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De-centering Carl Schmitt: The Colonial State of Exception and the Criminalization of the Political in British India, 1905-1920

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If the work of Carl Schmitt can be seen as a nomothetic approach to international law and the inter-state system in the nineteenth and twentieth centuries, which in fact is concerned with the interwar period and the end of the liberal order—it is a Eurocentric view; it is founded upon European-centered historical processes. To oppose the imbalance in Schmitt’s examination of the international dissolution of the classical liberal order articulated in his *The Nomos of the Earth*, this essay seeks to consider Schmitt’s political theory ideographically by tracing the history of the politico-juridical order in British India during the latter half of the period of order breakdown, 1890 to 1918, with special attention given to the fifteen years between 1905 and 1920.

According to Schmitt, the *jus publicum Europaeum* (*JPE*) arose from the medieval Christian order (*respublica Christiana*)—and, unlike that European-based (especially in spatial terms) Christian order, the *JPE* was global in its extension. It emerged during the “Age of Discovery” and the annexation of American territories to Europe. The *JPE* was based on spatial and civilizational distinctions between European and non-European territories. In Schmitt’s view, the structure of the old order conceived of the state as being separate from society, and the political as being separate from the economic.

For Schmitt, the *JPE*, or the European-dominated global order (international system of states), dissolved in the period 1890-1918, during which the “distinction” between “civilized” and “non-civilized” worlds essentially collapsed at the end of World War I as the old order of the *JPE* politically and institutionally dissolved in the provisions of the Treaty of Versailles and with the creation of the League of Nations. In his discussion of modern European imperialism, Schmitt concerns himself mainly with the colonization of the Americas and the rise of the United States in the late nineteenth century. The “voyages of discovery” represented a new historical epoch, a truly global European *nomos*. From the late nineteenth century on, the western hemisphere spatially came to operate distinctly from the European “great powers” and became a *Großraum* of the Americas, dominated by the United States. However, Schmitt’s concentration on the European conquest and settlement of the Americas places a limit on what in retrospect could have been a more global discussion of the establishment of a *JPE*. Although Schmitt dedicates an entire chapter to the “Congo Conference” of 1885 and the subsequent “scramble” for colonial territories in Africa, he fails to include in his discussion Europe’s colonial territories in Asia. In general terms, Schmitt regards modern European imperialism as a process of land appropriation (*Landnahme*) and political annexation of non-European territories. His concerns, then, are those of the imperial metropole, of a European global order disrupted by radical shifts, most notably, the emergence of the United States as the first hemispheric power (post-Monroe Doctrine) that was to become a global power after the 1890s. Thus the dissolution of the *JPE* brought about a decline of European “consciousness,” and in place of this order, or *nomos*, an “indiscriminate” and “spaceless” international law emerged.

In *The Concept of the Political*, first published in 1927, Schmitt focuses on the “nature of the political” (19) and

the relations between state and society. The state in this instance is “in the decisive case the ultimate authority” (20). The political, for Schmitt, is “generally juxtaposed to ‘state’ or at least is brought into relation with it” (20). He introduces four distinctions of the relations between state and society: moral, aesthetic, economic, and political. The political distinction is based on “political actions and motives [that] can be reduced [to] that between friend and enemy” (and *not* foe) (26). Schmitt makes clear distinctions between the dichotomies of friend/enemy and friend/foe. These distinctions determine the manner of relations during peace and wartime. The friend/enemy distinction is a relationship between “enemy” states, both of which are members of a political community, of an international political order. The friend/foe distinction is quite simple: it retains the notion of an enemy, but it differs from the friend/enemy dichotomy in the absolute otherness of the enemy. The foe, as an absolute enemy, is not part of a political collectivity that, after a period of war, could negotiate terms of peace. Rather, the foe was the antithesis to the *JPE*. In many ways then, the category of “foe” can be applied to the distinction between colonizer and colonized.

One must wonder throughout this and other of Schmitt’s writings about the nature of the colonial state. In what ways can one read the colonial state into the work of Schmitt? If the sovereign decides upon the exception, how can we consider this in regard to the power of the colonial state? I would like to suggest that political contestation and resistance served as crucial elements in a dialectical relationship of the conceptualization of what it meant to be “political” in British India during the period of Schmitt’s collapse of the *JPE*.

The British Indian colonial state tried to control the antagonistic element of the colonial “other,” understood in juridical terms as “criminal.” [1][#N1] The criminalization in the colonies of what the British liberal state considered natural (and political) rights was an ever-evolving process in British India during the early twentieth century. The emergence of the *swadeshi* movement after 1905 has been seen as a critical period in the nationalist struggle. In the years after 1905, the British Government of India enacted a number of draconian laws to curb dissent, which resulted in an ever-increasing population of “political” prisoners. In 1920 the general amnesty and release of so-called “political” prisoners in India began, following the Proclamation of December 24, 1919, by King George V, ostensibly to celebrate the end of World War I.

To try to understand the colonial state of exception let us consider a question Giorgio Agamben poses in the very first pages of the opening chapter of *State of Exception*: “what does it mean to act politically?” (2) In order to transpose that question to the historical context of anti-colonial resistance in India during the first two decades of the early twentieth century, we need to examine the contingent nature of “acting politically,” whereby colonial legal measures were applied in an effort to control and suppress what colonial officials described as politico-criminal activities. In short, to understand the historical contingency of what it means to act or to be “political,” it is essential to examine dialogically [2][#N2] the colonial Government of India’s defining and confining of self-described Indian political prisoners during the formative period of the “extremist” nationalist movement in the years 1905-1920. Primary attention is given here to the “political” prisoners that were transported to the Andaman Islands and were imprisoned at the Cellular Jail, away from the general “criminal” population. In addition to spurious use of penal codes against sedition and other related criminal acts (e.g., sections 121, 121A, 122, 123, 124, 124A) [3][#N3]—as defined and applied broadly by the British Indian government—the colonial regime provided further impetus to the “political” prisoners in their demand for special “political” status by isolating those prisoners from “common” criminals. The effort by these self-described “political” prisoners to designate themselves as political—they who sought to be recognized by the government as such—and receive better food rations, less rigorous labor, and an increased number of clerical positions, was an attempt by the prisoners to further distance themselves from the nature of the “crimes” committed by the “common” criminals. Political legitimation in the context of colonial rule and anti-colonial resistance, sought by the “political” prisoners but denied by British colonial authorities by juridical and penal means, reveals two strands in the historiography of the Indian nationalist movement and colonial authority: the elitist element of “extremist” politics in the early twentieth century and the authoritarian structure of the colonial state that fed anti-colonial

resistance. Efforts by the government of India to de-legitimize a “political” struggle, and reduce it to criminal activity, clashed with the ones of “political” prisoners attempted justification of the recognition and the authenticity of their anti-colonial resistance.

As David Scott makes clear in his essay “Colonial Governmentality,” colonial power “introduced a new politics,” one that was related to a particular rationality. In the case of the criminalization and policing of political activity and in the articulation of political prisoner identities in the early twentieth century, we see the introduction of a new politics, of what Scott refers to as the “governing effects on colonial conduct” (204). In the case of colonial India, such politics and its relationship to intelligence collection, policing, surveillance and the juridical force, was simultaneously *resisted* and *incorporated* into anti-colonial discourse, especially in the constitution of the political practice of “political” convicts, or that of the designation of one as a political prisoner. In other words, the shape and scope of the exceptionalist colonial state represented a new type of politics; and that politics was a type of dialectic that challenged not only colonial authority, but also the old *nomos* in its totality. At the time of the dissolution of the *JPE* we see a global circulation of anti-systemic ideas and practices and, in the specific case of resistance to colonial rule in India, there existed a complex interaction that has been simplified in previous histories as one between the colonized and the colonizer. In that sense we can re-work Carl Schmitt’s notion of the exception and the nature of a global *JPE* and apply it historically to colonial India during the years 1905-1920, from the Partition of Bengal (1905) to the Rowlatt Acts and the Proclamation of King George V in 1919. The colonial state was a constitutive element in the development of the modern state, but expressly distinct from that of the European liberal state. In that way, I concur with Partha Chatterjee, [4][#N4] but more specifically with his most recent work, *The Black Hole of Empire*, in which he claims that “modern empire...is a constituent part...of the history of modernity” (i). Chatterjee generalizes his argument about the “global practice of power,” by contrasting the colonial state with the Euro-American one during the period of Schmitt’s *JPE*, asserting that there exist(ed) “varying degrees of exception to that norm [European politico-juridical order] in the relations between imperial powers and entities of inferior states” (*The Black Hole* 337). Lastly, for what interests me about Schmitt and the colonial state, Chatterjee states: “The most reliable definition of an imperial practice remains that of the privilege to declare the exception to the norm” (*The Black Hole* 337). I would argue further, stating more explicitly that the colonial state was a state of exception.

The colonial state made the modern state possible, and as we see in more recent times, the authoritarian practices of the modern state seem rather more like the colonial state than that of some idealized modern liberal state—or, the modern liberal state is something like an illiberal state veiled by the deployment of liberal ideals of freedom, liberty, equality and justice. The colonial state, then, represents a *permanent state of exception*, and, as such, represents a break or separation from the modern state as discussed in different ways by Schmitt, Agamben, and Chatterjee. The colonial state’s difference from that of the modern (metropolitan) state rests in the constancy of the state of exception, that is, in a permanent state of exception that sets the colonial state apart from the modern liberal state. The establishment of a juridical system and a policing mechanism served as two pillars in the maintenance of political order in late nineteenth- and early twentieth-century British India. In this process of colonial state formation, we see the (colonial) state move beyond conquest and expansion—or what Schmitt refers to as “occupation”—to a more stable and secure colonial sovereignty. During those first two decades of the twentieth century, the exceptionalist-in-the-making colonial state continuously tried to reproduce itself in the face of resistance and challenges to its legitimacy or its sovereignty. Challenges to colonial authority at one level revealed the precarious order of the colonial state while emergency measures and increased surveillance to control dissent revealed the further criminalization of the colonial subject. The various penal codes established by the colonial Government of India discussed below that sought to criminalize and suppress political activities in the early twentieth century reflect the dialogical nature between the colonial state and forms of resistance to it. In this instance, the period of Schmitt’s decline of the *JPE* can serve as a rich resource to examine the dialogical process by which the “political” (in terms similar to Benjamin’s in his “A Critique of Violence”) emerges in this collapse of the old *nomos*. Schmitt’s relative silence on the politicality of the colonial

subject to challenge the *nomos* serves as a reminder of the limitations to his conceptualization of the “political” as well as of his myopic view toward the breakdown of the old order.

The historical contingency to the making of the state of exception is seen in the ad hoc basis of the colonial state of exception, especially during the period under review—whether in reference to the Special Courts established in the more troublesome provinces (e.g. Punjab, Bengal, and Bombay [Maharashtra])—or to other Acts that sought to criminalize political activity in India. There are many examples of this in British India in the nineteenth and twentieth centuries. Regulation III of 1818 allowed the British to detain political suspects without trial in Bengal. In the period between 1905 and 1920, the passage of the Prevention of Seditious Meetings Act of 1907 banned public meetings “likely to cause disturbance, public excitement, or of any political subject, or for distribution of printed matter” (*Punjab record*, 25). The Explosive Substances Act of 1908, which was based on a version of this act that was passed in Great Britain in 1883, banned the sale, possession, and distribution of certain chemicals that could be used to manufacture bombs. The Newspapers (Incitement to Offences) Act of 1908 allowed the prohibition of newspapers, the confiscation of presses, and the fines against publishers who printed “seditious” material. The Indian Criminal Law Amendment Act of 1908 created special tribunals composed of three high court justices to try certain criminals, many of whom were tried under sections 121-124 of the *Indian Penal Code* (hereafter IPC). The Indian Press Act of 1910 further silenced the publication of printed material deemed seditious. During World War I, the Defense of India Act of 1915 was introduced. The Act was ostensibly enacted to combat Bengali “anarchists.” The Act itself was similar to the Defense of the Realm Acts of 1914 and 1915 that was enacted in the United Kingdom in the first years of the outbreak of World War I. The Revolutionary and Anarchical Crimes Act, 1919, commonly referred to as the Rowlatt Acts, extended the Defense of India Act following the end of World War I. We see in these examples the legal means created to combat anti-colonial resistance as a type of micro-physics of power (Foucault 139). Such juridical techniques of power were part of a broader structure of information collection and policing.

The information and intelligence collected about “anarchist” criminals obtained by the colonial Indian state circulated throughout the various governing agencies of the empire, between and within the metropole and the colony. Communications between Indian government officials, provincial, central and imperial, came in many varieties. Intelligence collection and policing served as a technology of power, which was instrumental to colonial governmentality, applied, in this case, against those segments of the Indian colonial population declared (political) criminals. The surveillance activities of the colonial state empowered by the introduction of new legal codes assisted in (re)producing the distinctions between “political” and “criminal” activities.

Let me offer a brief historical overview of the making of the colonial state of exception. This historical introduction serves two functions: first, it demonstrates the historical contingency of the colonial state of exception and, second, it shows that although the colonial state was indeed a political entity distinct from the modern liberal state, as argued by Guha and Chatterjee (*The Nation*), it is part of the history of the modern state itself. The evidence presented below is confined mainly to that of the juridical nature of the colonial state in relation to anti-colonial resistance and to “political” (criminal) offences.

English criminal law established precedence for later colonial Indian law by not clearly distinguishing or separating political offences from criminal law generally. We see the modern genealogy of political prisoners in England and Ireland between 1840 and 1914 with regard to the Chartist (1840s), Fenian (1880s), and Suffragist movements (early 1900s) (Radzinowicz and Hood). During the first decades of the nineteenth century, the operative law for what may be considered a political crime was covered by seditious libel and high treason. [5][#N5] By mid-century, the passage of the Treason-Felony Act [6][#N6] classified criminal offences and related punishments in three categories of severity according to the crime and its punishment:

1. High treason: death
2. Treason-felony: transportation of seven years to life

3. Sedition: imprisonment

Categories 1 and 2 were considered a felony, and category 3 was considered a misdemeanor. In dealing with the Fenian insurrections and Irish political dissent, treason-felony codes were designed to punish any rebellion against English rule. Most importantly, political offences designated treason-felony or sedition were portrayed as “crimes of passion,” a typology of an emotionally driven and, therefore, irrational criminal act (Radzinowicz and Hood 1448). Hence, attempts by prisoners convicted under the Treason-Felony Act to claim special status as “political” prisoners could be dismissed *prima facie*. We will see shortly the effect of criminalizing political dissent (or sedition) in the case of the Indian nationalist movement. Political crime is essentially an act or a set of acts between anti-systemic and systemic ideologies, institutions, collectivities, and individuals (Arrighi, Hopkins, and Wallerstein). Political crime is a dialogical set of relations and practices; political “deviance” works in the context of the interaction between state authority and civil society, in the establishment, maintenance, reproduction, and disciplinary construction of a stable social order.

Law codes against sedition were enshrined in section 283 [1] [a] of the English Code—and a similar law code in India (section 124A). In nineteenth century England, the codification of regulations against “sedition” as incitement against the state was established in 1869:

Sedition embraces all those practices whether by word, deed or writing, which are calculated to disturb the public tranquility of the State and lead ignorant persons to subvert the Government. The objects of sedition generally are to induce discontent and insurrection, to stir up opposition to the Government and to bring the administration of justice into contempt, and the very tendency of sedition is to invite people to insurrection and rebellion. Sedition has been described as disloyalty in action, and the law considers as sedition all those practices which have for their object to excite discontent or disaffection, to create public disturbances or to lead to civil war, to bring into hatred or contempt the sovereign and government, the laws or the constitution of the realm and generally all endeavours to promote public disorder. (*International Law Reports* 214) [7][#N7]

In the case of British India, sections of the IPC that designated sedition and other political crimes were left out of the Code when it was formally adopted in 1861. It was not until 1870 that section 124A (“sedition”) was appended to the IPC in Act XXVII of 1870. [8][#N8] Treason, or waging war against the King (or Queen), was included under section 121 in the original IPC enacted in 1861. [9][#N9] Prior to the *Indian Penal Code*, a variety of Regulations and associated Acts criminalized state crimes and related political offenses in the Presidencies, most notably in the Bengal State Prisoner’s Regulation (Regulation III of 1818) referred to earlier, which allowed for preventive detention against suspected state or “political offences.” [10][#N10] The “political offences” listed in the IPC were included in chapter VI, under “offences against the state,” sections 121-124. Added to those offenses were a number of significant corresponding Acts passed in the early 1900s, in particular in the period between 1905 and 1920, such as the Explosive Substances Act of 1908 and the Rowlatt Acts of 1919.

James Campbell Ker, who compiled the intelligence reports gathered in his *Political Trouble in India, 1907-1917*, served as Personal Assistant to the Director of Criminal Intelligence between 1907 and 1913. This compilation was assembled at the request of Sir Reginald Harold Craddock (1864-1937), who served as Home Member to the Government of India under the Viceroy Lord Hardinge, to assist the Rowlatt Committee in its work on the “nature and extent of the criminal conspiracies connected with the revolutionary movement in India” (*Sedition Committee Report*, i). In the preface to *Political Trouble*, C.R. Cleveland, the Director of Criminal Intelligence from 1909 to 1919, discussed the purpose for which the book was printed and placed it in the context of a recent ebb in political “outrages” (or, “politico-criminal activity,” v). The starting point for the book, 1907, marked the fiftieth anniversary of the Indian ‘mutiny’ and the upsurge in “revolutionary crime” (beginning in Bengal–Alipore

Conspiracy). [11][#N11]Cleveland remarked that revolutionary violence (“conspiracies” and “seditions”) continued through 1914, when it was realized that the “Law Courts in Bengal, which had proved quite unable to deal with revolutionary crime and criminals, with the result that there was no working system of punishment for the latter, while information was difficult to obtain and almost impossible to use” (Ker, vi). Such a statement reflects the limitations of the colonial information order in British India. At the same time, it reflects a degree of politico-legal amnesia with regard to the numerous juridical Acts (Provincial and Government of India) and special tribunals, that from at least 1907 were adopted in an effort to contain (or even destroy) politico-criminal activity. [12][#N12]Cleveland then makes clear that the passage of the Defense of India Act in 1915 provided the necessary state response to the political crisis (seemingly necessitated by World War I, but linked to political conspiracies in India and abroad) in what in actual terms was a declaration of martial law. By October 1916, according to Austen Chamberlain, Secretary of State for India, “in the year 1915 forty-six persons convicted of such offences suffered capital punishment and forty-two were sentenced to transportation for life. During the same year ten persons were placed under detention under the Bengal State Prisoners Regulation and 216 were subjected under the Defense of India Act to restriction on their movements, the place of detention or residence in each case being specified in the warrant or order.” [13][#N13]About the Defense Act, Cleveland noted that once those special war powers took effect “our system of intelligence, prevention and punishment improved tremendously” (Ker vi).

The second publication, H.W. Hale’s *Terrorism in India, 1917-1936*, was a follow-up to Ker’s earlier work. Interestingly, we see a shift in the appellation of the disorder: from “political troubles” to “terrorism.” Hale uses the word terrorism, not used to refer to revolutionary movements (e.g. Communist and *Ghadar*), “to denote the commission of outrages of a comparatively ‘individual’ nature” (1). The object of concern however is not limited to individual “outrages.” So what were the concerns of colonial officials regarding the perpetuation of colonial state stability and order in relation to historical events? Some of those historical events were discussed briefly above. I will examine them in more detail below.

Lord Curzon’s Partition of Bengal, announced in 1904 and enacted in 1905 had a powerful impact on the fledgling and poorly articulated *swaraj* (‘self-rule’) movement. One effect of the Bengal Partition was the consolidation of the *swadeshi* (‘indigenous production’) movement and the participation of Indians, who were upper caste and middle-class Hindus, spread throughout most of the Indian sub-continent (Sarkar). [14][#N14]Although there had been previous localized boycott movements since at least the late-1880s, such as the *gauraksha* (‘cow protection’) and temperance movements in India, the post-1905 *swadeshi* and *swaraj* movements considerably altered the landscape of political action. The *Gauraksha Sabha* (‘Society for the Protection of Cows’), founded in 1893, and other related boycott groups confined their discourse to that of matters of a rhetoric of socio-religious reform. [15][#N15]These movements stopped short of direct criticism, in the sense of advocating *swaraj* of the British Raj. However, after 1905 Indian reformist political discourse, which in the public sphere had initially been limited to voluntary associations, socio-religious movements, and newspapers read by an elite literate minority, shifted in some circles to one of radical (or militant) political propaganda and action—or to what the British referred to as “terrorist” and “anarchist” extremism—to confront what was seen and depicted as an authoritarian and oppressive regime. “Terrorist” and “anarchist” acts were defined in broad and overly inclusive terms as criminal activities in the IPC codes discussed above and in the new laws enacted in the early twentieth century that designated dissent and resistance to colonial rule as criminal rather than political acts.

In the five years following the implementation of the Bengal Partition, the British Government in India and England became increasingly concerned with the political (or non-political) nature of protests in public forums and in printed media as well as the thinly veiled and increased call for violence against British colonial interests. It was critical for the colonial state to respond to increased anti-colonial resistance and related “agitations” to ensure stability and public order.

Even before the Bengal Partition, Lord Curzon, the Viceroy of India (1899-1905) called for the establishment of an intelligence police force, the Criminal Intelligence Department (CID), which was eventually created in 1903. Soon after Curzon's departure as Viceroy, Lord John Morley, the Secretary of State for India from 1905 to 1910, and Lord Minto, the Viceroy of India from 1905 to 1910, were determined to investigate and end any anti-colonial activities considered "extremist" and "revolutionary" by expanding the work of CID. [16][#N16] The creation of a CID branch would focus specifically on "sedition" that would specifically investigate individuals involved in so-called terrorist or anarchist activities. Support for a Special Branch of the CID was articulated in terms of a need to watch and curb the globally widespread centers of India sedition against the colonial government.

Lord Minto, the Indian Viceroy, provided what amounted to the final opinion on the matter when he agreed with Lieutenant H. Adamson of the Army Department that there was no need for a Special Branch. [17][#N17] Initially, minimal measures were taken to police what were perceived as "political" (criminal) activities. One simple measure was the start in 1907, at the behest of Lord Minto, of a "Diary of Political Events;" a result most likely of the increased political agitation calling for the repeal of Bengal Partition. [18][#N18] In July 1907, the Government of India, under section 26 of the Post Office Act (1898) sanctioned the interception of copies of the *Indian Sociologist* sent to British India. [19][#N19] The interception and prohibition of "seditious" literature was a common feature of the Government of India's attempt to control publications deemed a threat to security, but importantly, since *Indian Sociologist* emanated out of Paris, it was unprotected by the United Kingdom's press laws.

The Government of India's reaction to the killing of two British women at Muzaffarpur, Bihar, in April 1908, was swift and harsh. In June 1908, the Explosive Substances Act and the Newspaper (Incitement to Offences) Act were enacted, providing District Magistrates with the power to seize newspapers and presses deemed to be seditious. [20][#N20] However, the India Office and the Government of India still failed to completely recognize the possibility of violence, perhaps because political violence against British officials and interests was so infrequent.

Proponents of the need for a special sedition branch faced renewed vigor some years later following increased "political" violence in the provinces of Bengal and Bombay. After the murder of Sir William Curzon Wyllie, Political Aide-de-Camp for John Morley, the Secretary of State for India (1905-1910), the Government of India's once unyielding position against the need for a special branch shifted. While not shifting completely toward support for a special sedition branch, the need for increased vigilance and punitive measures against sedition prevailed.

Such concern was apparently re-invigorated in the summer of 1909, when on the evening of July 1, 1909, Madan Lal Dhingra shot and killed Sir William Curzon-Wyllie at Jehangir Hall, Imperial Institute, in London. [21][#N21] Curzon-Wyllie was the Political Aide-de-Camp for Lord Morley, and Dhingra was an engineering student from the Punjab. At his trial, Dhingra claimed that he acted in revenge of the violence and unjust rule of the British in India. In response to the murder of Curzon-Wyllie, London authorities frantically attempted to put an end to the activities of Indian "terrorists," most of whom were affiliated to the "India House, "notorious as a centre of sedition" located in Highgate, London (*Sedition Committee Report* 6). The British press expressed concern that a minority of Indian expatriates, schooled in the ways of anarchist terror, in collusion with militants in India, were attempting to unseat the British Raj through extremist means—a wholly uncivilized approach, they argued, toward political change. In his statement to the British Court at the end of the trial for his murder of Curzon-Wyllie, Dhingra explained that he was justified in murdering a British colonial official: "Just as the Germans have no right to occupy this country, so the English people have no right to occupy India, and it is perfectly justifiable on our part to kill an Englishman who is polluting our sacred land" (Warainch and Puri, 62). [22][#N22] Nevertheless, Dhingra's act was deemed a criminal act, a murder, a crime of passion. There was no just cause for his action.

The construction and implementation of colonial law in India was instrumental in the reproduction of colonial governmentality (Cohn; Scott). In the matter of sedition and related criminal activity, such forms of dissent were

viewed as violations of the law rather than as political offenses. The notion that sedition was a political act was thought to provide a sense of legitimacy that was certainly undesired by colonial authorities. Although a crime such as treason may have been viewed as a political act, it was treated as a criminal matter. During the first quarter of the twentieth century, Indians convicted of sedition and related revolutionary acts were seldom recognized as specifically political offenders. Four days following Dhingra's murder of Sir William Curzon-Wyllie, J.D. Rees, a Liberal Member of the House of Commons posed a question to Alexander Murray, the Under Secretary of State for India, about the definition of a "political offence." The *Times* coverage of the brief exchange between Rees and Murray appeared under the Parliamentary news subheading "Definition of 'political offence'." Rees put forward the following question to Murray: "whether the Government of India had adopted any definition of a political offence; and whether it treated as such any offences defined and duly provided with an appropriate punishment in the Indian penal code." Murray, the Under Secretary of State for India, replied to Rees: "The words 'political offence' do not occur in any legal enactment in force in India. The Courts have to deal with offences according to the definitions of the Penal Code and other special Acts constituting offences" (*The Times of London*, July 6, 1909, 6). [\[23\]\[#N23\]](#)

We see in the above discussion efforts by the colonial officials to de-legitimize "political" and independentist goals by labeling them criminal acts. Below we will consider the "political" prisoners' attempted justification for their actions, deemed criminal by the *Indian Penal Code*, and of their search for special status as political prisoners, which for them would serve as recognition that their behavior was a legitimate act against an illegitimate regime.

Criminalization of the Political: "Political Prisoners" and the Early Indian Nationalist Movement, c. 1905-1920

In 1920 the Indian Jails Committee, established the previous year by Lord Chelmsford, the Viceroy of India, published its *Report on the Indian Jails Committee*, which recommended a number of changes to the Government of India's penal system. [\[24\]\[#N24\]](#) Suggestions proffered by the Committee relevant to the discussion of "political" prisoners were few and far between, but point to the interesting legacy throughout the British Empire of a failure to recognize political actions (even political crimes) as distinct from other criminal acts. For instance, discussion of separate status for prisoners, specifically those whose actions may be described as having political motivation, appears in only three of a twenty-plus chapter (and more than 500-page) report. In chapter seven of the report, "Classification and Separation of Prisoners," this discussion begins with that of prisoners who receive(d) "special treatment," defined as "well-to-do" prisoners or persons of "good social status." [\[25\]\[#N25\]](#) In paragraph #132, under the sub-heading "Proposals regarding special treatment of political criminals," the committee considered proposals submitted by (unnamed) witnesses who supported the separate status and treatment of political offenders. [\[26\]\[#N26\]](#) The special treatment involved labor, diet, clothing, and special accommodations. The committee report summarized the proposals thus:

It seemed to be thought that as persons who commit certain political offences...are generally not inspired by the same motives as those which actuate ordinary criminals, theoretically persons who commit offences from political motives are deserving of special consideration and leniency. (*Report on the Indian Jails Committee* 91)

The committee rejected the proposal for special treatment of prisoners convicted of political-criminal offences. The committee was unconvinced that "motive" should lead to the sanction of any separate or special treatment. Instead, any special treatment was to be made on an individual case basis. Further, the *Report* stated:

It is quite impossible from the point of view of the public safety to accept the view that because a theft, a *dacoity* or a murder is committed from political motives or in the furtherance of a political movement, such crimes become less heinous or less deserving of condign punishment. Crime remains crime whatever the motive of the criminal may be. (*Report on the Indian Jails Committee* 91)

The findings of the committee simply reflected the long-term evolution of English criminal law, and its definitions that equated sedition (or, earlier as high treason) with other criminal offences clearly were integral to the maintenance of state sovereignty in the metropole and the colony (Scott; Pels).

This leads us to that paramount symbolic and architectural space: the penal settlement at the Andamans Islands, which came to serve as the principal location for the incarceration for Indian “political” prisoners during the first two decades of the twentieth century. On January 15, 1858, the Governor-General in Council agreed to establish a penal settlement at the Andamans “for the reception in the first instance of convicts sentenced to imprisonment, and to transportation, for the crimes of mutiny and rebellion and for other offences connected therewith, and eventually for the reception of all convicts under sentence of transportation whom for any reason it may not be thought expedient to send to the Straits Settlement or to the Tenassarim Provinces” (Mathur 68). [\[27\]](#) [\[#N27\]](#)

The history of British convict transportation in South and Southeast Asia began in earnest in the early nineteenth century (Anderson). [\[28\]](#) [\[#N28\]](#) Penal settlements initially were established in Bencoolen (Bengkulu, Sumatra, Indonesia), Arracan (Arakan, Burma), and later at the Straits Settlements of Singapore and Penang (McNair). [\[29\]](#) [\[#N29\]](#) Transportation was adopted for at least three reasons: convict labor, deterrence, and segregation. The colonial authorities adopted a policy of segregation of convicts from their ‘native’ lands. From 1757 until 1825, convicts were transported to Bencoolen, and thereafter to the Straits Settlements. From the outset, colonial officials believed that such long-distance transport would act as a deterrent for other potential criminals, but by 1847 it had lost its effect. In the Indian Law Commission Report published the same year, it was suggested that indeed a sentence of transportation failed to act as a deterrent in the minds of would-be criminals (Mathur 130-1).

Nevertheless, sentences of transportation continued. During and immediately following the 1857-1858 rebellion, the lack of adequate convict capacity at mainland Indian prisons led colonial officials to re-consider the inclusion of the Andaman Islands as a convict settlement. The first shipment of 733 convicts reached the Andamans in March 1858 (Mathur 132). Both term and life convicts were sent to the Andamans. From the inception of the Andamans as a penal settlement, the practice of internal segregation and bounded relations (e.g. caste and religion) structured convict identity (Vaidik; Sen). Those convicted of simple (non-habitual) and habitual crimes refrained from relations with the 1857-1858 rebels (Mathur 134).

The increased resistance to colonial rule following the partition of Bengal in 1905, popularly referred to as the *swadeshi* movement, especially after 1909, saw Cellular Jail rapidly become the deposit point for many convicts convicted of political crimes. The first batch of those convicted under the variety of sedition offences were those transportees convicted in the Alipore Conspiracy Case (1909). [\[30\]](#) [\[#N30\]](#) At Cellular Jail, as at other central and district jails, where convicts convicted of political offences were imprisoned, they were designated, classified, and referred to in a variety of terms, namely “seditionists,” “anarchists,” “terrorists.” The Government of India refused to refer to prisoners convicted under sections 121, 121A and 124, as “political prisoners.” Even after the famous convicts strikes at Cellular Jail during the years 1912-1915, at which time they demanded recognition and special treatment as “political prisoners,” the Superintendent at Port Blair used the terms “seditionist prisoners” to describe such offenders. [\[31\]](#) [\[#N31\]](#) The Government of India classified those convicts as “state prisoners.” The nomenclature used to refer to those convicted of political-criminal offences appeared rather flexible as long as “political prisoners” was not among the terms of reference. The obstinate position of the Government of India

toward the designation “political prisoner” was more than simply a stubborn attitude on behalf of government officials. It was, and remains, symptomatic and systemic to state power. [32][#N32] During the period 1909-1920, 132 Indian “political prisoners” were transported to the Andamans.

The increased number of “political prisoners” incarcerated at Cellular Jail soon came to represent significant problems for the penal authorities. Demands of the prisoners for reform of labor rules, recognition and access to specific dietary needs, and allowance of reading materials and correspondence with family conflicted with the desire of the authorities to establish rigorous discipline in the face of an emergent and often violent anti-colonial movement led to increased problems at Cellular Jail. In addition to internal tensions between the “political prisoners” and the prison authorities, mainland India press accounts of the suicide of Indu Bhushan Roy in May, 1912, followed by the medically confirmed “insanity” of Ullaskar Dutt on June 10, 1912, further complicated the desire of prison officials to maintain order. Dutt was later returned to the Indian mainland to serve his time at an insane asylum in Madras. [33][#N33] Two months later, on September 7, the “political prisoners” began a series of hunger and work strikes to protest against the conditions of their treatment. Their protests were rather novel: even though they maintained their sense of difference as “political prisoners” and thus demanded less rigorous labor than that performed by the general prison population, the Cellular Jail inmates protested for equal status in regard to privileges allowed other penal settlement convicts. This is revealed quite clearly in the convict petitions to the authorities, and in the memoirs penned by some of those same convicts, most notably by V.D. Savarkar, B.K. Ghosh, Bhai Parmanand, and Ullaskar Dutt. The Government of India partially agreed to some of the demands regarding work conditions and access to reading materials, and allowed some prisoners in Cellular Jail occasional work assignments outside the facility. In the end, many political prisoners found the partial remedies to be of little consequence for the conditions of their imprisonment.

In 1913, a number of work and then later hunger strikes by political offenders at Cellular Jail precipitated the visit of Reginald Craddock, the Government of India Home Member during the administration of Lord Hardinge, to the Andaman Islands penal settlement. Craddock’s inspection visit to the penal settlement in that month followed published reports in the British and Indian press of poor treatment of the “political prisoners” in Cellular Jail. [34][#N34] Five of the Cellular Jail “seditionists” submitted petitions to Craddock, all with similar pleas for remission of sentence, improved conditions, and transfer to an Indian jail. [35][#N35] About one of the petitioners, Craddock noted: “[I]t is quite impossible to give him any liberty here, and I think he would escape from any Indian jail. So important a leader is he that the European section of the Indian anarchists would plot for his escape which would before long be organized. If he were allowed outside the Cellular Jail in the Andamans, his escape would be certain.” [36][#N36] Craddock evoked the discourse of a colonial regime determined to distinguish the “anarchists” from “ordinary” convicts, not only at the penal settlement, but also in relation to the Indian government’s attempts to crush political rebellion while simultaneously denying their status in prison as “political prisoners.”

In April 1914, some Cellular Jail prisoners initiated a new series of work strikes in which they demanded lighter work assignments and remission of sentence for good behavior. In the end, the Government of India and the Superintendent of Port Blair yielded to the demands of the prisoners. The Government of India agreed to remit sentences of and assign light work to those “political prisoners” with a consistent record, or ticket history, of good behavior. In addition, the prisoners were provided books and newspapers to read during periods of free time.

This organized hunger strike by political offenders seeking special status and treatment as “political prisoners” began on 1 April 1914 (Majumdar 311). [37][#N37] Following Craddock’s visit to Cellular Jail in 1913 and the hunger strike in April 1914, the Government of India initiated internal proceedings on how to respond to the demands of the self-described political offenders. The Home Department proceedings were aptly titled: “Future treatment of seditionist prisoners in the Andamans, who will serve their sentences permanently in the Cellular Jail.” Sedition was not a political act—it was criminal. In-depth discussions among government officials about the treatment of

seditionist offenders commenced in October 1914. At that time, only eight “seditionist” prisoners remained at Cellular Jail; the others had been released or returned to mainland-Indian jails. [38][#N38] The criminalization of political dissent as “seditious” in all aspects of colonial discourse was one juridical maneuver to maintain the façade of a rule of law that in all respects was indicative of a colonial rule of difference, a difference in what it meant to be political in so-called liberal Britain and what was criminal in illiberal colonial India. More would arrive following the passage of the Defense of India Act in 1915.

The persistent reticence of the colonial government toward special status for prisoners convicted of political offences continued throughout the 1920s, and during the mass *satyagraha* campaigns in the final twenty years of British rule in India. The demands of Cellular Jail “seditionists” for special treatment and status was resisted by the Government of India through independence in 1947. Although in practice, rather than lexicon, political offenders did indeed receive a degree of special treatment, at times harsh, and at others probably more comfortable than those endured by the “ordinary” convicts at the penal settlement. Moreover, the “seditionist” prisoners, in their memoirs, petitions, and newspaper articles, declared their status as nationalist-political prisoners, separate from the criminal deviants among whom they were imprisoned. We read very little about the estimated 12,000 convicts who inhabited the Andamans penal settlement at the end of 1915 before the second wave of political convicts arrived. At the same time, despite the Indian government’s refusal to recognize any special status or treatment, political offenders continued to be considered a class much different from “ordinary” convicts.

The challenges to the exceptionalist colonial state operated at so many different levels, whether in terms of what can be called subaltern resistances and the criminalization of entire classes, whether “criminal” tribes or “seditionists.” The unraveling of the colonial state, of its claim to be, as Schmitt might have noted, the one deciding on the exception, was brought about by challenges to the exceptionalist state that were integral to the dissolution of the *JPE*.

Conclusion

In 1962 Carl Schmitt published his essay "*Die Ordnung der Welt nach dem zweiten Weltkrieg*" ["The Order of the World after the Second World War"]. This new post-WWII global order was one in which the last vestiges of direct colonial rule would be vanquished. This new order, however, would create a new spatial order that was not a positive one. It was negative for several reasons, one of which was related to Schmitt’s long-standing critique of nationalist ideologies that are aligned to a specific and limited territoriality. We can see Schmitt’s sense of the consequences of anti-colonialism in the following excerpt:

Anti-colonialism is a phenomenon that attends the destruction of this spatial order. It is oriented solely backwards, to the past, and has as its goals the liquidation of a state of affairs that has remained valid until now. But aside from the moral postulates and the criminalization of European nations, it has not created any idea of a new order. Determined fundamentally by a spatial idea, if only negatively, anti-colonialism does not have the capacity to forge the beginning of a new order in a positive way. (Quoted in Ulmen 31f)

In the above quote, Schmitt sees an inversion to the old state of affairs: one in which the formerly European-dominated world that had created an order of “civilized” and “uncivilized” (even criminal) politico-spatialities has been overturned by the apparent mimicry of the uncivilized. He seems to fear this turn of events, this new spaceless international order that, in spite of what he states, in many ways maintains at least one territorial foot on the ground even in the face of the effects of a de-territorializing globalization.

In one of Schmitt’s post-scripts to *The Nomos of the Earth*, entitled “Nomos-Nahme-Name,” he discusses Erich

Przywara's "second statement" on power, which encapsulates the central problematic of power and ties in quite well with my examination of the criminalization of Indian political resistance to colonial rule in the early part of the twentieth century. Schmitt writes:

From its compulsion to self-affirmation, daily and hourly power seeks to secure, to justify, and to consolidate its position anew. This creates a dialectic, whereby the ruler, in order to maintain this position, is compelled to organize new security systems around himself and to create new anterooms, corridors and accesses to power. The inescapable dialectic consists in the fact that, through such security measures, he distances and isolates himself from the world he rules. (337)

And, the power wielded in colonial territories, the power of the *JPE*, indeed made distinctions between civilized and non-civilized, between European subject-citizen and colonial "other" in the spatial differentiation made clear in colonial juridical terms. Non-European territorial spaces were conceived of as places of appropriation: of land, of power, of resources. The silence exhibited in the end in Schmitt's first global order (that is, the *JPE*) was the distinct role anti-colonial resistance played in its collapse. And importantly, this brief historical case study of the contingent and dialectical character of "the political" in early twentieth century colonial India provides an additional dimension to Schmitt's notion of decisionism as the political. The decision, the act of being "political," does not arise and exert power unilaterally, but rather operates in a relational sense with its enemy or foe.

Notes:

1. This, for instance, is in contrast to the legal discourse used in the United States to combat "terrorism" after 9/11—not "criminally," but militarily—in legal and combat terms: a (permanent) state of war. [♣ \[#N1-ptri\]](#)
2. See Irshick and Bakhtin. [♣ \[#N2-ptri\]](#)
3. Chapter 6: "Of Offences Against the State," of the *Indian Penal Code*: Section 121, IPC: waging or attempting to wage war, or abetting the waging of war against the Queen; Section 121A, IPC: conspiracy to commit offences punishable by section 121; Section 122, IPC: collected men, arms, ammunition to wage war; Section 123, IPC: concealed by illegal omissions the design to wage war; Section 124: Assaulting colonial officials with intent to compel or restrain the exercise of any lawful power; Section 124A: Seditious libel [♣ \[#N3-ptri\]](#)
4. See Chatterjee, "The Colonial State," in *The Nation and Its Fragments*. [♣ \[#N4-ptri\]](#)
5. Seditious libel was defined as: "Intention to bring the King into hatred or contempt; or to incite disaffection against him or the government and the constitution, as by law established, or against either House of Parliament or the administration of justice; or to excite subjects to attempt, otherwise than by lawful means, the alteration of any matter in church or state established by law; or to raise discontent or disaffection among the king's subjects; or to promote feelings of ill will or hostility between different classes" (Great Britain, *House of Commons Papers* 19: 72). [♣ \[#N5-ptri\]](#)
6. "An Act for the Better Security of the Crown and Government of the United Kingdom" (22 April 1848). The relevant section reads: "If any person whatsoever shall, within the United Kingdom or without, compass, imagine, invent, devise, or intend to deprive or depose our Most Gracious Lady the Queen, from the style, honour, or royal name of the imperial crown of the United Kingdom, or of any other of her Majesty's dominions and countries, or to levy war against her Majesty, within any part of the United Kingdom, in order by force or constraint to compel her to change her measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament, or to move or stir any foreigner or stranger with force to invade the United Kingdom or any other of her Majesty's dominions or countries under the obedience of her Majesty, and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter, or declare, by publishing any printing

or writing . . . or by any overt act or deed, every person so offending shall be guilty of felony, and being convicted thereof shall be liable . . . to be transported beyond the seas for the term or his or her natural life” (*A Collection of the Public General Statutes Passed in the Eleventh and Twelfth Year of the Reign of Her Majesty Queen Victoria*, 125). ♣ [\[#N6-ptri\]](#)

7. This was a remark made by J. Fitzgerald in the case *Reg. v. Sullivan* (1869), 11 Cox C.C. 44. “Sedition” previously paired with “libel” became a definitive law code separate from notions of “libel.” ♣ [\[#N7-ptri\]](#)
8. 124A. Sedition: “Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, [Her Majesty or] the Government established by law in [British India], [or British India] shall be punished with [transportation for life or any shorter term], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.
Explanation 1- The expression "disaffection" includes disloyalty and all feelings of enmity.
Explanation 2- Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.
Explanation 3- Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.”
The words appearing in brackets are from the original text (1870) of the IPC. ♣ [\[#N8-ptri\]](#)
9. *A Penal Code*, 16. In the Macaulay-chaired Law Commission recommendations submitted in 1837, treasonous offenses were listed in “offences against the state,” sections 109 (“waging war against Government”) and 110 (abetment to incite, “design, to wage war) of IPC. ♣ [\[#N9-ptri\]](#)
10. See Singh, Omar, and Ganachari. ♣ [\[#N10-ptri\]](#)
11. The Alipore Conspiracy Case of 1908, which initially involved 34 defendants, of whom fifteen were found guilty of a variety of crimes related to offences against the state, such as section 121, IPC. ♣ [\[#N11-ptri\]](#)
12. The Criminal Law Amendment Act of 1908 established special tribunals that consisted of three high court judges. ♣ [\[#N12-ptri\]](#)
13. In answer to a question raised by Laurence Ginnell, Irish republican M.P., in the House of Commons, 19 October 1916. *Parliamentary Debates: Official Report*, vol. 86. ♣ [\[#N13-ptri\]](#)
14. For a different approach to the emergence of *swarajist* politics, see Goswami and Sartori. ♣ [\[#N14-ptri\]](#)
15. For an earlier example of this argument, see Jones. In regard to the history, politics, and religion of cow protection, see O’Toole and Jha. There is an excellent image of the sacred cow in Pinney, 109. For a contemporary discussion of the role of the Cow Protection movement and the 1892-93 riots in northern India, see Dar. Freitag provides a brief historical overview of this complex topic. ♣ [\[#N15-ptri\]](#)
16. For an excellent discussion on the development of an intelligence network in British India, see Popplewell. See also Bayly and Silvestri. ♣ [\[#N16-ptri\]](#)
17. Sir Harvey Adamson, Home Member of the Government of India, in an extract from notes in an Army Department file, “Watching Sedition,” dated 3 November 1907, and Minto, in a follow-up note, dated January 13, 1908. Home (Political), May 1908, #1, NAI. ♣ [\[#N17-ptri\]](#)
18. Minto instructed Lt. Colonel J.R. Dunlop-Smith, Private Secretary to His Excellency the Viceroy, to inform H.H. Risley, Secretary to the Government of India, Home Department, dated 31 May 1907. Home (Political). 1908, no. 1: “Diary of Political Events, 1907,” NAI. ♣ [\[#N18-ptri\]](#)
19. The ban also included the newspapers *Gaelic American* and H.M. Hyndman’s newspaper *Justice*. 30 July 1907, Home (Political), 1908, #1: “Diary of Political Events, 1907,” NAI. The prohibition on the import of *Justice* was lifted in January 1908. ♣ [\[#N19-ptri\]](#)
20. The Explosive Substances Act of 1908 was similar to the Explosives Substances Act of 1883 that covered the

United Kingdom. On the Newspapers Act, see Robert Darnton. ♣ [\[#N20-pt1\]](#)

21. Sir William Curzon-Wyllie served as the Political Aide-de-Camp to Lord Morley, the Secretary of State for India, from 1901 until his death in 1909. Wyllie's role in India Office was to act as an official intermediary between the Secretary of State for India and Indian expatriates (especially students) in the United Kingdom. ♣ [\[#N21-pt1\]](#)
22. Dhingra's statement continued: "I am surprised at the terrible hypocrisy, farce and mockery of the English people, when they pose as champions of oppressed humanity as the people of Congo and the people of Russia, when there is such terrible oppression and horrible atrocities committed in India, for example, killing two millions of people every year, and outraging our women" (Warainch and Puri, 62-63). ♣ [\[#N22-pt1\]](#)
23. For a useful discussion on the topic of political crime and English law, see Radzinowicz and Hood. ♣ [\[#N23-pt1\]](#)
24. The committee was chaired by Sir Alexander G. Cardew, who at the time was a member of the Executive Council of Madras. Another member of the committee was Sir James Houssmayne Du Boulay, who was the Home Department Secretary for the Government of India (1916-1919). Du Boulay had previously served as the Private Secretary for the Viceroy, Lord Hardinge (1910-1916), and had been the Home Department (Political) Secretary for the Government of Bombay (1909-1910). ♣ [\[#N24-pt1\]](#)
25. Globally, this was to be the treatment of such prisoners, and it continues to be so today in many countries. ♣ [\[#N25-pt1\]](#)
26. For example, the status of political offenders applicable to prisoners convicted under sections 121 (waging war against the Emperor), 121A (conspiracy to wage war), 122 (collecting arms to wage war), 124A (sedition) and 153A (incitement to violence) of the IPC. ♣ [\[#N26-pt1\]](#)
27. See also Government of India, Home (Judicial Branch), O.C., #21, 15 January 1858, NAI. The Straits Settlement included East India Company territories of Penang, Malacca, and Singapore. Tenassarim (Tenaserrim) was a colonial province in southern Burma. ♣ [\[#N27-pt1\]](#)
28. The British adoption of transportation originated in the handling of criminals, largely composed of Irish subjects, in the United Kingdom. In the eighteenth century, convicts were transported to the American colonies and New South Wales, Australia. See Nicholas and McLynn. ♣ [\[#N28-pt1\]](#)
29. J.F.A. McNair served as a colonial engineer and Surveyor General of the Straits Settlements. ♣ [\[#N29-pt1\]](#)
30. Khudiram Bose and Prafulla Chaki killed two Englishwomen on 30 April 1908. ♣ [\[#N30-pt1\]](#)
31. Note the proceedings title: "Transfer of certain *seditionist* convicts from the Andamans to jails in India" [italics added]. Letter #1042, from M.W. Douglas to Secretary to the Government of India, Home Department, dated 19 December, 1918, Proceeding #212, file 1275, Home Department, Political B, January 1919, NAI. Douglas served in his position from 1912-1920. ♣ [\[#N31-pt1\]](#)
32. Current examples are the 42-day preventive detention proposal and other related measures in the United Kingdom Counter-Terrorism Bill of 2008. See Counter-Terrorism Bill at House of Commons, Session 2007-08: <http://www.publications.parliament.uk/pa/cm200708/cmbills/063/08063.i-v.html> [<http://www.publications.parliament.uk/pa/cm200708/cmbills/063/08063.i-v.html>]. Web. 6 July, 2008. ♣ [\[#N32-pt1\]](#)
33. See the issues of the *Bengalee* newspaper dated 4, 8, and 20 September 1912 (Mathur, 201). See also Dutt's account of his time spent at Cellular and other British Indian jails in his memoir *Twelve Years of Prison Life*. ♣ [\[#N33-pt1\]](#)
34. Sir Reginald Craddock was the Home Minister of the Viceroy's (Hardinge) Executive Council. Sen noted the context of Savarkar's "cringing" petition "disavowing revolution and pledging...loyalty to the British Crown" (265). ♣ [\[#N34-pt1\]](#)
35. See Government of India, Home Department, Political A, February 1915, #68-160, NAI. This file contains

Craddock's report, a list of "seditionist convicts" transferred to jails in India, newspaper clippings, and other related materials. ↗ [\[#N35-ptri\]](#)

36. Notes of Sir Reginald H. Craddock, dated 23 November 1913, in GOI, Home Department, Political A, February 1915, #68-160, NAI. ↗ [\[#N36-ptri\]](#)
37. The first hunger strikers, of which there were five, were soon joined by twelve others in April 1914. Government of India, Home Department, Political A, February 1915, #68-160, NAI. ↗ [\[#N37-ptri\]](#)
38. Letter #67-C, dated 13 November 1914, from M.W. Douglas to Secretary, Government of India, Home Department, NAI. The eight convicts were: Barindra Kumar Ghose, Hem Chandra Das, Upendra Nath Banerji, Ganesh Damodar Savarkar, Waman Daji Narayan Joshi, Vinayak Damodar Savarkar, Suresh Chandra Sen Gupta, and Pulin Behari Das. The bulk of political offenders transported to the Andamans arrived after 1915, notably those convicted in the first Lahore Conspiracy Case (1915), among whom included Bhai Parmanand. ↗ [\[#N38-ptri\]](#)

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