measures by 'the Government of India and His Majesty's Government . . . by prohibiting, if necessary, the emigration of indentured labour.'" A commission to investigate the indenture system set up by the Natal government declared that Indians were "undesirable in this colony other than as labor" and recommended termination of all future indentures. The colonial Legislative Council of India, prompted by the Indian members, banned emigration to Natal in 1910. In 1915, Gandhi moved back to India and the anti-indenture movement gained further momentum. In 1916, Indian members moved the Legislative Council to abolish the indenture system completely. The colonial government agreed to the abolition in principle, on the condition that "the existing system . . . be maintained . . . until proper safeguards in the Colonies should have been provided and until they should have had reasonable time to adjust themselves to the change." Continued migration of indentured labor forced Indian nationalists to step up their anti-indenture campaign. The continuing war in Europe added pressure on the system, including the question of safe passage. The Indian colonial government formally declared the indenture labor system abolished in 1920. One author has argued that "the phasing out of indenture had more to do with the internal dissolution of the system in the context of a crisis in the world sugar economy than to the opposition of pressure groups, whether located within the colonies or outside them." While there is some merit to the claim, it is generally recognized that "the volte-face of the colonial authorities in India . . . was mainly caused by the new weight which the Indian nationalists carried during the First World War." The ris-


71 Tinker, supra note 17, at 300. In 1909 Indians in Mauritius started a political journal named "Hindusthani" with the motto: "Liberty of Individuals! Fraternity of Men!! Equality of Races!!" Tinker, supra note 17, at 307.

72 Tinker, supra note 17, at 313.

73 Tinker, supra note 17, at 313.

74 Tinker, supra note 17, at 344.

75 Formal decisions were delayed by the lingering problems with Fiji, where demand for plantation labor remained strong but issues regarding treatment of post-indentured Indians became a major political issue in India. See Gillion, supra note 42.

76 North-Coombes, supra note 42, at 43.

77 Emmer, supra note 40, at 203.
ing interests of the Indian capitalists also clashed with the system of overseas indentured emigration, which reduced the competition on the supply side of the Indian labor market both in agriculture and in the newly developing industrial sector. The causes of the demise of the indentured labor system in colonial India were multiple, substantiating the observation that “[i]n human history there is always something beyond the reach of dominating systems, no matter how deeply they saturate society, and this is obviously what makes change possible.”

The rise and fall of migration of indentured labor in colonial India suggest some broad conclusions. The increasing commodification of Indian labor and its injection into the global division of labor was a result of the incorporation of colonial India into the capitalist world economy. Colonial penetration and distortion of India’s socio-economic structures, as well as the establishment of tropical plantation colonies, accounted for both the “push” and “pull” factors in this migration. The ebb and flow of this migration was facilitated by enabling constructions of varied, and even contradictory, identities of Indian labor. Emigration policy-making to manage indentured labor flow was a contested field, and the resulting legal frameworks remained contingent and unstable. While imperatives of the global division of labor furnished the primary context for this migration and attendant legal regimes, the political, cultural, and moral interests of concerned parties had to be continually addressed. Labor-demand exigencies guided shifting constructions of identities of different groups. These constructions, while serving the needs of the plantation owners, created division and conflict between different ethnic and racial groups among the workers. A legacy of these divisions is the continuing political conflicts between indigenous populations and Indian settlers in Africa, the Caribbean, and the South Pacific. At the level of global capitalism, the experience of indentured labor demonstrated that “free” and “unfree” forms of labor could be successfully and profitably combined in the global capitalist system.

78 In fact, Indian industrialist and financier, Ratan Tata, gave financial assistance to the anti-indenture movement, generally, and to the Transvaal passive resistance fund, in particular. See Tinker, supra note 17, at 326. The impact of the First World War on Indian industrialization was dramatic. See P.J. Cain & A.G. Hopkins, British Imperialism: Crisis and Deconstruction 1914-1990 171-200 (1993); Rothermund, supra note 48, at 66-75.

B. Identity Beyond Territory: Migration and Resistance

From May to August in 1920, nearly 100,000 Muslims from Northwestern India moved through the Khyber Pass bent on crossing the border from colonial India into Afghanistan, ostensibly to fulfill their religious duty to migrate from a *Dar-ul-Harb* (house of war) to a *Dar-ul-Islam* (house of Islam). About seventy-five percent of these migrants later returned to India; others stayed in Afghanistan or scattered to Turkey and Russia. A large number perished through exhaustion, hunger and disease. This episode, known in the history of colonial India as the *Hijrat* (Migration) Movement, offers a unique context within which to examine the interrelated questions of migration, identity, and politics.

Implicated by this use of migration as an instrument of political protest are interpretations of Islam, the conjuncture of anti-colonial movement in India, the aftermath of the First World War, particularly the demise of the Turkish Ottoman Empire, and the geo-politics of the Central Asian region. This migration as resistance posited constructions of sovereignty, nationhood, and statehood incompatible with those forwarded by the modern Eurocentric discourses of the sovereign nation-state. In the process, the migrants constituted and deployed identities relatively autonomous of both the sovereignty and exchange imperatives of the modern world system. This migration also involved a passionate deployment of religion as politics in a mode inaccessible to modern discourses of enlightenment and rationality. Because the story of this migration involves Islam and Muslims, its narration should not contribute to pervasive essentialist views of Islam and Muslims, which are ironically shared by both passionate advocates and virulent detractors of Islam. This story substantiates the position that "there are as many Islams as there are situations that sustain it." Islam is not immune from history, which, in

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turn, is a process of discontinuities and ruptures rather than one of a progressive linear evolution. This migration involves a particular historical articulation of Islam by a relatively small group of Indian Muslims in the face of indifference, disagreement, and even opposition by most Indian Muslims.

Without the conceptual arsenal furnished by Islam, both as a religious doctrine and as a lived experience, the *Hijrat* Movement would not have been possible. Salient among these are the concepts of migration, sovereignty, nationhood, and state. The experience of "*hijrat*," which translates in Arabic as "migration," is central to Islamic history due to the migration of the Prophet Mohammad and his followers from Mecca to Medina in 622 A.D., where they established the first Muslim proto-state. The Islamic *Hijri* ("of migration") calendar ensues from this date. Because the practice of the Prophet forms part of the sources of law in Islamic jurisprudence and because emulating the deeds of the Prophet is considered desirable conduct, the practice of *hijrat* has always had an august place in Islamic cosmology. This migration, by renouncing territorial, tribal, and even familial ties in order to establish a political community based on a shared religious belief, symbolically demarcates the basic contours of one classical Islamic position regarding questions of sovereignty, nationhood, and state.

The Prophet's migration is traditionally read by many Muslims to be a statement that an appropriate political order of the Muslim community is essential to the fulfillment of public and private obligations of the believers and that for Muslims there is no separation between religion and politics. Because the purpose of the political order is to institutionalize the shared religious beliefs of the Muslims, the glue that binds the community is shared.

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82 This migration followed attempts to find other suitable destinations for migration. Emissaries were sent to Abyssinia to explore the prospects of that location. *See* Martin Lings, *Muhammad: His Life Based on the Earliest Sources* 81-84 (1983); W. Montgomery Watt, *Muhammad: Prophet and Statesman* 65-70 (1961). For a general biography of Muhammad, see Maxime Rodinson, *Mohammed* (Anne Carter trans., 1971).


religion, rather than shared race, language, territory, culture, or history. For many Muslims the primary "belonging" is to the 'ummah, the worldwide community of people who embrace the teachings of the Qur'an and the practice of Islam. As a corollary, the state, as an organized political expression of the 'ummah, cannot be coterminous with fixed territorial demarcations. The borders of the "Islamic state" reside and move with the 'ummah. Because the very purpose of an "Islamic state" is the fulfillment of divine commands, sovereignty lies with God, and is exercised by the rulers as a trust.85 The historical record of the Muslim 'ummah is one of fragmentation into multiple political entities—kaliphates, sultanates, emirates, khanates, empires, and now, republics. Most theologians, however, remain committed to the principles of a single 'ummah (Muslim community) and a single Khaliph (or Imam) as essential to an Islamic polity governed according to the divine law of the sovereign God. One result of this ensemble of politico/religious beliefs is a tension that has always existed between particularist and universalist loyalties in Muslim political life. Typically, a Muslim holds two sets of identity: one is immediate, social and spatially particular, and the other is historical, ideological, and global. Historically, the stability and quality of Muslim life has depended on the extent to which these two sets of identities could be provisionally reconciled, and the aspiration to full reconciliation has been a preoccupation of politics among Muslim communities.

Among the Muslims of India, hijrat became an issue in the context of penetration and consolidation of colonial rule over India. The Muslim elite and ulama,86 having been associated with the ruling classes of India for many centuries, resented their removal from positions of political and cultural preeminence. This prompted many Indian Muslims to reaffirm their Islamic identity through movements of religious revival.87 This move towards

85 This construction is incorporated into the constitutional designs of many Muslim-majority states. For example, the constitution of Pakistan proclaims: "Whereas sovereignty over the entire Universe belongs to Almighty Allah alone, and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is a sacred trust." PAK. CONST. preamble.

86 Ulama is the plural of 'alim, according to a scholar of Islamic theology and jurisprudence. For a study of the 'ulama of India during colonial rule see BARBARA DALY METCALF, ISLAMIC REVIVAL IN BRITISH INDIA: DEOBAND, 1860-1900 (1982).

87 See Mushirul Hasan, Resistance and Acquiescence in North India: Muslim Responses to the West, in INDIA'S COLONIAL ENCOUNTER: ESSAYS IN MEMORY OF ERIC STOKES 39 (Mushirul Hasan & Narayani Gupta eds., 1993).
religious revival produced a precursor to the Hijrat Movement in a movement that combined migration with an effort of jihad\textsuperscript{88} in Northwestern India in the early nineteenth century. The conceptual framework for this combination was provided by the classical distinction in Muslim political thought between the "imperfect state" (madinat al-naqisa) and the "ideal state" (madinat al-tamma).\textsuperscript{89} The consolidation of colonial rule furnished the context in which some ulama issued a fatwa\textsuperscript{90} in the early nineteenth century that declared colonial India a dar ul-harb due to the progressive interference of the colonizers with the inherited tradition and practice of Islamic law.\textsuperscript{91} These ulama encouraged Muslims to migrate to other lands under Muslim rule. One theologian, Saiyid Ahmad of Rai Bareilly, went a step further and stressed the need to combine relocation with jihad in order to forcefully turn dar al-harb into a dar al-Islam.\textsuperscript{92} Under his leadership, in 1826 a few thousand Muslims from north-central India undertook a circuitous journey of nearly three thousand miles through Rajputana, Sindh, Baluchistan, and Afghanistan and established their base at the bordering region of Punjab and Afghanistan. As a first step to roll back British colonial rule, the mujahidin engaged the Sikh rulers of Punjab. After initial success, in 1827 Saiyid Ahmad and his followers created an embryonic "Islamic" state in the area. The experiment proved

\textsuperscript{88} While the word literally means "struggle," Muslims have historically interpreted it as "holy war." For articulations of the doctrine during the colonial encounter, see Rudolph Peters, Islam and Colonialism: The Doctrine of Jihad in Modern History (1979).  
\textsuperscript{89} Aziz Ahmad, Studies in Islamic Culture in the Indian Environment 213 (1964).  
\textsuperscript{90} Fatwa should be understood as a "nonbinding advisory opinion to an individual questioner . . . [given by a] jurisconsult." Muhammad Khalid Masud et al., Muftis, Fatwas and Islamic Legal Interpretation, in Islamic Legal Interpretation: Muftis and Their Fatwás 3 (Muhammad Khalid Masud et al. eds., 1996).  
\textsuperscript{91} Until 1790, penal justice in Bengal continued to be dispensed according to the shari'a norms as revived and consolidated under the Mughal emperor Aurangzeb. In a 1772 regulation, the colonial authorities provided that "in all suits regarding inheritance, succession, marriage and caste and other usages and institutions, the law of the Quran with respect to Muhammadans . . . shall be invariably adhered to." P. Hardy, The Muslims of British India 51 (1972). But by the last decade of the eighteenth century, the colonial authority, by legislation, began to substitute their own rules of evidence, definitions of offenses, and penalties for those of the shari'a. See Michael R. Anderson, Islamic Law and the Colonial Encounter in British India, in Institutions and Ideologies 165 (David Arnold & Peter Robb eds.: 1993); J. Duncan M. Derrett, Religion, Law, and the State in India (1968); Mahabir Prashad Jain, Outlines of Indian Legal History (4th ed. 1981).  
\textsuperscript{92} Aziz Ahmad, supra note 89, at 214-16.
short-lived, however; jealousies of local communities and the military force of Sikhs combined to end the experiment in 1831, when Saiyid Ahmad and six hundred of his followers were killed in a battle. Some bands of mujahidin survived, joined the 1857-58 anti-colonial uprising, and were ruthlessly crushed by the British. In recognition of the power of the ulama to mold Muslim popular opinion, Viceroy Lord Mayo induced a group of ulama to issue a fatwa in 1870 declaring British India to be a dar al-Islam.

The specific conjuncture for the Hijrat Movement was provided by a combination of developments within and outside India during the First World War. Internally, this was a phase of Hindu-Muslim rapprochement based on a joint posture toward achievement of “self-rule” within the framework of Empire, and a gradual but reluctant accommodation of Indian demands by the British so as not to jeopardize Indian cooperation in the war effort. This atmosphere of relative cooperation was marred by the adoption in March 1919 of the “Rowlatt Act,” whereby many war-time restrictions on civil rights were made permanent through a system of special courts and detention without trial. The Indian response, led by Gandhi, consisted of a non-violent mass protest movement. The protest was cancelled suddenly following the infamous massacre of hundreds of protesters by Colonial authorities at Amritsar in April 1919. In May

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93 Aziz Ahmad, supra note 89, at 215-16.
95 The high-water mark of this rapprochement was the joint declaration of the Indian National Congress and the All India Muslim League regarding the desired constitutional changes conducive to increasing self-governance by Indians. For a complete list of the demands, see S.M. Burke & Salim Al-Din Quraishi, The British Raj in India: An Historical Review 162-63 (1995).
96 The initial British response, enunciated by the Secretary of State Edwin Montagu in August 1917, while assuring “increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions,” insisted that India would remain part of the British Empire and that the British government “must be the judges of the time and measure of each advance.” Id. at 167. This was followed by the Montagu-Chelmsford Report, a report by a commission for constitutional reform issued in July 1918. A new bill based on the recommendations of the Report was adopted in December 1919. Id. at 167-73.
97 For a detailed account of the “Rowlatt Act” and its aftermath, see Sumit Sarkar, Modern India 1885-1947, at 187-95 (1983).
1920, the Hunter Committee, which was established to investigate the disturbances following the adoption of the Rowlatt Act and the Amritsar massacre, published its report. The committee split along national lines, with the five British members submitting a Majority Report and the three Indians a Minority Report. The Majority Report, which was adopted by the British government, exonerated the officer responsible for the massacre. The Majority Report’s release spelled the end of the phase of nationalist dialogue with colonial authorities, triggered a mass non-cooperation movement, and helped the nationalist movement develop a broad base.

Events far from India also contributed directly to the content of the Hijrat Movement. During World War I, many Indian Muslims were concerned about the fate of the Turkish Sultan. By a curious mix of temporal realities and spiritual beliefs, many Muslims of India considered the Sultan, in his capacity as the Khaliph, the symbolic head of the universal Muslim ‘ummah. Here was a case of fractured sovereignties and ambivalent identities whereby many Indian Muslims concurrently acknowledged the temporal and territorial sovereignty of the British colonial rule and the spiritual, extra-territorial sovereignty symbolized by the Khaliph. To articulate these concerns, a “Khilafat Committee” was formed in 1919 by some Muslim clerics with the support of Gandhi, and it presented its demands to the participants of the Paris Peace Conference in March 1920. They demanded that the Turkish Sultan, as the Khaliph of the Muslims, retain control over the Muslim sacred places and that the Arabian peninsula remain under Muslim sovereignty. Gandhi had displayed his sympathy for the cause of Turkey as early as 1918, when he wrote to the Viceroy joining the cause of Turkey with India’s own cause of self-rule. Later, he encouraged all potential parties in India

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99 Support for the Khaliph was by no means universal among Indian Muslims. Many Muslim leaders were skeptical of the viability and even the desirability of preservation of the institution of Khilafat. For example, Mohammad Iqbal, a leading Indian Muslim scholar and political leader, took the position that “[t]he republican form of government is not only thoroughly consistent with the spirit of Islam, but has also become a necessity in view of the new forces that are set free in the world of Islam.” Mohammad Iqbal, The Reconstruction of Religious Thought in Islam 157 (1989).

100 Ghandi wrote that “[i]n the most scrupulous regard for the rights of those (Mohammedan) States and for the Muslim sentiment as to their places of worship, and your just and timely treatment of India’s claim to Home Rule, lies the safety of the Empire.” Burke, supra note 95, at 216.
to adopt a joint position regarding the pace of self-governance and the question of Khilafat. Publication of the terms of the Treaty of Sevres in May 1920, which fragmented the Ottoman Empire, gave the Khilafat Movement a sense of urgency. In response to the Treaty of Sevres and the Hunter Committee Report, an All-Parties Conference met under the auspices of the Khilafat Committee and, on June 2, 1920, decided to launch a non-cooperation movement. The cause of Indian self-governance and that of Khilafat were joined, and on August 1, 1920, the Khilafat Committee under the leadership of Gandhi formally launched the non-cooperation movement.

For some Indian Muslims the question arose whether, in the circumstances where their colonial rulers were endangering the Khilafat, they should leave the “dar-al-harb” of British India and go to some other land under Muslim rule. The first to express their views on the subject were the two main leaders of the Khilafat Committee, Shawkat Ali and Muhammad Ali, who wrote in a memorandum to the Viceroy in April 1919:

When a land is not safe for Islam a Muslim has only two alternatives, Jehad or Hijrat. That is to say, he must either make use of every force God has given him for the liberation of the land and the ensemrtement of perfect freedom for the practice and preaching of Islam, or he must migrate to some other and freer land with a view to return[ing] to it when it is once more safe for Islam. . . . In view of our weak condition, migration is the only alternative for us. . . . This step, which we shall now have to consider with all the seriousness that its very nature demands, will be perhaps the most decisive in the history of our community since the Hijrat of our Holy Prophet.

To put their plan into action, proponents of hijrat needed an authoritative pronouncement by a leading juris consult. Like lay Muslims, the ulama were deeply divided on the question and a

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101 Under the terms of the treaty, the Turkish Sultan’s empire was dismantled. The Arab region that contained the holy cities of Muslim lands became an independent state; under the Mandate system of the League of Nations Syria became a mandate of France, and Mesopotamia and Palestine mandates of Britain. See Paul C. Helmreich, From Paris to Sevres: The Partition of the Ottoman Empire at the Peace Conference of 1919-1920, at 314-37 (1974).

102 A resolution of the Congress adopted in September 1920 at the urging of Gandhi, though strongly opposed by other leaders, listed the grievances and the methods of non-cooperation. For the text, see Burke, supra note 95, at 222-23.

103 Qureshi, supra note 80, at 43.
public controversy among them ensued. The pro-hijrat camp argued that ever since the British occupied India, it had ceased to be \textit{dar al-Islam}, because the British had gradually replaced the \textit{shari'a} with their own legal system. This interference with Islamic law had turned India into \textit{dar al-harb} and, therefore, \textit{hijrat} had become a religious duty. A noted religious leader and scholar, Abul-Kalam Azad, supplied the much-needed \textit{fatwa}. Azad took the position that, under the circumstances, \textit{hijrat} had become an important part of the political duties of Indian Muslims, including fealty to the \textit{Khaliph}, rallying to his call, submission to his authority, and \textit{jihad}, or religious war. Azad declared that under religious doctrine, there was no alternative to \textit{hijrat} for the Indian Muslims; whereas before the World War \textit{hijrat} was commendable, it had now become mandatory. Azad acknowledged that it was neither possible nor desirable for the entire Muslim population in British India to migrate; those staying behind were advised to continue the struggle for the \textit{Khilafat} and participate in the non-cooperation movement. He further recommended that the exodus should be planned and organized.

Further incitement to \textit{hijrat} came from the Amir of Afghanistan, who, since the Third Anglo-Afghan War of 1919, had capitalized on the inflamed emotions of Indian Muslims in order to resist British pressure and project himself as the guardian of the Muslims of Northern India and Central Asia. In a speech in Kabul in early 1920, the Amir welcomed all those who intended to migrate. The foreign minister of Afghanistan, who was in India for negotiations with British authorities, subsequently addressed Muslim gatherings and assured them of Afghan support for the \textit{Khilafat} and help for those who felt compelled to leave India.

Armed with the pro-hijrat \textit{fatwa} and emboldened by Afghan overtures, an active \textit{hijrat} campaign began in earnest. In April 1920, the \textit{Khilafat} Workers' Conference in Delhi formally proclaimed the goal of \textit{hijrat} to Afghanistan. A central \textit{hijrat} office was established at Delhi, with branches throughout the country. Corps of volunteers were recruited to assist. Efforts were made to familiarize the masses with the religious aspects of \textit{hijrat}; propaganda leaflets were widely distributed and preachers

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104 The controversy is captured well in Qureshi, \textit{supra} note 80, at 41, and \textit{USHA SANYAL, DEVOTIONAL ISLAM AND POLITICS IN BRITISH INDIA} 268-301 (1996).
105 Qureshi, \textit{supra} note 80, at 46.
were appointed to spread the campaign. A significant part in the mobilization campaign was played by the spread of rumors regarding the cities of Mecca and Medina in Arabia, home to holy shrines of the Muslims. These rumors ranged from the bombardment of the two cities to their occupation, complete destruction, and desecration. Another important part of the campaign was attractive accounts of life in Afghanistan. The people were told of the great receptions awaiting them. The Amir had promised them tracts of fertile land and that they would be cared for by their Afghan co-religionists.

Prospective migrants from the United Provinces, Sindh, and the Punjab, but predominantly from North-West Frontier Province, began assembling in Peshawar, the main city at the gateway to the Khyber Pass. An organized exodus began on May 18, 1920, with the first group crossing the border into Afghanistan. In many cases whole families, and in some cases whole villages, had embarked on *hijrat*. Many quickly sold their possessions or simply abandoned them. By August 1920, an estimated 100,000 people had crossed over, an estimate that does not include those who migrated without the assistance of the *hijrat* committees and those who made their way through routes other than the Khyber. At the height of this movement, about eight thousand persons per week crossed over into Afghanistan. Surprised by the numbers and lacking resources to provide for the migrants, Afghan authorities decided to stop further migration. In late August 1920, the Afghan government issued a proclamation that only after absorption of the previous migrants would any new immigrants be allowed into Afghanistan. Recently improved relations with the British and the economic cost of accommodating the migrants accounted for the Afghan action. As a result of the Afghan measure the *hijrat* from India stopped. Soon the migrants started to return to India, disillusioned by the treatment they had received in Afghanistan. While most of those

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106 The Deputy-Commissioner of Peshawar reported:

[M]en immediately put aside all other thoughts, but that of leaving the district for Afghanistan. They sold [all their] property without the least thought for the future . . . . It thus happened that land, plough cattle, houses, foodstuffs, and all household belongings were sold at ridiculously low prices, and in many cases simply abandoned.

Baha, *supra* note 80, at 234. Speculators bought all of the property at extremely low prices. *Id.* at 235.
who migrated came back, many did settle in Afghanistan and some proceeded further to Central Asia, Russia, and Turkey.

The reaction of colonial authorities to *hijrat* was ambivalent. Their anxiety concerned two possible results of the *Hijrat* Movement: collapse of the provincial state apparatus due to resignation of native public servants and the spread of violence in a region where most men were traditionally armed. A few native public servants did resign, and there were a few instances of a breakdown in law and order. However, the colonial provincial government of the North-West Frontier Province followed a policy of strict noninterference with the massive movement of people for fear of inciting violence against colonial authorities.107 After the end of *hijrat*, the provincial government created special judicial procedures to help resettle the returnees, and resignations tendered by public servants were deemed withdrawn.

The *hijrat* proved to be a many-sided event. Existing assessments of the movement have fallen considerably short of explaining the complexity of the phenomenon. The main emphasis of the conventional evaluation of the movement has been on the religious aspect.108 Not much evidence exists that evoking the religious cause of *hijrat* was sufficient to send people running to Afghanistan. Other, more emotive elements or incidents combined to generate a perception among the Muslims of northwestern India that Islam and their way of life were threatened. Apparently, rumors played the most crucial role. The alleged bombing and occupation of the holy places in Arabia by the Brit-

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107 When asked by the central government to take drastic action against the more violent agitators, the Provincial Chief-Commissioner replied:

> [W]hatever the gallant arm-chair militarist of Simla may say or think, I can solemnly assure you that in the present circumstances the first volley fired in Peshawar city will reverberate through Central Asia, and the trouble will not stop there.

*Id.* at 238.

108 The official British annual report on India in 1920 stated that “the *Hijrat*, or migration from one country to another for religious reasons has played a considerable part in Muslim history; but its revival in the present year of grace presented to the student of politics a phenomenon at once remarkable and tragic.” *Reetz, supra* note 80, at 76. Baha stresses that “[t]he Muslim religio-political leadership, being unaware of the practical realities, exploited the religious feelings of the Muslims to such an extent that they awakened forces which they could not control; a sad commentary on their leadership.” *Baha, supra* note 80, at 240. Hasan calls the *hijrat* “a spontaneous outburst of religious fervor.” *Mushirul Hasan, Introduction—The Khalifat Movement: A Reappraisal, in Communal and Pan-Islamic Trends in Colonial India* 1 (Mushirul Hasan ed., 1985).
ish was a turning point. The mobilization also drew much strength from a promise of a better life, which may be called the movement's millenarian aspect. The rural poor wanted to escape the miseries of their daily plight and move to the "promised land." These hopes crept into people's perceptions intuitively rather than being propagated deliberately. Even keeping in view the modest promises that the Afghans made to the emigrants in the beginning, these hopes were by and large illusory, for they far exceeded Afghan commitments. These hopes resulted from the element of social protest in the movement. Partly directed against the rapidly encroaching colonial order, hijrat appears close to Eric Hobsbawm's conception of archaic social and political protest,\textsuperscript{109} James Scott's conception of the moral economy of the peasant,\textsuperscript{110} and Michael Adas' notion of avoidance protest that belong to the archaic stage of rural resistance.\textsuperscript{111} As Hobsbawm, Scott, and Ada have repeatedly emphasized, archaic protest has much to do with the need to deal with a new situation marked by the intrusion of a new order, that is, the capitalist mode of production into the daily lives of the people. Where legitimate political participation is absent, as was the case in northwestern India in 1920 under colonial rule, group avoidance protest is one of the few available political means for resisting a new order. Participation in the hijrat also bore some traces of pre-modern kinship politics. Emigrants joined the hijrat movement often on the advice of their tribal elders or preachers, which represented a common variation of kinship politics in the region.

\textsuperscript{109} ERIC JOHN HOBBSBAWM, PRIMITIVE REBELS (3rd ed. 1971).
\textsuperscript{111} Michael Adas, From Avoidance to Confrontation: Peasant Protest in Precolonial and Colonial Southeast Asia, 23 COMP. STUD. IN SOC'Y & HIS. 217 (1981); Michael Adas, From Footdragging to Flight: The Evasive History of Peasant Avoidance Protest in South and Southeast Asia, 13 J. OF PEASANT STUD. 64 (1986). Of particular relevance here are the four forms of "exit protest" identified by Adas: (1) the transfer of allegiance from one landlord/ruler to another; (2) flight en masse to areas beyond the state's control; (3) the abandonment of routine agrarian tasks in favor of joining a sectarian community; and (4) the rejection of the peasant status altogether. Exit protest is a very amorphous group activity where various shades and combinations exist. While the hijrat would not fit neatly into any of these categories, Adas' analysis of sectarian exit protest comes closest to what the hijrat represented. He notes that the imposition of "infidel" rule and social and economic dislocation resulted in a marked increase in sectarian movements, whose adherents intended to register their dissent through passive withdrawal. \textit{Id.} at 76-77.
The *hijrat* movement stands in the line of three traditions or larger strands of mass mobilization efforts that had in common the desire to wrench control of public life in India from the British. The three traditions could be distinguished by the extent and thrust of the control at which they aimed. First, *hijrat* continued the line of religious movements, whether Islamic or of other religious affiliations in India, that gained prominence in the nineteenth century and symbolized the desire to regain cultural control, including apparently such diverse objects as symbols, language, identity, and religion, in the face of the ascendance of British "Christian" rule over India. Second, *hijrat* also clearly belonged to the *Khilafat* and civil disobedience movements of 1920-23. While both of these reached primarily for national political control, they aimed at different kinds of hegemony. The *Khilafat* Movement sought hegemony for the Indian Muslim elite and the *ulama* in particular, while the champions of civil disobedience were striving for hegemony over the whole of India for cross-cultural elites, basically through a secular ideology with important infusions of religious Hindu nationalism. Finally, *hijrat*, by way of its limited northwestern regional base, was a component of the formation of local politics and regional political mobilization, with a strong ethnic element emphasizing either a common northwest Indian Muslim identity or the preponderance of Pathan influence in the affair. In this capacity the movement reached for regional control over the northwest, or, more narrowly, over Pathan areas of British India. There was a clearly marked and highly localized idiom of political discourse that mainly fed on Islamic symbolism. There was also, at one time or the other, a wide range of attitudes among national political and Islamic leaders ranging from helplessness to tolerance to cautious approval, leaving a wide margin of interpretation to local activists who used it according to their understanding of the situation and to their local objectives of control and resistance. Thus, *hijrat* appears in various perspectives sometimes small and insignificant, even futile and foolish, and occasionally grand though desperate and rash.

While the *Hijrat* Movement can be comprehended only within the larger context of India's encounter with colonial rule, its two exceptional aspects need to be highlighted: first, it was relatively immune from both the exchange and sovereignty impulses of the modern world system; and second, its notions of sovereignty, na-
tionhood, and state constituted subjectivities not available for colonial subjugation. The global division of labor borne by colonial rule had very little, if anything, to do with *hijrat*. The center of gravity of the movement was in extreme northwestern India, an area where British colonial rule reached late and remained tenuous. More significantly, *hijrat* constituted a refutation of the territorial grounding of modern Eurocentric notions of nation, state, and sovereignty. The migrants considered themselves part of the universal community of the Muslim 'ummah, and the only state worthy of their fidelity was one organized to facilitate commands of a transcendental, divine sovereign. The Hijrat Movement was an assertion that political borders were not territorial, but rather moral ones that individuals and collectivities carry with them. Ironically, *hijrat* also brought into sharp relief one specific terrain of conflict between exchange and sovereignty impulses of the modern world system, namely, geo-political power projections. The Hijrat Movement unfolded against the backdrop of the century-old, so-called “great game” of the Central Asian region between Britain and Russia,112 and the distribution of Middle Eastern spoils of World War I among the Allied powers. While territory is the fundamental currency of geo-politics, *hijrat*, in its complete rejection of a territorial demarcation of identity, asserted a subjectivity beyond the reach of geo-politics. Finally, *hijrat* was a moment of resistance to colonial domination, conducted by the assertion of identities constituted outside the frameworks of the colonial order; in this maneuver, *hijrat* refutes the claim that “resistance is never in a position of exteriority in relation to power.”113

C. Divide and Quit: Migration and Postcolonial Partition

British colonial rule over India ended at midnight on the 14th of August 1947; in its wake, the two sovereign states of India and Pakistan emerged. The partition of colonial India occasioned one of the greatest mass migrations in recorded history. Between August 1947 and April 1951 some fourteen million people moved between the two new states.114 About eight million Muslims mi-

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grated from India to the area now designated Pakistan and about six million non-Muslims migrated from Pakistan to India. The partition, and the mass migration it triggered, was the result of two broad trends characteristic of colonialism in general and of India's colonial encounter in particular: (1) the classic colonial governance technique of "divide and rule," when practiced in the demographic complexity of India, culminated in "divide and quit," and (2) the adoption by nationalist elites of modern Eurocentric concepts of the ideal "nation-state" and its indivisible sovereignty, which could be reconciled with the heterogeneity of India only by fracturing it.

The regional, cultural, linguistic, religious, and political heterogeneity of pre-colonial India furnished a fertile ground for the classic colonial governance strategy of "divide and rule." Operational dualities were quickly developed and institutionalized under colonial rule. The most salient political divisions in India created and consolidated by the British were: (1) an administrative division between areas directly governed by the colonial regime and the indirectly governed princely states; (2) the division between uniform colonial laws for the public sphere and religion-based customary laws for the private sphere; and (3) the construction and institutionalization of political identities based on diverse religious affiliations. It was this last division, and the communal identities it posited, that ultimately led to partition. Communalism is the belief that a group of people, who have one ascriptive identity in common, such as religion or language, also share common interests in other fields of collective life. By placing emphasis on one shared cultural attribute, an earnest attempt is made to overcome a disturbing internal diversity by appealing to a higher but largely imagined unity. That imagined unity may refer to a nation, but may also refer to a religious or linguistic community. A collective communal identity is not a given pri-


115 I adopt the phrase from the title of a book about partition authored by a senior member of the colonial administration. Penderel Moon, Divide and Quit (1961).

116 Colonial officials were quite vocal that they would "uphold in full force the (for us fortunate) separation which exists between the different religions and races, not to endeavour to amalgamate them. Divide et impera should be the principle of Indian government." R. Palme Dutt, India Today 423 (1949) (quoting Lieutenant-Colonel Coke, Commandant of Moradabad). See also B.B. Misra, The Unification and Division of India (1990).
mordial social fact, even though it is often thought useful to seek the sanction of history. The activation of distinctive boundaries between social groups takes place in a process of social identification, a dialectic of inclusion and exclusion. In mass politics, communities emerge in a dynamic of group solidarities when political actors mobilize one or another vector of a matrix of potential structures of identification. Emergence of communalism means, then, that one particular set of social boundaries is deliberately activated and imbued with a new meaning at the cost of other possible identities.

Religion is one possible source of communal identity. The decision of the colonial government of India to introduce religion as the fundamental category for administrative and electoral classification infused a particular political meaning into concepts like Hindu and Muslim, and privileged religious aspects of identity at the expense of other aspects, such as race, class, language, or location. These classifications and constructions of identities were the fruits of colonial projects of knowledge geared towards making the colony susceptible to certain kinds of governance, projects that specialized “in the particularizing and dividing of things Oriental into manageable parts.”117 One of the most lasting and fundamental of the orientalist productions of knowledge with respect to India as an object of sociological inquiry was to essentialize the social categories “Hindu” and “Muslim,” and posit them in a mutually irreconcilable relationship of otherness.118 These constructions of mutually exclusive religious ident-

117 Said, Orientalism, supra note 13, at 72. See also David Ludden, Orientalist Empiricism: Transformations of Colonial Knowledge, in Orientalism and the Postcolonial Predicament: Perspectives on South Asia 250 (Carol A. Breckenridge & Peter van der Veer eds., 1993).

118 I adopt here Said’s characterization of Western knowledge about the Orient in the post-Enlightenment period, which he argues was “a systematic discipline by which European culture was able to manage—and even produce—the Orient politically, sociologically, militarily, ideologically, scientifically, and imaginatively.” Said, Orientalism, supra note 13, at 3. Said terms this project “orientalism,” which he describes as:

[An] elaboration not only of a basic geographical distinction (the world is made up of two unequal halves, Orient and Occident) but also of a whole series of ‘interests’ which . . . it not only creates but also maintains; it is, rather than expresses, a certain will or intention to understand, in some cases to control, manipulate, even to incorporate, what is a manifestly different (or alternative and novel) world.

Id. at 12. See also Said, Culture and Imperialism, supra note 13. For a critique of Said’s theses, see Aijaz Ahmad, In Theory: Classes, Nations, Literatures 159-219 (1992). On Orientalist knowledge production about India and its relation-
ties were then institutionalized in sites of political representation.

The primary instrument used by colonial powers in India to demarcate political identities along religious communal lines was the system of the so-called “separate electorate” which provided for reserved seats in legislative bodies for religious minorities, which, in turn, were to be filled by elections within the respective minority. The system was introduced in 1909 for Muslims and in 1919 extended to other religious minorities. The separate electorate scheme illustrated the resolve of the colonial powers to use the “existence side by side of these hostile creeds [as] one of the strong points in our political position in India.” By setting up the “electoral framework for two party-systems—not for a two-party system,” this system transformed Hindu and Muslim religious affiliations into political identities and positioned them antagonistically.

ship with colonial power relations, see Ronald Inden, Imagining India (1990); Ronald Inden, Orientalist Constructions of India, 20 Modern Asian Studies 401 (1986). On the relationship between Orientalist colonial projects of knowledge and constructions of “Hindu” and “Muslim” identities in India, see Peter van der Veer, The Foreign Hand: Orientalist Discourse in Sociology and Communalism, in Orientalism and the Postcolonial Predicament: Perspectives on South Asia 23 (Carol A. Breckenridge & Peter van der Veer eds., 1993); Arjun Appadurai, Number in the Colonial Imagination, in Orientalism and the Postcolonial Predicament: Perspectives on South Asia 314 (Carol A. Breckenridge & Peter van der Veer eds., 1993); Rosane Rocher, British Orientalism in the Eighteenth Century: The Dialectics of Knowledge and Government, in Orientalism and the Postcolonial Predicament: Perspectives on South Asia 215 (Carol A. Breckenridge & Peter van der Veer eds., 1993).


120 Dutt, supra note 116, at 423 (quoting Sir John Strachey).

121 Myron Weiner, India, in Competitive Elections in Developing Countries 37, 41 (Myron Weiner & Ergun Ozbudun eds., 1987).

122 Some have traced the institutionalization of religious identities, particularly of the Indian Muslims, to the British view of representation as deployed in the Indian context. While colonial powers were interested in securing “a ‘representative’ assembly that could accurately reflect the society of which it was a part,” being an Indian was not adequate since the very idea “was subject to question in so diverse a society. What was essential was to demonstrate a given connection between representative and represented that rested upon a set of shared social, cultural, religious or racial affinities.” Farzana Shaiikh, Community and Consensus in Islam: Muslim Representation in Colonial India, 1860-1947, at 74 (1989). See generally Asma Barlas, Democracy, Nationalism and Communalism: The Colonial Legacy in South Asia (1995); Mushirul Hasan, Nationalism and
While ascription of religion-based identities may have suited colonial designs well, as the end of colonial rule became imminent, this created an unprecedented political problem for India's nationalist elites. The problem was the incompatibility between the assumptions and implications of a separate electorate and the imperatives of the basic operating principle of colonial India, i.e., indivisible sovereignty. What made British colonial rule unique in Indian history was its discursive and institutional designs that constituted the heterogeneity of India into a centralized political unity, based on the construct of a singular and indivisible sovereignty. The project of constituting a political India in conformity with geographical India issued directly from colonial requirements, both strategic and economic. In contrast with the loosely woven web of suzerainty claimed by pre-colonial Indian empires, the British established an essentially unitary state structure in colonial India.

The nationalist elites in colonial India, both Hindu and Muslim, were the products not only of the general milieu of the colonial encounter, but had also developed their identities and world views in close proximity to the colonial state apparatuses and, as such, formed part of what Hamza Alavi terms the "salariat." The project of constituting a political India in conformity with geographical India issued directly from colonial requirements, both strategic and economic. In contrast with the loosely woven web of suzerainty claimed by pre-colonial Indian empires, the British established an essentially unitary state structure in colonial India.

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Having internalized key aspects and assumptions of European public culture\textsuperscript{125} that furnished the bases of their elite status, the nationalist elites were well versed in the modern imperatives inseparably interlinking the nation, the state, and political sovereignty. They were thus alert to the classic nationalist project in the colonies that eligibility for self-determination and independence required an articulation of a "nation" that would inherit the colonial state apparatus and exercise its sovereignty as an independent state.

The Indian National Congress took the position that all inhabitants of India, regardless of religious and cultural differences, constituted a single nation and were entitled to a sovereign, unified state.\textsuperscript{126} This scheme did not leave much room for the Mus-

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\textsuperscript{125} In this sense, the nationalist elite was the product of the cultural project of colonialism, which aimed, in the words of Macaulay, to create "a class who may be interpreters between us and the millions whom we govern; a class of persons Indian in blood and colour, but English in tastes, in opinions, in morals and in intellect." Thomas Babington Macaulay, \textit{Minute on Indian Education}, in \textit{Selected Writings} 249 (John Clive ed., 1972). As Chatterjee asserts, while Indian nationalist thought set out "to assert its freedom from European domination [in] the very conception of its project, it remained[ed] a prisoner of the prevalent European intellectual fashion." \textit{Partha Chatterjee, Nationalist Thought and the Colonial World: A Derivative Discourse?} 10 (1993). According to Chatterjee:

If nationalists in the rest of the world have to choose their imagined community from certain 'modular' forms already made available to them by Europe and the Americas, what do they have left to imagine? History, it would seem, has decreed that we, in the post-colonial world, shall only be perpetual consumers of modernity. Europe and the Americas, the only true subjects of history, have thought out on our behalf not only the script of colonial enlightenment and exploitation, but also that our anti-colonial resistance and post-colonial misery. Even our imaginations must remain forever colonised.


\textsuperscript{126} The most comprehensive articulation of this position is in Jawaharlal Nehru, \textit{The Discovery of India} (1946).
lism elites, whose security had been built upon communal identities institutionalized through the system of a separate electorate. If claims upon the state required the existence of a "nation," one could be imagined. The All India Muslim League took the religious-communal political identity a step further and advanced the so-called "two-nation theory."127 Adopting the colonial construction of religion as the primary determinant of political identity, this theory posited that there were two nations in India: Hindus and Muslims. Both, therefore, as a matter of realizing self-determination, had a right to distinct, sovereign states, with the Muslim state to be carved out of the Muslim majority areas of northwest and northeast India. The "two-nation theory," however, was not necessarily a blue-print for partition. Instead, it formed part of a strategy to win a larger share of power for the Muslims at the all-India level on the basis of their combined numerical majorities in the northwest and northeast.128 According to this logic, the two-nation theory provided the Muslim League with political leverage necessary to negotiate constitutional safeguards for Muslim minorities throughout India in exchange for those to be conferred upon the large non-Muslim minorities in the Muslim majority areas.129

This position depended upon an increasingly problematic assumption of the political viability of sovereignty shared between

128 This position is quite convincingly argued by Ayesha Jalal, The Sole Spokesman: Jinnah, The Muslim League and the Demand for Pakistan (1985).
129 In 1940, some 100 million Muslims lived in British India, slightly more than one-fourth of the total population. Religion was the only thing these people shared; otherwise, there were vast differences of language, culture, social, and economic backgrounds. Within this Muslim population there existed at least three distinct groupings: one in the northwest, the second in the northeast, and the third in the north-central regions of the country. The first two groups constituted clear majorities in their areas: of a total population of sixty million in the northwest, sixty percent professed Islam; of the ninety million in the northeast, some fifty-five percent were Muslims. In the north-central provinces, however, Muslims were a minority, about twenty percent of the total population. Robust federalism with protections for the Muslim minority of north-central India was the goal of Muslim League, as is evidenced by its acceptance in 1946 of the Cabinet Mission Plan, which provided for a three-tier federal constitutional arrangement covering the whole of India. It was only after the collapse of this plan that partition became the alternative. See Burke & Quraishi, supra note 95, at 425-450; Anita Inder Singh, The Origins of the Partition of India 1936-1947, at 142-178 (1987); Ayesha Jalal & Anil Seal, Alternatives to Partition: Muslim Politics Between the Wars, 15 Modern Asian Studies 415 (1981).
Hindu-majority and Muslim-majority regions. The singular and indivisible sovereignty exercised by the colonial state apparatus over the whole of geographical India precluded accommodation of a divisible and fractured sovereignty. The very concept of the modern “nation-state” rested on an assumed commensurability between the inherent flexibility of an “imagined community” and the inescapable fixity of territoriality. Modern political discourse dictated that while a state might be divided, sovereignty was indivisible. The logical solution to the impasse, then, was partition of India into two sovereign “nation-states.” This is where migration came in: it would reconcile the communal claims of nationhood with the territorial expression of statehood given the diversity and heterogeneity of India.

This would not be an organized and peaceful transfer of population, however. Colonialism's last act in India was its partition, and the way it was handled has been best characterized as “an ignominious scuttle.” Even if partition had become an unavoidable solution to the political impasse, three avoidable decisions by the colonial authorities particularly contributed to the holocaust that followed and triggered mass migrations beyond the wildest imaginations. The first was to effectuate partition within ten weeks of the announcement of the plan to partition India. This was quite obviously an insufficient amount of time to prepare the different communities of India for an event that would change their lives forever. The second was to break up and allocate the colonial apparatuses of the state between the two new states even before the date of partition. This resulted in an immediate disruption, bordering on collapse of the civil administration, at a time when a likely breakdown of law and order should have been anticipated and effectively preempted. The third was that not only India, but also the two main Muslim-majority provinces of Punjab and Bengal, were partitioned.131

130 Jalal, supra note 128, at 293.

131 The logic that the Muslim League had pursued in getting the British and ultimately the Congress to agree to the partition of India was turned against it when the time came to draw the territorial boundary between the two new states. Muslim majorities existed in both Punjab and Bengal, but not in all districts of these two populous provinces. Accordingly, these two provinces were also partitioned, with the exact boundaries demarcated two days after the partition. In spite of this partition, a great number of Muslims remained situated in Indian Punjab and Bengal, and a great number of Hindus remained in the Pakistani parts of the two provinces. The case of Punjab was complicated even further by the fact that it was home to another large religious group, the Sikhs, who were equally divided between the two parts of
These factors directly led to the holocaust in Northern India, particularly in Punjab, that cost more than a million lives and triggered the unprecedented mass migration.132

Communal riots had disfigured the history of India through the ages, but the riots had been predominantly local affairs that erupted for a few days and then died down, leaving the compositions of the populations unchanged. As partition became imminent and as the administrative machinery in Punjab and Bengal became ineffective, communal riots increased in intensity and took on the shape of what, today, we might deem ethnic cleansing. When it all ended, about one million lay dead and the terror and violence succeeded in bringing about a virtually complete and forcible exchange of population.133 By March 1948, six million Muslims had migrated to Pakistan and four and a half million Hindus and Sikhs had migrated to India.134 In this tragic human drama one could:

witness those bewildered streams of people pouring over one brand-new border into another, hurting as they ran. It was extravagant, history's wrenching price: farmers, villagers, living in some other world, one day awoke to find they no longer inhabited familiar homes but that most modern thing, a Muslim or a Hindu nation.135

The sections of population that migrated from Muslim-minority areas to Pakistan included: (1) the political leadership and senior cadre of the Pakistan movement from north-central India;136 (2) sections of the Muslim "salariat" from north-central India who saw better prospects for advancement in the bureaucratic structures of the new state; (3) sections of Muslim capital owners from north-central India who saw investment opportunities in the new


133 See Hodson, supra note 132, at 418.

134 SARKAR, supra note 97, at 434.


136 Not all of the Muslim political elite left for Pakistan at partition. Theodore P. Wright, Jr., The Muslim League in South India Since Independence: A Study in Minority Group Political Strategies, 60 AM. POL. SCI. REV. 579 (1966). Regarding the Muslim political elite that remained in India see Theodore P. Wright, Jr., Muslim Legislators in India: Profile of a Minority Elite, 23 J. OF ASIAN STUD. 253 (1964).
state, free of competition from more entrenched capital interests in India; (4) many Muslims who feared social and political vulnerability in their new status as an even smaller minority in the new India; and (5) targets and victims of post-partition communal violence.

Partition primarily resulted from a combination of colonial designs of governance and modern Eurocentric constructions of nationhood, statehood, and sovereignty, transplanted to South Asia. Furthermore, while orientalist projects of knowledge production, colonial regimes of governance, and the Eurocentric arsenal of possible frameworks of polities furnished the necessary context of partition, partition was not some logical, inevitable, or predetermined result. It was the combination of the necessary context with unforeseen contingencies and even accidental factors that resulted in the final outcome. Similarly, the relationship between partition and the subsequent mass migration remains ambiguous, arbitrary, unpredictable, and autonomous of any fixed causal relationship. Even if the migration of the political leadership and the “salariat” was a predictable outcome of partition, these two groups constituted a very small segment of the migrating population. The largest number migrated as a result of communal riots and violence. This violence was predictable and avoidable, as was the mass migration it triggered. Ironically, this mass migration represented both the triumph and failure of the colonial project. It was a triumph because it resulted from the institutionalization of the concept of a sovereign nation-state, a concept transplanted to India by colonialism. It was a failure because it came about from the collapse of the structures of governance installed by colonial rule. Coming on the eve of world-wide decolonization, this migration served as a preface to the problems many postcolonial societies would face as they attempted to negotiate vexing questions of nationhood, statehood and citizenship within territorial boundaries arbitrarily bequeathed by colonial encounters. We now turn to this problem.

II

Post-Migration Identities: Contextual Constructions and Contingent Deployments

All identities are relational rather than essential and any study of identities must examine the contextual relationships and processes that construct these identities. It is the contingency
and instability of construction that allows varied, even contradictory, political deployments of any particular identity. Migrant-identity is no exception to this rule. The following case study substantiates this claim by describing identity-formation and politics of a section of migrants that formed part of the post-partition mass migration discussed above. This is the story of one section from among the eight million Muslims who migrated to the new state of Pakistan from the rest of colonial India. During the last fifty years, the constructions and deployments of identity of this migrant community went through three distinct, even contradictory, phases in tune with the changes in the positioning of this community within the power relations in the new state. In the first phase, this migrant group, comprising about six percent of the country's population, enjoyed a hegemonic position in the power bloc and thus dominated the political, economic, and cultural spheres of the society. In the second phase, as it gradually lost ground to forces seeking democratic governance, redistributive economy, and entrenched federalism, this group embraced the right-wing politics of religious parties in order to combat its adversaries. In the current phase, this group has turned to a politics of ethnicity, translated its migrant status into assertions of a distinct nationality status within Pakistan, and sought corresponding political and constitutional concessions. Symbolically, a significant part of the last phase is that this group has chosen to call itself *muhajirs* (migrants). This term is used in the rest of this section to distinguish this group from other post-partition migrants.

The *muhajirs* belong to the Urdu-speaking Muslim minority communities of urban areas of north-central India, where they formed about twenty percent of the population. In the pre-colonial period, the close association of the elites of these communities with the Mughal empire ensured them a privileged social and cultural status. Consolidation of colonial rule endangered and threatened to extinguish this elite. Following the failure of their bloody but ill-organized attempt to regain power in 1857, as colonial governance passed from the British East India Company to the British government and as Urdu and Persian gave way to English as the medium of official communication, the ruin of this erstwhile elite was completed. Over the next fifty years, this elite reconstituted itself through adoption of modern education to facilitate its incursion into colonial administrative apparatuses.
Their search for a distinct political voice led them, in 1906, to form All India Muslim League in order "[t]o protect and advance the political rights and interests of the Mussalmans of India."137 Because the political center of gravity of colonial India remained in north-central urban areas and the primary struggle of the Muslim League was to advance the interests of the Muslim minority in this region, the leadership of the party remained firmly in the hands of this group. This leadership remained secure even after alliances were forged with the rural, landed Muslim elites of the Muslim-majority areas, on the road to partition and the formation of Pakistan.138 Following partition, many among the Urdu-speaking Muslims of north-central India chose to migrate, constituting about twenty percent of the eight million that migrated to Pakistan.

Control of the leadership of the Muslim League quickly translated into political leadership of the new state.139 Muhajirs, who constituted only five percent of the population of the new country,140 settled mainly in the major port city of Karachi,141 de-

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137 Burke & Quraishi, supra note 95, at 133 (text of the founding resolution of All-India Muslim League in 1906).

138 Some report that "[T]here was a feeling of uneasiness, sometimes bordering on resentment, among the leaders of the Muslim majority Provinces that the Muslim League was dominated by leaders from the Muslim minority provinces." Sayeed, supra note 127, at 206.

139 From 1947 to 1958, the muhajirs supplied more than half (eighteen) of the total (twenty-seven) holders of the offices of governor-general, president, prime minister, governor and chief minister. Theodore P. Wright, Jr., Indian Muslim Refugees in the Politics of Pakistan, 7 J. of Commonwealth & Comp. Pol. 189, 195-96 (1974). By extraordinary arrangements, the muhajirs were given seats in the Constituent Assembly and provincial legislatures, and for new elections designated seats were reserved for them. See M. Ahmad, Legislatures in Pakistan 9, 14, 19 (1960); Keith Callard, Pakistan: A Political Study 79 (1957).

140 At partition, the ethnic distribution of the population of Pakistan was: Bengalis 52 percent; Punjabis 28 percent, Pathans 7 percent, Sindhis 6 percent, Muhajirs 5 percent and Baloch 2 percent. Charles H. Kennedy, Managing Ethnic Conflict: The Case of Pakistan, in The Territorial Management of Ethnic Conflict 123, 125-6 (John Coakley ed., 1993).

141 In South Asia, Muslims have tended to be more urban than Hindus where the former are in a minority and the reverse where, as in the provinces which became Pakistan, they were in a majority. Therefore, it was not surprising that most post-partition migrants settled disproportionately in urban areas of Pakistan. The result was a divided society where the indigenous population of Pakistan was mostly rural and the migrants were mostly urban. Shahid Javed Burki, Migration, Urbanization and Politics in Pakistan, in Population, Politics and The Future of Southern Asia 147-89 (W. Wriggins & Guyot eds., 1973). As a result of the mass migration that resulted from partition, the demographic profile of the new state of Pakistan was quite remarkable. The majority of the migrants settled in towns and cities. In
declared it the capital of the new state, and proceeded to take control of the politics, commerce, and culture of the society. The ascendancy of this group was linked to its pre-migration status. Higher literacy and prior membership in the colonial “salariat” guaranteed domination of the postcolonial bureaucratic apparatus.\textsuperscript{142} The experience of modern commerce, coupled with patronage by the new state, assured domination of finance and industry.\textsuperscript{143} This group deployed two stratagems to secure and sustain the disproportionate power and privilege of an ethnic minority: designing a political order that kept the majority of the population disenfranchised, and forging a national identity that privileged the position of the \textit{muhajirs}.

Pakistan started its political life with a built-in contradiction. An underdeveloped, multi-ethnic and multi-lingual society had inherited a centralized and “overdeveloped” state apparatus.\textsuperscript{144}


\textsuperscript{144}The concept of the “overdeveloped” postcolonial state was first advanced by Hamza Alavi:

In carrying out the tasks of the bourgeois revolution in the colony . . . the metropolitan bourgeoisie has to accomplish an additional task that was specific to the colonial situation. Its task is not merely to replicate the superstructure of the state which it has established in the metropolitan coun-
This translated into an early struggle between tendencies towards authoritarian centralism and representative federalism. The *muhajir*-dominated bureaucracy joined hands with the Punjabi-dominated military to subvert the establishment of a representative, federal parliamentary system.\(^{145}\) Through a series of extra-constitutional usurpations, palace intrigues, and eventually martial law, a centralized authoritarian system of governance was secured. Conveniently, each step in this process was validated by the *muhajir*-dominated superior judiciary, which deployed doctrines of state-necessity, revolutionary legality, implied mandate, and de facto power to achieve this end.\(^{146}\) The political order was styled "guided democracy,"\(^{147}\) with a twin agenda of "developmentalism"\(^{148}\) and "nation-building."\(^{149}\)

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\(^{148}\) Developmentalism, a strategy of economic development, rests on the proposi-
In this general context, the *muhajir* elite proceeded to construct an undifferentiated and unified state-nation, the Pakistani nation, of which they would be the exemplars.¹⁵⁰ Urdu, the language of the *muhajirs*, spoken by only six percent of Pakistan's population, was presented as the national language. This language policy was part of a broader agenda of strengthening the state-nation and promoting national unity. The construction of an undifferentiated and unified state-nation was a significant aspect of nation-building in post-colonial societies, which was often accompanied by policies of assimilation, integration, and social mobilization. The state, in this construction, is seen as a neutral and overarching structure of governance which aggregates the interests of all factions, and formulates, implements, and adjudicates rules in the common interest of the society as a whole. The bureaucratic apparatus of the state is seen as a "neutral," "rational," and "functional" mechanism, which implements the "unproblematic" goals of modernization and "nation-building." See, e.g., Gabriel A. Almond & G. Bingham Powell, Jr., *Comparative Politics: A Developmental Approach* (1966); *Developing Nations: Quest for a Model* (William A. Beling & George O. Totten eds., 1970); *Nation-Building* (Karl W. Deutsch & William J. Foltz eds., 1963). For a critique of the "nation-building" model on the ground that it ignores questions of ethnic identity and diversity, see Walker Conner, *Nation-Building or Nation-Destroying?*, 24 *World Politics* 319 (1972).

¹⁴⁹ "Nation-building" was the companion prescription of "developmentalism," prescribed to post-colonial societies following decolonization. "Assimilation," "integration," and "social mobilization" of all the people living within the state were to be the building blocks of a unified "nation." "Modernization," in the form of increases in urbanization, industrialization, schooling, communication, and transportation facilities, was seen as the primary tool of "integration," and the state was seen as the primary agency. The state, in this construction, is seen as a neutral and overarching structure of governance which aggregates the interests of all factions, and formulates, implements, and adjudicates rules in the common interest of the society as a whole. The bureaucratic apparatus of the state is seen as a "neutral," "rational," and "functional" mechanism, which implements the "unproblematic" goals of modernization and "nation-building." See, e.g., Gabriel A. Almond & G. Bingham Powell, Jr., *Comparative Politics: A Developmental Approach* (1966); *Developing Nations: Quest for a Model* (William A. Beling & George O. Totten eds., 1970); *Nation-Building* (Karl W. Deutsch & William J. Foltz eds., 1963). For a critique of the "nation-building" model on the ground that it ignores questions of ethnic identity and diversity, see Walker Conner, *Nation-Building or Nation-Destroying?*, 24 *World Politics* 319 (1972).

¹⁵⁰ It should be noted that the agenda of constructing "state-nations" is a widespread legacy of the colonial encounter. As one commentator puts it:

Very few of the newly emergent Afro-Asian states can be considered as nation-states in the nineteenth century European sense. They are artificial legacies of colonial empires: a ramshackle alliance of heterogeneous groups of people, often linguistically, religiously, and racially disparate who were put together for administrative convenience. These people temporarily united together in their struggle for emancipation from foreign rule. But the unity was largely based on xenophobia and therefore superficial. It was therefore not surprising that unity, forged in the anti-colonial struggle, withered with the disappearance of the foreigner. The common problem in Africa and Asia today is that having found a state, the people are now struggling to forge a nation.
population, became the national language. Islam, the religion that had provided the *muhajirs* protection under the colonial separate electorate system, became the state religion. Forged by an arbitrary bonding of Islam and Urdu, an "official nationalism" was created to provide the ideological scaffolding for the politically defined collectivity. This was not a national identity that had organic or spontaneous origins, but was one imposed by dominant elites who controlled the state apparatuses to consolidate their hegemony. That the state would create a nation, rather than the other way around, was considered an unproblematic agenda of the political order. This "state-nation" was built upon a "retrospective illusion," through which the state is constituted as a national community "which recognizes itself in advance in the institution of the state." "Print-capitalism," an important part of the construction of nations as imagined communities according to Benedict Anderson, played a pivotal role in this "nation-building" exercise. The *muhajirs* had a free hand to build the nation in their own image because of their command of Urdu, state ownership of broadcasting, and governmental control of the press. The nation, in this context, became the


151 Tariq Rahman, *Language and Politics in a Pakistani Province: The Sindhi Language Movement*, 35 *Asian Surv.* 1005, 1006 (1995). It was the defense of Urdu as the national language, articulated by M.A. Jinnah, the first Governor-General of Pakistan, as early as 1948, that gave rise to a resistance movement in Bengal. See Sayeed, *supra* note 127, at 300. Conversely, when Bengali language was accorded equal status by the Constituent Assembly in 1954, there were riots in Karachi. Wright, *supra* note 139, at 199. See also Aftab A. Kazi, *Ethnicity and Education in Nation-Building: The Case of Pakistan* (1987). Voicing his discomfort with recognizing Bengali as one of two "national" languages, Ayub Khan, the military ruler of Pakistan from 1958-1969, wrote, "It is quite clear to me that with two national languages we cannot become a one nation state . . . ." *Mohammad Ayub Khan, Friends Not Masters: A Political Autobiography* 102 (1967).


154 This project was succinctly expressed by Ayub Khan, the chief of the military who later became the military ruler between 1958-1969: "The ultimate aim of Pakistan must be to become a sound, solid and cohesive nation . . . ." *Khan, supra* note 151, at 54.


property of a privileged group. Armed with Urdu and Islam, muhajir identity was projected as that of the "true Pakistani." "Unity, faith, and discipline," were proclaimed as the "national" creed, where "unity" translated into a denial of federalism and "discipline" meant acceptance of authoritarianism under the ideological cover of the Islamic "faith." "Conjuring Pakistan" was also facilitated in no small measure by narratives of historic origins rooted in heroic sacrifice of migration that were deployed to bridge "the tensions inherent in Pakistan's geographical and ideological frontiers." Like Jaques Vernant's category of "militant refugees," the muhajirs did not accept their status as a political handicap; if there was to be national integration, it had to be from where they stood at the top of the social status pyramid and not from the bottom. In the process, the muhajirs posited notions of citizenship through strategic deployment of their comparative privilege.

Denial of federalism became a cardinal principle of the muhajir-dominated state. The ethnic, cultural, and linguistic diversity of the country was seen as a threat that might fragment the territorial integrity of the state and had the potential to destroy the muhajir-dominated social order. The historic division of northwestern India into distinct provinces was abolished in favor of a unified administrative structure. Any assertion of regional identity based on distinct language, culture, or history was construed as a challenge to the integrity of the "unified nation," and consequently to the security of the state. When this created resentment and resistance in East Bengal, Baluchistan, and

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159 Id. at 76.
160 JACQUES VERNANT, THE REFUGEE IN THE POST-WAR WORLD 17 (1953).
162 For the use of security concerns as an instrument of political control and suppression of dissent in Pakistan, see Mustapha Kamal Pasha, Security as Hegemony, 21 ALTERNATIVES 283 (1996).
and the North West Frontier Province, it was contained by a further contraction of political rights and by military means.

This system lasted for some twenty years, but then came tumbling down. The "nation-building" effort to produce an undifferentiated Pakistani "state-nation" failed because resistance by marginalized ethnic groups, particularly the Bengalis, increased in intensity, and became impossible to contain or suppress, proving that "[o]ne man's imagined community is another man's political prison." The "take-off," envisaged in the model of economic development pursued for over twenty years, failed to materialize and instead contributed to a widened gulf between rich and poor and exacerbated ethnic divisions. The lack of civil liberties alienated the intelligentsia, professionals and urban student groups. Pakistan's defeat in the war with India over Kashmir in 1965 seriously damaged the standing of the military and led to serious questions about its dominance of political structures. By 1968, these growing discontents manifested themselves in a mass movement demanding the establishment of democracy, federalism, and economic redistribution. Within a year, the regime fell, provinces of the Western wing were restored, and direct elections for a new constituent assembly were held in 1970. Sensing an erosion of the building blocks of their identity and privileges, the muhajirs readjusted their identity by aligning closely with right-wing religious parties. They portrayed demands for provincial autonomy and economic redistribution as assaults on the "Islamic genius" of the nation and projected themselves as the custodians of this new Islamic identity. The result of the 1970 elections, in which the religious parties were routed, came as a rude shock to the muhajirs. In the name of Islam, they supported the military in its refusal to accept the results of the election; this refusal led to a civil war which culminated in the secession of East Bengal in 1971. Only then was power finally transferred to popularly elected representatives.

166 Arjun Appadurai, Disjuncture and Difference in the Global Cultural Economy, in Colonial Discourse and Post-Colonial Theory 324, 328 (Patrick Williams & Laura Chrisman eds., 1994).
The new government, responsive to its constituencies, took measures which were apprehended by the *muhajirs* as encroachments upon their entrenched interests. The decision to restore Sindhi as the official language of the province of Sindh, provoked demonstrations by the *muhajirs* which escalated into the language riots that claimed fifty-five lives in the fall of 1972. The revision of the regional quota system for recruitment to the federal bureaucracy lowered the *muhajir* quota from 17 percent to 7.6 percent. Nationalization of large industrial and financial enterprises lessened the power of the country’s largest industrial and financial houses, which were disproportionately owned and managed by Karachi-based *muhajirs*. New rules of access to higher education, particularly those pertaining to professional schools, expanded opportunities for marginalized groups. These policies gradually eroded *muhajir* domination of civil bureaucracy, public enterprises and large-scale private enterprise. *Muhajirs*, in response, played a leading role in the agitation against the civilian government, welcoming the reassumption of power by the military in the coup of 1977. Restoration of military rule, however, did not translate into a restoration of the *muhajirs’* privileges. The changing demographic profile of Karachi and realignments in the military’s base of support continued the relative decline in the *muhajir* share of jobs, educational opportunities, and political influence. All this combined to produce a sense of “relative deprivation,” whereby groups become disaffected from a system when the gap between society’s resources and opportunities to which they feel entitled and their share in those resources increases to an intolerable level.

*Muhajirs* responded to the continuing decline of their privileges and power by “an overnight ethnic redefinition.”

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169 Kennedy, *supra* note 142, at 944.


171 See *KOCHANEK, supra* note 142, at 80-83; *Shahid Javed Burki, Pakistan’s Economy under Zia, in PAKISTAN UNDER THE MILITARY: ELEVEN YEARS OF ZIA Ul. HAQ* 87, 92-96 (Shahid Javed Burki & Craig Baxter eds., 1991).

172 Later, the military regime in 1982 introduced a system whereby ten percent of federal service jobs were reserved for military personnel and many retired officers were appointed to positions in public enterprises. *KENNEDY, BUREAUCRACY IN PAKISTAN, supra* note 170, at 122-25.


174 Hamza Alavi, *Politics of Ethnicity in India and Pakistan, in SOCIOLOGY OF*
whereby they posited a distinct *muhajir* identity.\(^{175}\) In a complete reversal of their position, maintained since the establishment of the state, they now asserted that Pakistan was in fact a multi-national society, and that *muhajirs* constituted a distinct fifth nationality along with the Punjabis, Pathans, Sindhis, and Baloch.\(^{176}\) On the basis of this distinct national status, they demanded enhanced opportunities for education, governmental jobs, and political representation. In a significant symbolic move, they proceeded to adopt the term *muhajir* to signify their newfound national status. A signifier they had shunned in earlier days as detracting from their being part of the unified Pakistani nation now became a badge of honor. Not surprisingly, the assertion of *muhajir* identity was led by those who were most adversely affected by the decline in *muhajir* fortunes: youths seeking education and employment as part of the salariat. The first concrete step was the founding of the All-Pakistan *Muhajir* Students Organization (APMSO) in 1979, with its main demand being a revision of quotas for admissions and employment that would be more favorable to the *muhajirs*.\(^{177}\) In 1984, the leadership of APMSO turned the organization into a political party named *Muhajir Qaumi Mahaz* [Migrant National Front] (MQM), with its primary demands remaining recognition of their status as a separate nationality and increased representation in educational institutions, government jobs, and political decision making.\(^{178}\) The following years saw the rise of conflict and riots between *muhajirs* and other ethnic groups.\(^{179}\)

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\(^{177}\) The decision to form APMSO resulted from the failure of its leader, Altaf Hussain, to gain admission to the graduate pharmacy program due to the operation of the quota system. Kennedy, *The Politics of Ethnicity in Sinah*, supra note 142, at 947-48.

\(^{178}\) For a detailed listing of the demands, see Theodore P. Wright, Jr., *Center-Periphery Relations and Ethnic Conflict in Pakistan*, 23 COMP. POL. 299, 305 (1991).

In 1988 and 1990, the MQM contested general elections and swept them in Karachi and other *muhajir*-majority urban areas of Sindh Province. Still being in the minority, the MQM was forced to enter into "coalitions of convenience" with majority parties whose bases of support were in rural Sindh and Punjab. The coalitions proved short-lived because the conflicting and competing demands of the MQM and the base constituencies of majority parties could not be reconciled. This propelled some sections of the MQM to demand constitutional concessions to allow political autonomy for the *muhajir* nationality. Some even talked about the desirability of secession and a state of their own. In this atmosphere, conflicts between *muhajirs* and other ethnic groups took a violent turn. Complete breakdown of law and order in Karachi prompted the military to launch counter-insurgency operations in 1992 and again in 1995. Events had indeed come full circle. The military, the one-time ally of the *muhajirs*, had now become their adversary.

The story of the *muhajirs* suggests that boundaries of migrant identity are not objectively predetermined and that, with changes in contexts and perceptions of self-interest, radical realignments do occur. Within a period of fifty years, this group of migrants went from being a "model minority" enjoying disproportionate power and privilege to being marginalized and implicitly disenfranchised. The "insiders" had become "outsiders." In the course of this journey their identity was constituted and deployed in varied, even contradictory, modes. The phase of power and privilege was accompanied by an erasure of any distinct ethnic identity. This erasure was accomplished by positing a unified state-nation, ironically constituted in the *muhajirs' own image. The phase of marginalization was accompanied by a reassertion of distinct ethnic identity. To make room for this assertion, the imagined unified "state-nation" gave way to linguistically and regionally defined nationalities. While the earlier construction flowed from operations of power, the latter issued from strategies of resistance.


CONCLUSION

The immigrant is traditionally located in the inter/national imagination through the prism of the laborious moves of statism to project an image of the world divided along territorially discontinuous and separated sovereign spaces, each supposedly enclosing homogeneous cultures and impervious essences. From this line of vision, the immigrant is always the outsider, the abnormal, the other. The historical record of the modern inter/national system, however, suggests a different point of departure focusing on the interlocking processes of capitalism, colonization, and migration. Examination of migratory patterns of South Asia reveals that they are intrinsically tied to the region’s incorporation into the global division of labor through the operation of colonialism. However, the relationship between migration and colonialism is not mechanical or stable. Of the three migrations examined in this article, one was the product of colonial design, one of anti-colonial resistance, and one of the collapse of colonial rule. Each of these migrations was accompanied by contingent and unstable constructions and deployments of identities. Colonialism, like all power relations, was a contested site, and the migrations and migrant identities it triggered were constituted both by operations of power and strategies of resistance. Power and resistance similarly intermingle in the construction and deployment of post-migration identities of the immigrant. These identities are not related so much to the fact of migration as they are to the shifting alignments of political forces. The relationship of the immigrant with the state and the nation is contingent and unstable because the state never just is; it is always in the process of becoming, and so is the nation.