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## Race, Nationality, Mobility: A History of the Passport

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*In a sense, every modern nation is a product of colonialism.*

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he global monopoly of a system of states over the international movement of people seems an unremarkable fact in the present world. This essay is concerned, in part, with how this came to be the case. Here I chart a history of the modern passport in relation to theories of nation, race, and state. Given the current ubiquity of the passport as a necessary document for international mobility, one might expect that a passport system emerged, full-blown, into a world of nation-states. But it has a rather more checkered, piecemeal, and counterintuitive development. In other words, there are no definitive “origins” for the passport system and, indeed, even today it is a system that lacks systematization and standardization.<sup>1</sup> My focus here is the sequence of events and protracted debates between 1906 and 1915 surrounding the Canadian demand that Indians emigrating to Canada should have passports. This demand was largely made on the grounds of race, though rerouted via arguments of lack of labor demand, cultural incompatibility, and unsuitability of the climate, and eventually accepted on the

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grounds of national sovereignty. An analysis of these events and debates demonstrates that the passport not only is a technology *reflecting* certain understandings of race, nation/nationality, and state but was central to *organizing* and *securing* the modern definitions of these categories.

More specifically, I am concerned here with exploring the procedures in and through which the “truth” of nationality is produced, and codified, as a territorially delimited category. How, in other words, does nationality come to signify a privileged relation between people and literal territory? What is it that makes possible the circulation of the bizarre term “alien,” with all its evocations of extraterrestriality/-territoriality, as a “natural” part of immigration discourse? Unlike much work on migration that contends that immigration disrupts notions of the purity and (fictive) homogeneity of the national, I suggest that migration precipitated the emergence of nationality as a staunch territorial attachment. Moreover, while work on migration has tended to focus on nationalism and the cultural struggles over configurations of “legitimate” national identity, I am interested here in tracking the forces that enable the category of nationality to emerge as the privileged axis for state control over mobility.

I shall thus advance two primary arguments: first, that the modern economy of migration, grounded in race and imperialism, is fundamental to the creation of a geopolitical space dominated by the nation-state. My argument here both resonates with and differs from the work on “new racism” and the nation-state, one of whose central, and most useful projects is to demonstrate, in Paul Gilroy’s words, “how the limits of race have come to coincide so precisely with national frontiers.”<sup>2</sup> What I wish to contend, rather, is that the idea and materiality of the “national frontier,” premised on the notion of a nation as a territorially and demographically circumscribed entity, takes shape not prior to but within the context of “raced-migration.” By this I mean non-state-assisted, “free” migration to Europe or to white settler colonies originating *outside* Europe. It is precisely “raced-migration” that generates a state monopoly over migration practices and, via the passport, gives us the specifically modern imbrication of the state, the nation, and

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1. On the lack of systematization of the passport system, see John Torpey, “Coming and Going: On the State Monopolization of the Legitimate ‘Means of Movement,’” *Sociological Theory* 16 (1998): 239–59.

2. Paul Gilroy, *“There Ain’t No Black in the Union Jack”* (Chicago: University of Chicago Press, 1991), 46.

race, an imbrication that produces “race” as a “national attribute,” codified in the state document of the passport.

Second, and relatedly, I shall argue that a blurring of the vocabularies of nationality and race is a founding strategy of the modern (nation-) state and, as such, it should be impossible to inquire into the modern state without attending to its creation in a global context of colonialism and racism. The passport, as we shall see, is one concrete technology that harnesses this strategy and produces the “nationalized” migrant. In using the term “nationalize,” I wish to draw attention to its peculiar valence as signaling a certain conjuncture between the “nation,” which is held to be a primarily sociocultural category describing forms of community, and the “state,” which relates to forms of governance. Moreover, the term carries within it a suggestion of the state subsuming the nation in an attempt to eliminate the hyphen and achieve a conflation between the nation and the state. The term “nationalize” thus captures the intimate articulation between the terms “nation” and “state,” even as it brings the arbitrariness of this articulation into stark relief. To suggest that the passport is a technology that nationalizes bodies along racial lines is, therefore, to track the itinerary of a process of subject-production where both terms, “nation” and “state,” are implicated in discourses of race.

### A Brief History of Indian Emigration and State Intervention

Before proceeding any further, some background on Indian emigration and state intervention prior to the twentieth century is in order. In August 1834, following the British Emancipation Act of 1833, Britain adopted a method for the gradual abolition of slavery in its colonies.<sup>3</sup> The method of gradual abolition bound the recently emancipated slaves to a plantation, under a system of apprenticeship, for a period of six years, later reduced to four. Thus, 1838 marks the formal end of slavery in the British plantation economies. The apprenticeship system, in combination with the exodus of ex-slaves from the plantations, generated a huge scarcity of labor in the labor-intensive economies. This demand for labor was met, in part, via the introduction of indentured Indian labor.<sup>4</sup> As early as 1835, the Court of Directors of the East India Company (in charge, at the time, of British administration in India) installed mechanisms of state control to monitor

3. This does not include Antigua and Bermuda, where emancipation was immediate.

4. The other chief source of labor was China. However, since China was not territorially colonized, there are significant differences between the two migrations. For a comparative analysis of the two movements to the Caribbean, see Walton Look Lai, *Indentured Labor, Caribbean Sugar: Chinese and Indian Migrants to the British West Indies, 1838–1918* (Baltimore: John Hopkins University Press, 1993).

this massive movement, and under their recommendations the British Parliament ratified the first act for regulating this movement in 1838.<sup>5</sup>

As such regulation lacked legal precedence, this occurred amidst challenges to the authority and legality of the state in monitoring the movement of “free” subjects (as opposed to “unfree” subjects of the African slave diaspora). These challenges were answered on two grounds: the first stemmed from the paternalism of the state, which felt it “could not divest [itself] of the interest which [it] felt bound to take in the well-being of those who might be tempted to try their fortune by engaging as labourers in other countries.”<sup>6</sup> While recognizing “that this practice [had] no foundation in existing law,”<sup>7</sup> the regulations, they argued, were warranted to ensure the security and well-being of the laborers, especially given the “necessary ignorance” of the “class of persons so engaging themselves.”<sup>8</sup> The primary concern animating these early regulations was not to constrain the movement but to establish a series of criteria by which the migration of indentured labor could be construed as “free,” and thus distinguished from the slave trade.<sup>9</sup> Second, the challenges to the regulation of “free” subjects were defended on the grounds that “it is a distinction common to every metropolis, that their colonies are governed . . . by special laws, because the elements of society are not the same therein as in Europe.”<sup>10</sup> The peculiar situation of the colony, in other words, justified the differential application of the law and made the term “British subject” itself “susceptible of important division and modification.”<sup>11</sup>

Our most common understanding of the non-universal application of supposedly universal principles is to view it as the blatant violation and hypocrisy of certain historical state formations. Within this understanding, then, the project of the Enlightenment itself is not in question; what is needed is a series of

5. See House of Commons, “An Act for the Protection of Natives of Her Majesty’s Territories in the East Indies Contracting for Labour to be Performed without the Said Territories, and for Regulating their Passage by Sea,” *Parliamentary Papers*, 1837–38, vol. 3.

6. Edward Lawford (Solicitor to the East-India Company) to David Hill, 12 June 1838, *Papers Respecting the East India Labourers’ Bill* (London: J. L. Cox and Sons, 1838), 2–3, India Office Library and Records, London. V/27/820/4.

7. Lawford to Hill. Free mobility is a fundamental tenet of liberal state theory. Indeed, Locke’s “tacit contract” is premised precisely on the “free” subject’s unconstrained access to mobility. See John Locke, *The Second Treatise of Government*, ed. Thomas Peardon (New York: Macmillan, 1952).

8. Lawford to Hill.

9. I develop this argument in a larger project of which this essay is a part.

10. P. D’Epinay to Hollier Griffiths, 5 January 1836, *Papers Respecting the East India Labourers’ Bill*, 56.

11. P. D’Epinay to Hollier Griffiths, 56.

corrections and rectifications that may gradually bring all of humankind under its embracing and universal umbrella. Holding an uncommon view, Partha Chatterjee has called this tactic—of asserting the truth and universality of post-Enlightenment thought while simultaneously instituting, in practice, the colony as an exception to this universality—the “rule of colonial difference.”<sup>12</sup> It is significant that, vis-à-vis India, this operation of pointing to the specificity of the colony as the basis for special laws would continue even after 1858. For in 1858, with the suppression of the first war of Indian independence, India came under the direct control of the Crown, and the Queen’s Proclamation declared that the British empire was based on justice for all and would not distinguish between its subjects on the basis of creed or color. But, despite the “theory” of liberal equality embodied in the Queen’s Proclamation, the rule of colonial difference would continue to structure “practice.”

Chatterjee has suggested that modes of governance premised on the rule of colonial difference should be thought of not as aberrations from the universal and universally valid principles of the modern state but, rather, as “part of the common strategy for the deployment of the modern forms of disciplinary power.”<sup>13</sup> He thus contends that it serves no analytic purpose to differentiate between the colonial state and the modern state—or to see the colonial state as “simply another form in which the modern state has generalized itself across the globe”<sup>14</sup>—but, rather, that it is necessary to see the colonial state as crucial to the formation and modes of operation of the modern state. By suggesting that the colonial state is mistakenly thought of as a particular variety of the modern state, which we can now relegate to the museum of past horrors, Chatterjee draws our attention to how analyses of the colonial state must be immanent to analyses of the modern state; hence, the accepted polarity of the state in Europe and the state in the periphery is brought to crisis, and the presumed analytic validity of an insular “West” and an “East” is revealed as untenable.

State regulation of migration (and the colonial emergence of the passport) is, of course, an obvious site at which to trace this co-implication of the colonial state and the modern state and, thus, the coproduction of the state in the “West” and in the “East.” As we shall see, the rule of colonial difference would come to structure the international system of states as it sought to regulate the movement of “free” subjects through the installation of the passport.

12. Partha Chatterjee, *The Nation and its Fragments* (Princeton, N.J.: Princeton University Press, 1993), 16–22.

13. Chatterjee, *The Nation*, 18.

14. Chatterjee, *The Nation*, 14.

Under the indenture system, Indians were transported to a number of colonies—Mauritius, Guyana, Fiji, Jamaica, Trinidad, Tanzania, Kenya, Uganda, South Africa, and several other destinations. However, until the early twentieth century, the state monitored only the large-scale movement of indentured Indian labor and did not interfere with the scattered, infrequent migration of those not participating in the state-controlled indenture system. Indeed, within the law, the terms “emigrate,” “emigration,” and “emigrant” referred *only* to indentured labor: Thus Act XXI of 1883, the definitive Indian emigration legislation till 1915, states: “‘Emigrate’ and ‘Emigration’ denote the departure by sea out of British India of a native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements.”<sup>15</sup> The term “to labour,” moreover, had been interpreted as “manual labor,” thus exempting, in particular, emigrants from the wealthier classes. Further, the Act specified, expressly, the countries to which one could “emigrate.” Thus, state control over “emigration” covered *only* the large-scale movement of indentured labor to specific countries.

The definition, however, had been the source of substantial ambiguity and confusion over the years, leading to a series of reinterpretations and redefinitions, although not to legislative changes. For instance, it was a proposal, in 1862, to send 150 Indians for the police force in Hong Kong that resulted in limiting the term “to labour” to refer only to manual labor.<sup>16</sup> The recruits could thus be sent to Hong Kong, to which “emigration,” as understood within the legislation, was not permitted. In 1899, it was a request for a transfer of 400 Indian soldiers to Mombassa that prompted the Government of Bombay to ask if the soldiers should be designated as “emigrants” and the request for transfer declined.<sup>17</sup> Once again, the executive took the position that the soldiers could not be considered “emigrants” since, while “under an agreement to labour for hire,” “the work of a soldier can

15. Home Department (Sanitary/Plague), “Question Whether the Term ‘Emigrant’ Applies to Soldiers Recruited in India under Agreement with the Colonial Secretary for Service in Africa,” *Proceedings*, February 1899, no. 114–17. This and all subsequent archival references are to the National Archives of India, New Delhi.

16. Home Department (Public), “Subject Relative to the Proposed Engagement by the Hong Kong Colony of 150 Natives of Madras for the Police of the Colony,” *Proceedings*, January 1862, no. 1–4. The definitions of “emigrant,” “emigrate,” et cetera, had, actually, remained basically unaltered since Act XIV of 1839.

17. Due to the widespread “Indian Plague,” “emigration” had been suspended to most destinations; it is thus all the more interesting that the concern with the migration of the soldiers is not related to preventing their movement due to the threat of carrying disease, but with the technicality of whether they should be construed as “emigrants.”

scarcely be defined as ‘manual labour’; and if this view is accepted, it is clear that the terms ‘Emigrate’ and ‘Emigration’ as defined by the Act [XXI of 1883] do not apply to the case of these soldiers.”<sup>18</sup>

Given the nature of the legislation, emigrants who did not contract to labor prior to embarking on their journeys, or those not engaged in “manual labor,” were thus free to travel unhindered, especially between parts of the British empire. In other words, this far, the state did not exercise a monopoly over the mobility of people. Within the history of Indian emigration regulations, it is only with the migration of small groups of “free” Indians to Australia and Canada, in the first decade of the twentieth century, that we see the initial demands to extend state control to cover all types of migration in recommendations to require passports to restrict such “free” movement. In fact, the extensive annual Emigration Proceedings, published by the Emigration Branch of the Government of [British] India from 1871, contain no index entries for the term “passport” for thirty-five years; only in 1905 do we find three entries, all relating to Australia. Between 1905 and 1917, the frequency of these entries multiplies dramatically and *always* with regard either to white settler colonies or European nations.

### Indian Emigration and the Formation of the Passport: The Canadian Connection

The anxiety over the migration of Indians to Canada begins in earnest around 1906, with the arrival of about two thousand Indian men at Vancouver. The anxiety is evident in the actual content of the correspondence and in what was to become an intense, frantic communication, primarily via telegrams and a series of confidential memos and reports, between the clunky state triangulation of Canada (a self-governing British Dominion and, thus, still part of Empire), Britain (the seat of imperial power), and India (a non-self-governing colony populated, nonetheless, by “British subjects”). The arrival, in Vancouver, of “some 2,000 people from Northern India” prompted the Governor General of Canada to telegram the Secretary of State for the Colonies in London stating that the men had “doubtless come under misrepresentation as they are not suited to climate, and there is not sufficient field for their employment. Many in danger of becoming public charge and thus subject to deportation under law of Canada.”<sup>19</sup>

18. Home Department (Sanitary/Plague), *Proceedings*, February 1899, no. 114–17.

19. Copy of telegram dated 13 November 1905 forwarded from Secretary of State, London, to the Viceroy of India, 19 November 1906. Department of Commerce and Industry, *Emigration Proceedings A*, May 1907, no. 7, ser. no. 1. All further citations of *Proceedings A* and *Proceedings B* are parts A and B, respectively, of Department of Commerce and Industry, *Emigration Proceedings*.

The three points raised by the Governor General in this brief telegram concerning the climate, the alleged lack of labor demand, and the possibility of destitution, would quickly find their way into a five point memorandum, issued by the Government of Canada on 2 November 1906, as the bona fide reasons for discouraging Indian immigration to Canada.<sup>20</sup> Two of the five points directly cite the climate as the chief reason to restrict the movement since the “transfer of any people from a tropical climate to a northern one . . . must of necessity result in much physical suffering and danger to health.”<sup>21</sup> In addition, the memorandum claims that “[the] caste system which is universal among these people is seriously in the way of their employment”<sup>22</sup> and “the work, for which they are required is necessarily rough and hard, and not of a character . . . for which they are physically fitted.”<sup>23</sup> The memorandum therefore concludes that “should the immigration continue, large numbers must become a [public] charge . . . in which case they would be subject to deportation under Canadian immigration laws.”<sup>24</sup>

The memorandum makes no direct mention of biological race as a reason to prohibit Indian immigration but appeals instead to the cultural and climactic incompatibility of the Indians with the Canadian environment. We see here, with exceptional clarity, the deployment of what Paul Gilroy identifies as the “culturalist” trope of racism and what Etienne Balibar calls a “differential racism.” As Balibar describes it, “differential racism” purports to function within “a framework of ‘racism without races’ . . . whose dominant theme is not biological heredity but the insurmountability of cultural differences.”<sup>25</sup> Both Gilroy and Balibar locate the emergence of culturalist or differential racism in the era of decolonization, which, at least implicitly, pertains fundamentally to transformations in state power. However, I would situate its emergence earlier and suggest that it is crosshatched, on one hand, with the development of nationalist movements (in the colonized world) and, on the other, with the progressive solidification of a notion such as the “national frontier” which served to congeal boundaries around territories as much as it did around populations. Indeed, culturalist

20. “Memorandum: Re: Immigration of Hindoos [*sic*] to Canada,” *Proceedings A*, May 1907, no. 7.

21. “Memorandum: Re: Immigration.”

22. “Memorandum: Re: Immigration.” I cannot dwell here on some of the incongruities of asserting that the caste system obtained amongst the Sikh community. For an analysis of how caste emerges as a key colonial category for ordering India, see David Ludden, “Orientalist Empiricism: Transformations of Colonial Knowledge,” in *Orientalism and the Postcolonial Predicament*, eds. Carol Breckenridge and Peter van der Veer (Philadelphia: University of Pennsylvania Press, 1993).

23. “Memorandum: Re: Immigration.”

24. “Memorandum: Re: Immigration.”

25. Etienne Balibar, “Is There a ‘Neo-Racism’?” in Etienne Balibar and Immanuel Wallerstein, *Race, Nation, Class*, (London: Verso, 1993), 21.



racism succeeds, precisely, in securing an identity between people and territory such that both come to be described as “national.”

Even as the memorandum claiming a lack of labor demand in British Columbia and obsessed with the climactic and cultural unsuitability of Indian emigrants to Canada is drafted and circulated, N. D. Daru, an Indian official attached to the Geological Survey of Canada, writes: “There is no doubt that British Columbia is greatly in need of labour and that the Indians who come in, are readily taken up by employers . . . So many employers asked me to enable them to get these men that if I had over a hundred more, I could easily have placed them.”<sup>26</sup> Similarly, Colonel Falk Warren, an Artillery officer immersed in the ideology of empire, writes: “There are now between 2,200 and 2,500 [Indians] in the province of British Columbia all come from the Punjab; they are mostly Sikhs. None are allowed to land who are destitute. . . . They are a stout and able bodied set of men. A large proportion are ex-soldiers. Their conduct has been exemplary. . . . The fact of their coming to this country shows the enterprise and daring of the men as also their trust in seeking work in countries under the British flag.”<sup>27</sup>

The concerns of a lack of employment and resulting destitution embodied in the memorandum were unfounded; in January, 1907, “of the 2,200 men there are not more than 50 to 60 out of work . . . [and the] public funds have not been called upon to expend anything upon any of these men.”<sup>28</sup> Indeed, Lord Grey, the Governor General of Canada, is himself forced to agree with the special confidential report of Colonel Swayne, Governor of British Honduras,<sup>29</sup> stating “that the position of the Sikhs and Hindus at present in British Columbia leaves little to be desired. He [Colonel Swayne] found no justification for the statement that large numbers were unemployed or in distress. . . . [Thus] it will be impossible in future to urge climatic considerations as a reason for discouraging, on humanitarian grounds, the emigration of Sikhs to British Columbia.”<sup>30</sup>

26. N. D. Daru to the Under Secretary of State for India, 19 November 1906, *Proceedings A*, May 1907, no. 7, ser. no. 10.

27. Colonel Falk Warren to the Under Secretary of State for India, 22 November 1906, *Proceedings A*, May 1907, no. 7, ser. no. 10.

28. Colonel Falk Warren to the Under Secretary of State for India, 2 January 1907, *Proceedings A*, May 1907, no. 7, ser. no. 14.

29. Colonel Swayne had been involved in the matter since the initial scheme was to try and redirect the Indians coming to Canada to Honduras. The scheme came to naught since “the Indians would not go.” “India Office Memorandum on Indian Immigration into Canada,” 26 August 1915, *Proceedings A*, October 1915, no. 68 (confidential).

30. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909, *Proceedings A*, May 1909, no. 11, ser. no. 5.

The Canadian state had to resort to arguments regarding the severity of the climate and the constant unsubstantiated panic about an impending large-scale destitution in an attempt to curb the migration due to the inapplicability of Indian Emigration Act XXI of 1883. Since the emigrants were not *already* under a contract “to labour,” they did not count as “emigrants” under the act, which thus could not be enforced to prevent the migration. The *emigration*, in other words, was deemed “free” such that the Government of India could not, within the prevailing legislation, control it.<sup>31</sup> The Government of Canada, on the other hand, was constrained in drafting restrictive *immigration* legislation specifically targeted towards Indians since this would have exposed, in an indubitable way, that notwithstanding citizenship of Empire, different “British subjects” were endowed with differential access to mobility. The involvement of the state in restricting the migration, *at either end*, would, in other words, have revealed the rule of colonial difference in a particularly salient and unacceptable manner.

It is in this context that the Government of Canada suggested, in 1907, the implementation of a system of passports, issued selectively, to curtail the migration. The Prime Minister, Wilfrid Laurier, offers two options for the consideration of the Colonial Office in London and the Government of India. The first is a monetary requirement: that each immigrant have on his<sup>32</sup> person \$200 to be permitted entry into Canada. This is deemed “necessary to avert real suffering and distress and consequently would appear to us to be called for in the best interests of humanity.”<sup>33</sup> The second option is the adoption of a system of passports to be implemented so as to fulfill the following three conditions: “(1) prohibit Hindoos [*sic*] from going to Canada without passports, (2) to limit the number of passports issued to a number agreed upon by the Governments of Canada and India, and (3) to request Government of Canada to deport all Hindoos [*sic*] arriving at Canadian ports without passports.”<sup>34</sup>

The Viceroy of India rejected the passport system, writing in a telegram:

We recognize peculiar difficulties of Canadian Government and appreciate the conciliatory attitude with which it has approached this difficult question, but after very careful consideration, regret we are unable to agree to any proposal for placing in India restrictions such as

31. Under Secretary of State for India to Under Secretary of State, Colonial Office, 19 October 1906, *Proceedings A*, May 1907, no. 7, ser. no. 5.

32. At this stage, all the Indian immigrants to Canada are male.

33. Governor General of Canada to the Secretary of State for the Colonies, telegram received 11 November 1907, *Proceedings A*, February 1908, no. 18–33.

34. Governor General of Canada to the Secretary of State for the Colonies, 11 November 1907.

are suggested on emigration of free Indians or to suggest any further action on our part to check it. Any such measure would be opposed to our accepted policy: and it is not permissible under Indian Emigration Act XXI of 1883; . . . In present state of public feeling in India we consider legislation of this kind to be particularly inadvisable.<sup>35</sup>

In 1908, the “present state of public feeling in India” was becoming deeply anticolonial and nationalist. Indeed, it was in 1908 that the Indian National Congress adopted *swaraj* (self-rule), “like that of the United Kingdom,” as its goal, and there was enormous pressure on the state to concede at least partial self-government.<sup>36</sup> And, alongside the more moderate, “constitutional” approach of the Congress, there emerged numerous other radical and revolutionary groups opposing colonial rule.

The situation of Indian emigrants in different parts of Empire only added to the ferment and the nationalist demands within India. At the time, the most significant of these were the agitations of Indians in South Africa, which under the leadership of Gandhi had not merely become a troublesome matter in South Africa (then attempting to partially sever its links with Empire and secure responsible government) but led to an uproar in India.<sup>37</sup> Unlike most other colonies, particularly white settler colonies, South Africa was unique in having a population of both indentured as well as “free” Indian emigrants. In general, the demand of Indian nationalists in both South Africa and India was to put an end to indentured emigration, but restrictions on “free” emigration incited widespread opposition. With the emigration question becoming a central issue in Indian politics and anticolonial demands, the Government of India wanted to avoid situations such as legislative measures expressly containing policies of discrimination against Indians. They suggested, instead, that Canada pursue suitably disguised methods of discrimination that would achieve the desired ends of curtailing the immigration: For instance, they could “require certain qualifications such as physical fitness . . . and the possession of a certain amount of money.”<sup>38</sup>

35. Viceroy of India, Calcutta, to the Secretary of State for India, London, telegram received 22 January 1908, *Proceedings A*, February 1908, no. 28, ser. no. 16 (confidential).

36. Due to the pressure placed on the government, the Morley-Minto reforms, which increased the number of Indian representatives in the legislative councils, were passed in 1909. However, the nationalist demand did not at this stage seek to completely sever its ties with Empire.

37. For a brief survey of how the situation of emigrants in South Africa had brought the emigration question into prominence, see “Representation of the United Province Congress Committee Regarding the Position of Indians in Canada,” *Proceedings A*, June 1915, no. 1–2.

38. Viceroy of India, Calcutta, to the Secretary of State for India, London, 22 January 1908.

Simultaneous with the sensitive situation in India, the “public feeling” in Canada was becoming overtly racist toward “Asiatics” and “Orientals.” Where the official authorities cite “humanitarian” considerations of climate and labor demand as reasons to restrict the immigration, both N. D. Daru and Falk Warren point to the “anti-Asiatic sentiment” as the problem that needed to be addressed. The immigration was opposed by “the whole labour element of this country,” who had engineered a campaign of “calumny and vituperation” against the Indians;<sup>39</sup> the press, which “not merely [had] taken up a hostile attitude [toward the immigrants], but [had] not scrupled to publish the rankest falsehoods about the Indians”;<sup>40</sup> as well as organized Anti-Asiatic Leagues in Canada and the United States. In fact, on 6 and 7 September 1907, there had been riots in Bellingham, Washington and in Vancouver against Indians and “Asiatics,” orchestrated by the Anti-Asiatic Leagues. The riots in Bellingham had caused some 400 Indians to leave the United States and move to Canada “seeking the protection of the British Crown.”<sup>41</sup> The Canadian state thus found itself in an odd position: of attempting, on one hand, to restrict the immigration of Indians, and of being bound, on the other hand (due to its membership in Empire) to provide refuge for Indians. Racism was clearly operating on numerous registers—ranging from the culturalist racism of the state to the physically violent racism of the rioters. And it was race, articulated to a space increasingly described as “national,” that would subtend subsequent immigration regulations, including the emergence of the passport.

The entire machinery of Empire—from the Government of Canada to the Government of Hong Kong, to the different district authorities of the Government of India—was enlisted to inquire into every aspect of the migration. A report on the character of “The Hindus” was prepared by no less an authority than the Minister of the Interior of Canada; a secret agent was employed to infiltrate the Anti-Asiatic League of Canada in order to determine their support base and funding source; authorities in Hong Kong were directed to provide information on every ship that sailed, including details of the number of Indians on board and their financial situation; reports on the factors encouraging the migration were elicited from the Government of India; ethnographies of the immigrants themselves were compiled to understand their motivations; the role of shipping companies in assisting the traffic was assessed; Mackenzie King, then Deputy Minister for Labor (later to serve twenty-five years as the much-loved Prime

39. Colonel Falk Warren to the Under Secretary of State for India, 22 November 1906.

40. N. D. Daru to the Under Secretary of State for India, 19 November 1906.

41. Lord Grey, Governor General of Canada, to Secretary of State for India, 24 September 1907, *Proceedings A*, February 1908, no. 18–33, ser. no. 12.

Minister of Canada), was despatched to have secret consultations with the Colonial Government in London on “the subject of immigration from the Orient and the immigration from India in particular.”<sup>42</sup> In short, what the seemingly insignificant migration of Indians to Canada instigated was the eruption and use of a variety of mechanisms for generating, obtaining, and collating knowledge on every aspect of the movement of Indians to Canada.

This process of knowledge-production was impelled, of course, by a complex conjuncture of ideologies of racism; at the same time, however, the mechanisms and techniques employed in the service of this ideological conjuncture are specific to the modes of governance and the administrative machinery at the disposal of what we call the modern state. It was not just that the state was propelled into action by racist ideologies or that race structured state policy; this was indeed true. But moments such as these catalyze the development of a specifically modern regime of state-power—deployed through the use of minute and extensive knowledge—and have since become characteristic features of the twentieth-century state apparatus. Further, unlike early colonialist ideology that worked on the classic colonialist framework of the “civilizing mission,” what distinguishes the kind of racism deployed within these twentieth-century immigration regulations is both the development of the culturalist trope of racism and the deployment of a series of what Bernard Cohn calls “investigative modalities.” An investigative modality, as Cohn explains, “includes the definition of a body of information that is needed, the procedures by which appropriate knowledge is gathered, its ordering and classification, and then how it is transformed into usable forms.”<sup>43</sup> In Foucauldian terms, what we see in the process set in motion in a bid to restrict the immigration of Indians to Canada is the critical role of knowledge in the consolidation of a form of power peculiar to the modern (nation-) state.

Of the knowledge or information amassed through the use of multiple investigative modalities, some was directly “usable” for generating appropriate policies. It was learned that a proportion of the Indian immigrants to Canada were re-immigrants—that is, they had often completed their term of indenture or service in a country other than India and came to Canada in a spirit of adventure and due to the circulation of stories that “fortunes” could be made there. Otherwise, the bulk of the emigrants came from Punjab and left India via the port of Calcutta

42. “Report of the Committee of the Privy Council, approved by His Excellency the Governor General on 2nd March 1908,” *Proceedings A*, May 1908, no. 6, ser. no. 22, encl. no. 9.

43. Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton, N.J.: Princeton University Press, 1996), 5.

for Hong Kong and thence to Canada. With this detailed and minute information in hand, on 8 January 1908, the Government of British Columbia passed an ingenious Order in Council stating that “immigrants shall be prohibited landing, unless they come from [their] country of birth or citizenship by continuous journey, and on through tickets purchased before starting.”<sup>44</sup> This order effectively prevented both re-immigrant Indians and immigrants direct from India from going to Canada: the former since they did not come from their “country of birth or citizenship” and the latter since the “continuous journey” condition was literally impossible for Indians to fulfill, there being no steam ship company that operated a direct transit from India to Canada and, thus, companies did not sell “through tickets.”

The precise wording of the ordinance did, however, have some rather amusing—and telling—effects. For example, a Russian and a Frenchman were denied admission into Canada since they had not come by “continuous journey” from their “country of birth or citizenship,” but rather from Japan.<sup>45</sup> Under the regulation of 8 January, both would have been deported back had it not been for the United States immigration officials at Vancouver who were “glad to pass them on into the United States.”<sup>46</sup> The secret agent commenting on the incident to Wilfrid Laurier, the Prime Minister, said: “I, of course, have no status to advise in such a matter, but I know that the Regulation was never intended to be enforced in this absurd manner.” He thus recommends that the regulation should be reworded to state that immigrants “*may* be prohibited [landing]—not *shall* be [prohibited landing].”<sup>47</sup> The aim of the regulation was specifically to prevent the entry of Indians into Canada; its original phraseology, combined with the bureaucratic logic of the state functionaries, led to the unintended consequence of it being implemented in an “absurd manner.” Needless to say, the Ordinance was immediately reworded so as to enable officers to permit the entry of white immigrants, regardless of where they embarked on their journeys.

Canada was actively pursuing the suggestion of the Government of India, mentioned earlier, that it follow strategies of selective racial discrimination with-

44. Governor General of Canada to the Secretary of State for the Colonies, London, telegram dated 15 January 1908, *Proceedings A*, May 1908, no. 6, ser. no. 22, encl. no. 3, annex 1.

45. Secret Agent T. R. E. McInnes to Wilfrid Laurier, 15 March 1908, *Proceedings A*, May 1908, no. 6, ser. no. 22, encl. no. 10, annex 2.

46. Secret Agent T. R. E. McInnes to Wilfrid Laurier, 15 March 1908.

47. Secret Agent T. R. E. McInnes to Wilfrid Laurier, 15 March 1908. Emphasis in original.

out naming race as such. In addition to the continuous journey regulation, it imposed the monetary requirement of \$200 on Indian immigrants. The rationale offered for these restrictions, let us recall, was twofold: The first was the old appeal to the inability of people from a “tropical climate” to “readily adapt themselves to surroundings so entirely different;”<sup>48</sup> the second was the claim that the migration “would result in a serious disturbance to industrial and economic conditions in portions of the Dominion, and especially in the Province of British Columbia.”<sup>49</sup> Hence, an effective restriction on the immigration of Indians was deemed desirable “not less in the interest of the East Indians themselves than in the interest of the Canadian people.”<sup>50</sup>

Together, the continuous journey stipulation and the monetary requirement made the entry of Indians into Canada virtually impossible. In fact, between 1909 and 1913, only twenty-seven Indians managed to enter Canada.<sup>51</sup> These migrants had been allowed entry since they were able to establish that they were returning immigrants with Canadian domicile. However, the Canadian Government continued to press for the adoption of a passport system along the lines of their 1907 proposal.<sup>52</sup> This was in large part due to the confidential report submitted by Colonel Swayne, Governor of British Honduras. Swayne’s report stated not only that barring the immigration on grounds of climactic considerations was hogwash but also that many employers, such as mill owners, preferred to employ the “Sikhs”<sup>53</sup> over white men since they “can be more safely relied upon to give continuous employment.”<sup>54</sup> The cause for anxiety now was that Indian immigrants, despite the “hostility of the white trade unions,” were making and saving substantial sums of money.<sup>55</sup> Thus Swayne speculates that the return of the “Sikhs” “enriched with the savings of five years’ employment in British Columbia, would have a disquieting effect on the Punjab population.”<sup>56</sup>

48. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909.

49. “Report of the Committee of the Privy Council, Approved by His Excellency the Governor General on 2nd March 1908,” *Proceedings A*, May 1908, no. 6, ser. no. 22, encl. no. 9.

50. “Report of the Committee of the Privy Council.”

51. Hugh Tinker, *Separate and Unequal: India and Indians in the British Commonwealth, 1920–1950* (Vancouver: University of British Columbia Press, 1976), 29.

52. Despatch from the Secretary of State for India to the Government of India, 2 April 1909, *Proceedings A*, May 1909, no. 11–12, ser. no. 5.

53. The proceedings overflow with a general conflation and confusion between “Indians,” “Hindus,” and “Sikhs,” though they also point out that some of the immigrants were “Mohameddan” [*sic*].

54. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909.

55. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909.

56. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909.

The “disquieting effect” Swayne refers to concerned the agitation that would ensue with the realization that the rationale of “climactic considerations” that was offered to prevent the migration was unfounded, and that the returning immigrants were in a position to provide new emigrants with the funds necessary to meet the monetary requirement imposed by Canada. Though not explicitly stated, the concern of the Canadian Government was that the continuous journey impediment was insufficient to guard against a fresh attempt at migration. This prompted their claim that “unless some further regulations restricting the influx can be established, there may be a danger of new developments arising with results possibly prejudicial to British interests *in India*.”<sup>57</sup> If, moreover, the Government of India did not impose restrictions on emigration then “the only alternative would appear to be the adoption of further, and from an Imperial point of view undesirable, regulations restricting British Indian emigration to Canada by His Majesty’s Canadian Government.”<sup>58</sup>

Despite the veiled threats of imminent doom, the Government of India refused to acquiesce to adopting the passport system. While recognizing that the return of Sikhs “enriched with five years’ employment” and the “knowledge that Indian labourers are preferred to white men, may give a fresh impetus to emigration to Canada,” the Government of India maintained that the continuous journey impediment was sufficient to guard against the migration:<sup>59</sup> “No new arguments have been adduced which would justify us in abandoning the position we have so far adopted on this subject . . . [and] we cannot propose any measures, such as the suggested introduction of a system of passports, which would *publicly* identify us with the policy of exclusion of Indians from other portions of the Empire.”<sup>60</sup>

A number of fundamental issues were at stake in the passport proposal and the Canadian regulations more generally. Not least of these was the very foundation and legitimacy of the British empire that had now come to rest crucially on the definition of the term “British subject.” The Governor General of Canada was entirely correct in remarking that the imposition of further restrictions was “from an Imperial point of view undesirable.” Indians in Canada had sent a petition to the Colonial government questioning both the monetary requirement and the

57. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909 (emphasis added).

58. Governor General of Canada to Earl Crewe, Colonial Office, 7 January 1909.

59. Government of India to Viscount Morley, the Secretary of State for India, 20 May 1909, *Proceedings A*, May 1909, no. 11, ser. no. 6.

60. Government of India to Viscount Morley, the Secretary of State for India, 20 May 1909 (emphasis added).



continuous journey regulation and “demand[ing their] rights as British subjects with all the emphasis it [could] command”:

The present Dominion Immigration Laws are quite inconsistent to the Imperial policy because they discriminate against the people of India who are British subjects; as they are forced to produce a sum of \$200 before landing, whereas other British subjects are not. . . . The present Dominion Immigration Laws are humiliating to the people of India . . . [since we] are not allowed to enjoy the birth-right of travelling from one part of the British Empire to the other . . . [We also] bring to your notice that no such discriminat[ory] laws . . . [exist] against us in foreign countries . . . to whom we do not owe any allegiance whatsoever. Under these circumstances, we most respectfully implore a favourable consideration and prompt amendment to the unfair laws which impress upon us that we enjoy better privileges under foreign flags than those under the British flag.<sup>61</sup>

The petition further claimed that “as long as we are British subjects any British territory is the land of our citizenship.”<sup>62</sup> Though put forth partially as an appeal to the state, what was tacitly being questioned was the legitimacy of the state and its guarantee to safeguard the well being of its subjects. If the matter of being a “British subject” and claiming that “any British territory is the land of our citizenship” was exercising the minds of the Indians in Canada, it was at the forefront of the official correspondence I have been detailing. The repeated refusals by the Government of India to allow a passport system hinged on this very fact. The conundrum to be overcome was how to distinguish between members of a state, that is, between “British subjects,” without calling the entire edifice of Empire into question. It is crucial that we note that it is a notion of empire and *not* the nation that is paramount here. Indeed, I would go so far as to venture that the “nation-state,” as commonly understood, does not come into being in Europe until the rise of nationalist movements in the various empires. My point here is simple: Since the so-called nation-state, whose “origins” are conventionally seen to lie in Europe, comes into existence in an age of empire, it is so deeply imbricated with an imperial formation that we must treat “nation” and “empire” in a unified field of analysis; in other words, the European nation-state is, more accurately, the European empire-state. This position is simple, but deceptively so. For

61. Communication from British Indian subjects in Canada to Colonial Office, London, 24 April 1910, *Proceedings A*, October 1910, no. 47, ser. no. 8, encl. no. 1, annex 1.

62. Communication from British Indian subjects in Canada to Colonial Office, London, 24 April 1910.

what I am suggesting is that we must reexamine the common view of nation-states as territorially circumscribed, rather than as territorially expansionist.<sup>63</sup> It is the long process of the end of empires that generates the nation-state as a contained entity that, significantly, is the first kind of state formation to have a monopoly over migration.

Let me return to the archival materials that help us see how control over migration has a crucial bearing on the emergence of the nation-state. As a measure to restrict immigration, the Government of India, as I have already indicated, had encouraged the strategy of *using* race without *naming* it as nationality, thus attempting to avoid situations that would “*publicly* identify” them with discriminatory policies and commit them to “incurring all the odium of passing restrictive legislation.”<sup>64</sup> The continuous journey regulation had been enacted in exactly this spirit and further regulations modeled on this schema would become a staple of Canadian legislative measures. Witness, for instance, the correspondence, in 1912, when the Province of Saskatchewan enacted “An Act to Prevent the Employment of Female Labour in Certain Capacities.” The act stated:

No person shall employ in any capacity any white woman or girl or permit any white woman or girl to reside or lodge in or to work in, save as a *bona fide* customer in a public apartment thereof only, to frequent any restaurant, laundry or other place of business or amusement owned, kept or managed by any Japanese, Chinaman [*sic*] or other Oriental [*sic*] person.<sup>65</sup>

The explicit equivalence in this act of nationality with differential treatment led to frantic confidential communication. Writing to the Governor General of Canada, the Secretary of State for the Colonies says that while they have no objection “to the substance of the legislation which they presume has been rendered desirable by local circumstances” they are “strongly opposed to any discrimination affecting Japanese subjects by name . . . and the Government of India have no less strong objection to any provisions so worded as to discriminate by name or by inevitable implication against natives of British India.”<sup>66</sup> Thus, the

63. I develop this argument, concerning the reinscription of the European nation-state as the European empire-state, in a larger project of which this essay is a part.

64. Observation by W. H. Clark, 20 September 1913, *Proceedings A*, October 1913, no. 29–30, ser. no. 44 (confidential).

65. Enclosure in letter from the Under Secretary of State to the Governor General’s Secretary, dated 15 April 1912, *Proceedings B*, May 1912, no. 58 (confidential).

66. Secretary of State for the Colonies to the Governor General of Canada, 17 August 1912, *Proceedings B*, September 1912, no. 14–15 (confidential).

Government of Saskatchewan should be directed to “amend the Act . . . in such a manner as to remove any discrimination by name against Japanese or British Indian subjects.”<sup>67</sup> The overt discrimination, *by name*, against Chinese subjects was deemed permissible due to “the absence of Treaty engagements with China” and to the “many precedents of acts differentially affecting Chinese.”<sup>68</sup> Thus, “as far as Chinese are concerned, . . . it is not necessary to take exception to the terms of the Act [!].”<sup>69</sup> The Colonial Office offers that the Act be reworded to state that “no person without a license to be obtained from some executive authority” shall be permitted to employ any white woman or girl and “thus by differential treatment in the matter of the grant of licenses, the Japanese and other Orientals [*sic*] could be refused licenses . . . [at] the absolute discretion of the Authority selected.”<sup>70</sup>

Several issues that merit mention are crystallized in this event. First, while the regulation is motivated by fears of miscegenation and the urge to protect whiteness, these fears are transferred onto the body of the white woman who must be protected by the chivalrous state. The protectionist stance of the patriarchal state is a conduit for an articulation between race and gender. Second, the correspondence surrounding the regulation enables us to see the machinations involved in interweaving racism and a juridical liberalism. The efficacy of the unnamed racist strategy of the law is fully dependent on the individual executive authority selected to grant licenses. Thus, it is not that individuals inadvertently employ the law in racist ways, but that individuals must make race-based distinctions to ensure that the law operates in racist ways. Here, ironically, racism can function only by adhering to “the spirit” as opposed to “the letter” of the law. Racism is thus instituted by bureaucratic discretion and the exercise of that discretion is crucial to maintaining, and fulfilling, the “spirit” of the law.<sup>71</sup> (The same strategy undergirds the rephrasing of the continuous journey regulation from “shall” to “may” be prohibited landing.)

Third, the correspondence and, let me add, the subsequent acceptance of the suggested amendment to the Act, point to the dangers in assenting to a teleological narrative about a chronologically diminishing racism, a narrative that works in tandem with an appeal to a hermetically sealed notion of “the spirit of the times.” What we see in the exchange over the “Act to Prevent the Employment of

67. Secretary of State for the Colonies to the Governor General of Canada, 17 August 1912.

68. Secretary of State for the Colonies to the Governor General of Canada, 17 August 1912.

69. Secretary of State for the Colonies to the Governor General of Canada, 17 August 1912.

70. Secretary of State for the Colonies to the Governor General of Canada, 17 August 1912, attached note.

71. My thanks to Melissa Orlie for suggesting the formulation of bureaucratic discretion to me.

Female Labour in Certain Capacities” is not that racism was so pervasive as to evade interrogation but quite the opposite: that the racist state developed in cognizance of its racism. And the “guilt” of racism is evident both in the demand for confidentiality of the documents and in the general policy of not *naming* race. As such, the view that the practice of virulent racism was/is somehow conducted “unintentionally” or, alternatively, with “the best of intentions,” and diminishes over time is not only empirically weak but also lends credence to a progressivist notion of history that detracts attention from the current prevalence of racist ideologies.

The fourth point this event illuminates concerns the particularities of the linkages between nationality, the state, and race. Since Britain did not have any treaty agreements with China, it did not feel under any obligation to not impose race-based policies vis-à-vis the Chinese. In this case, race-based policies could be easily rationalized and explained away, post hoc, as the logic of the state and as unrelated to race. The matter was somewhat more complicated with regard to Japan, with whom Britain and Canada did have treaty agreements that could not be jeopardized. In the case of India, the situation constituted a real dilemma, due to common membership in Empire and, hence, common Imperial citizenship. The strategy of the imperial state, of employing racial difference without naming race, produces two significant outcomes: first, the peculiar, though now naturalized, splitting of a racist discourse that is not merely able but forced to distinguish between the Chinese, the Japanese, and the Indian; second, this splitting of a racist discourse generates nationality not on the terrain of nationalism or national community but on a terrain overdetermined by race and the relationship between states. Nationality (i.e., the Chinese, the Japanese, and the Indian) here is activated as a *state assignation* that is an alibi for race, rather than in its more familiar guise of nationalist narratives of origin and authenticity.

Nationality, in other words, is the outcome of how the state rationalizes race and implements a racist agenda; but, so far, there has been no mention in the correspondence of appeals to nationalist narratives that bequeath and legitimate nationality on, quite literally, the soil of the territorial nation, which is rather different from nationality as a state designation made on juridical grounds. This is true for all participants to the conversation—the Canadians, the British, the Indians (both the Government and British Indian subjects), the Japanese, and the Chinese. A more full-fledged, robust, and familiar notion of nationality as a narrative of origin and authenticity was in gestation in these regulations. And this understanding of nationality, whereby people are tethered to the geographical space of the nation, would, articulated to other discourses, eventually culminate

in the passport as the definitive state document authorizing national identity and further curtailing mobility.

The Canadian restrictions vis-à-vis Indians had not only prevented the further migration of Indians into Canada, they had effectively functioned as a mechanism causing the exodus of Indians already there, since their families were unable to join them. Thus, from 6,000 men in 1906, the number of Indians in Canada had dropped to 4,500 (of whom only three were women) by 1915.<sup>72</sup> The regulations that were implemented, as we have seen, attempted to retain the appearance of an unfissured Imperial citizenship and keep intact the status of the “British subject” even as the actual motivations and effects of these regulations were quite the opposite. As the intricacies involved in using a racist strategy without naming race were becoming increasingly complex and impossible to disguise, the difficulties with retaining the juridical appearance of an unfissured “British subject” were also being exacerbated. There are, in other words, only so many convolutions one may enact around race without naming it.

Indians in Canada had, of course, seen through these thinly veiled strategies of racial exclusion and had vehemently, and repeatedly, protested the differential treatment they received. In fact, they had gone further. Amongst the Indian emigrants in Canada were several who had been actively involved in revolutionary politics in India and, indeed, many had left India in order to escape arrest for “terrorist” activities.<sup>73</sup> The temples, schools, and associations established by the Indian community in Canada also functioned as covers for “seditious” activities: These included the publication of several newspapers and pamphlets both circulated in North America and sent to India.<sup>74</sup> The translation officer attached to the Canadian Immigration Office at Vancouver, John Hopkinson, was simultaneously on the payroll of the Indian police and the Criminal Intelligence Department of India and gathered information on the activities of “seditious” Indians. The aim of the revolutionaries was unambiguous—to overthrow British rule in India, if necessary by violent means. Hence, the revolutionaries utilized every instance of differential treatment toward Indians to undermine the British empire and whip up

72. President of the United Provinces Congress Committee, Allahabad, to the Secretary to the Government of India, 25 January 1915, *Proceedings A*, June 1915, no. 1–2.

73. For biographical accounts on revolutionary Indian emigrants in Canada, see Hugh Johnston, *The Voyage of the Komagata Maru: The Sikh Challenge to Canada's Colour Bar* (New Delhi: Oxford University Press, 1979) and the confidential report prepared by James C. Ker in 1917, republished as *Political Trouble in India* (Delhi: Oriental Publishers, 1973).

74. These included the *Free Hindustan*, the *Swadesh Sewak*, and the *Hindusthanee*. The Canadian revolutionaries were also in contact and concert with Har Dayal, the founder of the *Ghadr* (“Anarchy” or “Revolution,” often mistranslated as “Mutiny”) party in the United States.

support for their cause—not only in Canada but, more significantly, in India.

Until September 1913, the Government of India had been steadfast in its refusal to participate in a passport system to restrict emigration to Canada, grounding its refusal in the principle of “complete freedom for all British subjects to transfer themselves from one part of His Majesty’s dominions to another.” Thus S. H. Slater, the Undersecretary to the Government of India, states that “We have consistently declined to be parties to such a policy [i.e., a system of passports], and there seems no reason why we should abandon our attitude.”<sup>75</sup> Further, given the limitations of Act XXI of 1883, the Government of India had “infact [*sic*] no legal power to insist that every emigrant to Canada should obtain a passport before starting.”<sup>76</sup> Reiterating their position from 1908 concerning the “state of public feeling in India” the Government of India writes that “the state of public feeling now [i.e., in September 1913] renders any such legislation even more undesirable . . . [and] if we attempted it, we should raise a storm of protest all over India; and without legislation we have no power to restrict free emigration.”<sup>77</sup> By 1913, the situation of Indian emigrants in Canada and South Africa had become something of a political cause célèbre within India.

But two related events would cause the position of the Government of India on the Canadian passport proposal to be radically altered. The first of these events was the October 1913 arrival, at Victoria, of fifty-six Indians aboard the *Panama Maru*. All claimed prior domicile as the basis for (re)admission into Canada. John Hopkinson, the translator, who doubled as the intelligence agent for the Indian police, let in seventeen whom he thought he recognized. The remaining thirty-nine immigrants were denied admission on the grounds that they had violated the Orders in Council. One of them, however, escaped from the Immigration Hall where they were locked up.<sup>78</sup> The Indian community managed to challenge the decision of the Board of Inquiry of the Immigration Department by demonstrating that the language of the Orders in Council, which had been cited to prohibit the thirty-nine immigrants from entry into Canada, did not conform to the language of the Canadian Immigration Act of 1910. In other words, since it was the Orders in Council that had been used as the basis for denying

75. Comments of S. H. Slater regarding telegram from the Secretary of State, 19 September 1913, *Proceedings A*, October 1913, no. 29–30 (confidential).

76. Comments of J. F. Gruning regarding telegram from the Secretary of State, 22 September 1913, *Proceedings A*, October 1913, no. 29–30 (confidential).

77. Comments of J. F. Gruning regarding the telegram from the Secretary of State, 20 September 1913, *Proceedings A*, October 1913, no. 29–30 (confidential).

78. Johnston, *The Voyage of the Komagata Maru*, 20.

admission to the Indians, and they were not in consonance with the Immigration Act, the decision of the Board of Inquiry was rendered void.<sup>79</sup> Thus, thirty-four of the remaining thirty-eight immigrants were allowed entry. Four were denied admission on medical grounds, but they too succeeded in running away from the Immigration Hall.<sup>80</sup> In sum, all fifty-six Indians who had arrived on the *Panama Maru* managed, in one way or another, to enter Canada.

The news of the Indian victory in the courts, in the case of the passengers of the *Panama Maru*, soon spread; and it was this, combined with the active encouragement of the revolutionaries in Canada, that provided the impetus for Sardar Gurdit Singh to hire a ship, the *Komagata Maru*, to sail from Hong Kong to Vancouver, with stops at Shanghai in China and Moji and Yokohama in Japan. In all, the ship gathered 376 passengers, mostly Sikhs, and arrived at Vancouver on 23 May 1914.<sup>81</sup> The Canadian government had, by now, eliminated the dissonance between the Orders in Council and the Immigration Act that had allowed the passengers of the *Panama Maru* entrance into Canada;<sup>82</sup> however, there were still grave risks in the absurdity of the continuous journey regulation as well as the definition of a “British subject” being scrutinized in court.<sup>83</sup> Moreover, since Sardar Gurdit Singh had initially attempted to hire a ship to sail directly from India,

79. Confidential letter from the Governor General of Canada to Colonial Office, 31 December 1913, *Proceedings A*, June 1914, no. 10–11, encl. no. 2.

80. Confidential letter from the Governor General of Canada to Colonial Office, 31 December 1913.

81. Johnston, *The Voyage of the Komagata Maru*, 29–38.

82. Report of the Committee of the Privy Council, approved 23 February 1914, *Proceedings A*, June 1914, no. 10–11, encl. no. 11.

83. Unfortunately, it would take me too far afield to present the extraordinary web of events surrounding the *Komagata Maru* incident. But here is a bare-bones sketch: The immigration agent at Vancouver, Malcolm Reid, in direct contravention of the law, at first delayed hearings of the Board of Inquiry. He then held hearings but withheld any decision regarding acceptance or deportation of the passengers so that there would be no decision to challenge in court. Eventually, at the end of June, more than a month after the *Komagata Maru* had arrived in Vancouver, Edward Bird, the lawyer hired to represent the Indians, was allowed to try a “test case” in the Court of Appeal where the case would be decided by a panel of judges. Bird lost the appeal, and the panel of judges upheld the Immigration Act and the Orders in Council. However, the matter did not end there and, ultimately, with an array of several hundred armed militia men lined up on the pier, the *Komagata Maru* was escorted out of the Vancouver harbor on 23 July under the guard of the *Rainbow* (which, along with the *Niobe*, constituted the entire Canadian navy at the time) and the immigration vessel the *Sea Lion*. On their return to India, the passengers were met by the police as seditionists, and twenty were killed in the fracas that followed. Thirty-one were imprisoned, and those released were closely watched by the police. Twenty-seven, including Sardar Gurdit Singh, were fugitives. In 1922, at the recommendation of Gandhi and the Indian National Congress, Gurdit Singh turned himself in to the police and spent five years in prison. For further details, see Johnston, *The Voyage of the Komagata Maru*.

the arrival of the *Komagatu Maru* indicated the precarious status of the continuous journey regulation causing a furor in the Canadian House of Commons as well as in India. Since outright appeals to biological racism and racial superiority could not be countenanced, the debate in Canada proceeded to substitute cultural racism for biological racism while simultaneously advocating for the principle of the sovereignty of states based on *national* grounds. Thus, for instance, Frank Oliver, who had been Minister of the Interior at the time of such measures as the continuous journey regulation but now formed part of the opposition, voiced his objection to the immigrants thus:

The immigration law as it stands is a declaration on the part of this country that Canada is mistress of her own house and takes the authority and responsibility of deciding who shall be admitted to citizenship and the privileges and rights of citizenship within her borders. . . . This is not a labour question; it is not a racial question; it is a question of national dominance and national existence. . . . This [the *Komagata Maru* incident] is an organized movement for the purpose of establishing as a principle the right that the people of India, and not the people of Canada, shall have the say as to who may be accepted as citizens of Canada.<sup>84</sup>

While Frank Oliver attempts to cover over the racist motivations for disallowing Indians into Canada in terms of the threat they posed to the very definition of the sovereignty of the state, Wilfrid Laurier, earlier the Prime Minister but now also part of the opposition, is more direct in his comments: “The people of Canada want to have a white country, and certain of our fellow subjects who are not of the white race want to come to Canada and be admitted to all the rights of Canadian citizenship. . . . These men have been taught by a certain school of politics [i.e., liberalism] that they are the equals of [white] British subjects; unfortunately, they are brought face to face with the hard facts only when it is too late.”<sup>85</sup>

Laurier’s comments are remarkable in their candidness since the kernel of the entire struggle over the passport system was precisely about how to effect racial exclusion without naming race. Thus, while the necessity and validity of racial exclusion was widely accepted, as is abundantly clear from the confidential correspondence, the overriding discourse of liberalism made it impossible to actually

84. “Official Report of a debate in the Canadian House of Commons on Asiatic Immigration,” *Proceedings A*, October 1914, no. 1.

85. “Official Report of a debate in the Canadian House of Commons on Asiatic Immigration.”



implement policies that directly cited race. We have seen how the different arms of the liberal empire-state, by incorporating caveats into each policy, utilized the strategy of bureaucratic discretion time and again to circumvent this problem.<sup>86</sup> The fundamental dilemma, let me reiterate, was that Indians were British subjects and thus, unlike the case with China, the discourse of the liberal-state made it exceedingly difficult to distinguish between subjects of the British empire.

As with the 1910 petition from Indians in Canada protesting the continuous journey regulation on the basis of membership in Empire, the meetings and memorandums caused by the *Komagata Maru* incident appealed, once again, to the notion of Indians as British subjects: “The deep loyalty of Indians to the British Raj springs from the consciousness that the British maxim *par eminence* is that of equal justice and fair play. Under the aegis of the British ideal of justice, Indians only seek for equal chances with their fellow-subjects in other parts of the Empire, so that they may legitimately feel the pride of being citizens, in the full sense, of the Great Empire over which the sun never sets [!]”<sup>87</sup> Based in the notion of justice and fair play, the memorandums also questioned the unrestricted entry of (white) inhabitants, from other parts of the British empire, into India.<sup>88</sup> And, further, issued the threat “that Canada must be made to understand that she is dealing not with 600 [*sic*] men only, but with 33 crores [330 million] of Indians.”<sup>89</sup>

The *Komagata Maru* incident precipitated a rapid transformation in policy. In fact, the very same S. H. Slater, of the Government of India, who in September 1913 had vehemently rejected the passport system, would eight months later voice a diametrically opposed position: “Circumstances are now compelling a stricter definition of such phrases as . . . ‘membership of the British Empire.’ It is now conceded that such membership does not carry with it the right of free entry to all parts of the Empire. [Therefore,] in this narrower view . . . it will no longer be held that every measure of exclusion of Asiatics from territories forming part of the Empire is necessarily and *ipso facto* an injustice to Indians.”<sup>90</sup>

But regardless of the “circumstances” that were “compelling” this “nar-

86. The state functionaries, moreover, were fully aware of this. Thus a confidential memorandum states: “The efficacy of these Acts, in fact, rests to some extent on a subterfuge.” India Office Memorandum on Indian Immigration into Canada, 26 August 1915, *Proceedings A*, October 1915, no. 68 (confidential).

87. “Memorial regarding the grievances of Indians in Canada,” *Proceedings A*, April 1914, no. 13–16.

88. “Memorial regarding the grievances of Indians in Canada.”

89. “Confidential Weekly Diary for the Week Ending the 13th of June 1914 of the Superintendent of Police, Lahore,” *Proceedings A*, July 1914, no. 3.

90. S. H. Slater to R. E. Enthoven, 26 May 1914, *Proceedings A*, September 1914, no. 18–20 (confidential).

rower view,” how was it to be justified? Especially in the face of the increasingly militant and vociferous protests from Indians around the globe? R. W. Gillian, in his comments in the correspondence, offers the most clear statement of the rationale to justify broader migration regulations. Gillian points out that the Government of India’s policy in rejecting the passport proposal and its reluctance to interfere with “free” migration, though resting on the principle that “a British subject [had] a right to go and reside in any part of the Empire,” had a “double aspect.”<sup>91</sup> For the Government, while on one hand refusing to interfere with “free” emigration from India, had not, on the other hand, balked at suggesting that different parts of Empire impose all manner of restrictions on immigration, so long as their racist motivations were suitably disguised. This, writes Gillian, “is what appears to me an inconsistency. We adhere to our policy, while abandoning the principle on which it has always rested.”<sup>92</sup> Moreover, the intransigent position of the Government of India could not, in Gillian’s view, “be defended on its merits, since it denies in effect the right of our Colonies and even of other countries to settle their own affairs.”<sup>93</sup> Gillian here echoes Frank Oliver’s comments in the Canadian House of Commons that control over immigration is somehow fundamental to the very definition of state sovereignty; a line of reasoning that would soon catapult into bringing all migration under state control.

However, as Gillian continues, “If the right of Canada or Australia to manage their own affairs is admitted, what about India? If the right is denied to her, the result is immediately to emphasize her subjection in an extremely unfortunate manner.”<sup>94</sup> What was required was a mechanism that would “secure some kind of reciprocity,”<sup>95</sup> and “which [would] above all things . . . have the *appearance* of giving equal treatment to British subjects residing in all parts of the Empire.”<sup>96</sup> It was imperative to vigorously cling to inscribing the letter of the law as universal, while ensuring that, in practice, this universality would function differentially.

And it would be the “universal” category of nationality, already overlaid with

91. Comments of R. W. Gillian, 23 June 1914, *Proceedings A*, September 1914, no. 18–20 (confidential).

92. Comments of R. W. Gillian, 23 June 1914.

93. Comments of R. W. Gillian, 23 June 1914.

94. Comments of R. W. Gillian, 23 June 1914.

95. Comments of R. W. Gillian, 23 June 1914.

96. Comments of R. E. Enthoven, 13 June 1914, *Proceedings A*, September 1914, no. 18–20 (confidential); emphasis added.

culturalist racism, that could be mobilized in such a way as to tether people to geographical space. It was, thus, through a recourse to the idea of states as securing sovereignty through an appeal to the “national” that the principle of the “complete freedom for all British subjects to transfer themselves from one part of His Majesty’s Dominions to the other” was abandoned and the category of “British subject” was rendered available for division and differentiation based on the rule of colonial difference. Since, writes Viceroy Hardinge, “thoughtful people will agree that states and countries have an inherent right to decide whom they will or will not admit within their borders,”<sup>97</sup> the solution decided upon is to “undertake to furnish passports to emigrants entitling them to admission into the Colonies and India respectively. The number of these permits or passports would be limited by agreement.”<sup>98</sup> It was, further, fortuitous that by now the war was well underway, thus lending credence to the notion of state security. Indeed, the official rules for requiring passports from all Indians proceeding outside India—though, significantly, this did *not* apply to indentured labor—appear as the Defence of India (Passport) Rules, which were a subsection of the Defence of India (Criminal Law Amendment) Act, 1915. This act made embarking on a journey from any port in British India without a passport a criminal offense.<sup>99</sup>

The legitimation for state sovereignty has historically been made on various grounds. One of the features that distinguishes the nation-state from other state formations is that the state secures sovereignty via an appeal to the nation.<sup>100</sup> The acceptance of the passport system not only is underwritten by this barely emergent understanding of the sovereignty of states premised on the national but is central to ensuring its effectivity. Ironically, the debate had come full circle and was resolved along exactly the same lines as the initial 1907 proposal put forth by Wilfrid Laurier, which the Government of India had objected to for ten years. The crucial distinction, however, was that the appeal to the national enabled a principle of pseudo-reciprocity and thus pseudo-universality to be inscribed within the passport system. The passport emerges here as a state document that purports to assign a national identity rather than a racial identity—a mechanism that would conceal race and the racist motivations for controlling mobility in the guise of a

97. Comments of Lord Hardinge, Viceroy of India, 8 July 1914, *Proceedings A*, September 1914, no. 18–20 (confidential).

98. Comments of R. E. Enthoven, 13 June 1914.

99. “Compulsory Passport Regulations,” *Proceedings A*, June 1917, no. 8–22.

100. For a overview of different grounds for state sovereignty, see J. Samuel Barkin, “The Evolution of the Constitution of Sovereignty and the Emergence of Human Rights Norms,” *Millennium: Journal of International Studies* 27 (1998), 229–252.

reciprocal arrangement between states described as national. Simultaneously, and crucially, however, this formation of the passport generates “nationality” as the intersection between the nation and the state. Inscribed on the body of the migrant are the traces of both the state and the nation-race. This produces what I called in my introduction to this essay the “nationalized” migrant, which entails a yoking together of “nation” and “state” on the terrain of race. The development of modern racism and the modern state are thus coproduced in such a way as to nationalize state-territorial boundaries, which are explicitly raced.

Despite Hardinge’s remark that states have an “inherent right” to monitor migration, the history I have presented here shows how it took ten years for this inherent right to become evident. It is clear that the rights that accrue to states are historically specific and emerge from certain historical exigencies. The emergence of the nation-state as the first state formation to exercise a monopoly over migration indicates not that control over mobility begins *after* the formation of the nation-state but that the very development of the nation-state occurs, in part, to control mobility along the axis of the nation-race. It is thus that “nationality” comes to signify a privileged relation between people and literal territory; and it is this relation, which sutures nationality to territory, that the passport helps consolidate daily. One might then say that modern migration produces nationality—not in the sense of a craving for a homeland that is identified as a nation but rather in the subtle, supple, and yet uncircumventable sense of how today the historical burden of a technology such as the passport demands a “nationalized” subject who might engage in legal mobility. An attention to the resilience of such concrete technologies should also give us pause when we make pronouncements regarding the death of the nation-state and the emergence of an era of globalization.<sup>101</sup>

To conclude, then, while presently we tend to think of the passport as not merely a necessary document for international travel but one that facilitates such movement, its history reveals that it is born out of an attempt to restrict movement along national lines that are explicitly raced. Among the histories calcified in the history of the modern passport is a history of twentieth-century racism and a history of naturalizing the territorial boundedness of a national space as self-evidently the legitimate abode of certain people. The nineteenth-century state interventions regulating the movement of indentured Indian labor were animated by a concern to distinguish this movement from the slave trade and were justified

101. Here my position diverges from, for instance, Arjun Appadurai’s work on globalization and the emergence of “postnational” identities. See Arjun Appadurai, *Modernity at Large* (Minneapolis: University of Minnesota Press, 1996).

by a rule of colonial difference anchored in the “civilizing mission.” The twentieth-century state interventions regulating the movement of “free” Indians, embodied in the passport, were justified by a rule of colonial difference anchored in “nationality.” The passport is thus a document that has effectively naturalized the rule of colonial difference in what one might call the “rule of postcolonial difference,” where the marker of difference is not “race,” but the “universal” category of “nationality.” It is therefore no surprise that today different “nationalities” have differential access to mobility.

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