

Historicizing State Sovereignty: Inequality and the Form of Equivalence

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The overarching argument of this paper is not a new one; others have made it in various forms. The argument suggests, in Bernard Cohn's simple formulation, that metropole and colony should be treated in a unified field of analysis.¹ Reconstituting the analytical frame in the manner Cohn suggests has a range of implications not only for the study of colonialism but also, and perhaps more importantly, for understanding current geopolitical conjunctures. The suggestion diverges from the conventional analytical approach that divides and demarcates the world into separable entities—whether they be described as the mutually exclusive categories of metropole and colony, Europe and its Others, a set of distinct nations, first and third world, or indeed of areas and regions—and studies these distinct entities in isolation from, or in comparison with, each other. In contrast, Cohn's proposition asks for an analysis of *how* such demarcations are produced and of *how*, rather than being discrete entities with autochthonous formations, they are co-produced through a complex array of related and relational historical events. It is a call, in other words, to shift the analytical framework from one that functions, implicitly or explicitly, on the basis of comparison, to one that operates on the basis of co-production. Such an approach, this essay demonstrates, is especially necessary for a thoroughly historicized understanding of nation-state formation, particularly since the nation-state constitutes a preeminent category of and for comparative analysis.

Comparative frameworks require normative categories on at least two levels: First, the entities to be compared (the units of analysis) must be demonstrably distinct, yet similar. This requires a principle by which to ascertain distinction,

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¹ Bernard Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton: Princeton University Press, 1996).

but each entity, ideally, should be a “case” of some larger principle. If this larger principle is not forthcoming, we have the colloquial, if inaccurate, formulation of comparing apples and oranges. With distinct, yet similar, entities in hand, a comparative framework then proceeds to evaluate the entities in terms of further normative categories (the objects of analysis or the units of observation). Together, these two levels constitute what we call the grounds of comparison, that are produced through a complex relationship between similarity and difference such that the normative categories function as the *similar* grounds for assessing, asserting, and indeed, presuming *difference*.² Comparison, hence, works by way of contrast, in such a way that the grounds of comparison (the normative categories) posit entities as, simultaneously, similar (they are comparable) yet distinct (they are, nonetheless, not the same, hence providing the very occasion for comparison). To draw distinctions demands difference; haunting every invocation of comparison as similarity is, therefore, the specter of difference. And with every specter of difference comes the possibility of hierarchy, of relations of domination and subordination.

By the term “co-production” I wish to designate analytical frameworks that, attending to this play of similarity and difference, can allow for an inquiry into the mutating, unstable historicity of the very terms that constitute the normative grounds for comparative analysis and can thus account for historically produced relations *between* entities posited as comparable.³ My argument here is not *against* comparative analysis, *per se*; indeed, I am acutely aware that comparison is central, even indispensable, to any historical analysis—if only

² For a different discussion of normative categories and the comparative framework, see Pheng Cheah, “Grounds of Comparison,” *Diacritics* 29, 4 (1999): 3–18. Cheah draws attention to what I am calling here the second level of normative categories, though he assumes the distinctness of “national or cultural case[s]” (p. 3). In other words, the “difference” that marks social formations as different is held to be self-evident, not requiring any investigation. For an approach that sees the notion of “national cases” as itself a red herring, or invalid, and the world-system as the only appropriate unit for (comparative) analysis, see Immanuel Wallerstein, “The Rise and Future Demise of the World Capitalist System: Concepts for Comparative Analysis,” *Comparative Studies in Society and History* 16, 4 (Sept. 1974): 387–415. For an approach that suggests that specific units such as “national cases” be situated within a larger whole that “encompasses” them and structures their character, see Charles Tilly, *Big Structures, Large Processes, Huge Comparisons* (New York: Russell Sage Foundation, 1984). For an approach that offers a means to inquire into the historicity, provisionality, and mutually constitutive character of such formulations as “national cases” as well as the “whole” (and most akin to the one I pursue here) see Philip McMichael, “Incorporating Comparison within a World-Historical Perspective: An Alternative Comparative Method,” *American Sociological Review* 55, 3 (June 1990): 385–97; and Dale Tomich, “Small Islands and Huge Comparisons: Caribbean Plantations, Historical Unevenness, and Capitalist Modernity,” in *Through the Prism of Slavery: Labor, Capital, and World Economy* (Lanham: Rowman and Littlefield, 2004), 120–38.

³ What I am calling “co-production” bears a close resemblance to what Philip McMichael, in the work just cited, has called “incorporated comparison.” I prefer the term “co-production” since it avoids evoking the density of connotations that accompany the term “comparison” which, in my view, often tend to reintroduce some of the most troubling aspects of formal comparative inquiry.

in the minimal ways of tracing change or demonstrating continuity.⁴ Instead, this essay is concerned to inquire into the uneven, unequal ways nation-states—understood as particular historical geo-political formations within a world-system—are produced as similar *yet* distinct and separable, and thus available for comparison. Therefore, rather than removing the “unit of analysis [here the nation-state] from theoretical contention,” as is the custom within the logic of formal comparative inquiry, this essay attempts an approach where, in part, “comparison becomes the substance of the inquiry rather than its framework.”⁵ To this end, I am interested in charting the interrelations, the interactions, and the changing *historical content* of the interstitial relations *between* nation-states that must be submerged in order to posit their distinctness. Drawing, in particular, on the archive on colonial Indian migration I show how recovering such *relational* and submerged histories—that cannot be subsumed under the rubric of similarity—opens new and challenging questions for comparative work and its relation to the normative category of the nation-state.

No theorist of nationalism and nation-state formation has directed our attention to the modality of comparison in a more explicit and sustained way than Benedict Anderson. And there is perhaps no notion granted a more normative—because un-interrogated—status than state sovereignty in demarcating and maintaining the distinctness-in-similarity of nation-states. The notion, writes R.B.J. Walker, is one that “has been made to seem so incontestable for so long” as to have become “a seemingly innocuous, even boring political concept” that “elicits [nothing but] a commanding silence.”⁶ Indeed, as we will see, a vague, under-theorized, and insufficiently historicized notion of state sovereignty silently underwrites and lends coherence to such distinct literatures as international relations, migration scholarship, and even Anderson’s otherwise innovative and productive argument regarding the global transformations, in the form of consciousness, that produce the nation-state. Thus the first section of this essay, “The Content of the Form,” provides a discussion of Anderson’s work with regard to comparison, colonialism, nationalism, and nation-state formation, in part, by way of contrasting Anderson’s argument to that of Partha Chatterjee.⁷ This discussion outlines the problems that

⁴ In fact, one might say that comparison, in a general form, is central to *any* analytical or theoretical process. This general observation, however, does not circumvent or render moot the question of historicity that interests me here.

⁵ McMichael, “Incorporating Comparison,” 389, 386.

⁶ R.B.J. Walker, “Sovereignty, Identity, Community: Reflections on the Horizons of Contemporary Political Practice,” in R.B.J. Walker and Saul H. Mendlovitz, eds., *Contending Sovereignties: Redefining Political Community* (Boulder and London: Lynne Rienner Publishers, 1990): 159–85, pp. 169, 159.

⁷ My section heading here, “The Content of the Form,” is, of course, an allusion to Hayden White’s landmark text, *The Content of the Form: Narrative Discourse and Historical Representation* (Baltimore: Johns Hopkins University Press, 1987). White’s concerns are with how narrative discourse, “far from being merely a form of discourse that can be filled with different contents . . . already possesses a content prior to any given actualization of it in speech or writing” (p. xi).

emerge from Anderson's understanding of comparison, primarily, if not exclusively, as a modality of similarity, and his accompanying disregard of comparison as constitutively tethered to contrast, or difference. These problems, I argue, result in large part from an over-emphasis on form at the expense of historical content, indeed, of historicity. But, when it comes to historical phenomena, content often refuses to be thus severed from form and returns, instead, to haunt it, through a persistent clamor for attention to historicity. This clamor, in fact, is embedded within Anderson's own definition of the nation and the imagined national community that relies, it turns out, on presumed notions of state sovereignty.⁸

The next section of the essay, "Sovereignty, Historicity, Eurocentricity," turns to an explicit discussion of state sovereignty, the foundational category for the disciplines of international relations and international legal studies (and, indeed, for the "real world" practices of what is called "high" politics). By the canonical disciplinary account, sovereignty doctrine is held to have autochthonous European "origins"; despite such origins, the doctrine, it is held, can be, and is, subsequently universalized—for instance, with decolonization—such that every independent nation-state is tied to or bequeathed with similar, or comparable, norms and forms of sovereignty. This canonical account, however, has been seriously challenged by recent scholarship in international legal studies that explores the *constitutive* relationship between colonialism and the formation of norms of state sovereignty. It thereby demonstrates that current sovereignty doctrine, far from being either "neutral" or unrelated to colonialism is, instead, deeply Eurocentric, and saturated by the inequalities of its colonial provenance.

The conventional Eurocentric view of state sovereignty, however, has largely been accepted within the field of migration studies that, steeped in presentism, has simply assumed that state control over migration is a defining and definitive element of state sovereignty. Hence, in Section III of the essay, "Sovereignty, Security, Mobility," I explore what is frequently proffered as a paradigmatic

White argues that narrative discourse is necessary to historical representation precisely when there are competing and contesting narratives of certain events. My argument here is not a meta-critique of narrative discourse, as such. It has, rather, a more modest goal: to point to how Anderson's argument regarding the form of nationalist discourse possesses, in fact, a "prior" or "silent" content. With his characteristic intellectual generosity, Professor White has endorsed my (mis)use of his formulation.

⁸ Anderson's distinction between "form" and "content" has been the subject of some discussion. On this (as well as for an account that challenges Anderson's understanding of the historical conditions that produced nationalism in Spanish America) see Claudio Lomnitz, "Nationalism as a Practical System: Benedict Anderson's Theory of Nationalism from the Vantage Point of Spanish America," in, Miguel Angel Centeno and Fernando Lopez-Alves, eds., *The Other Mirror: Grand Theory Through the Lens of Latin America* (Princeton: Princeton University Press, 2001).

site of rupture in positing the distinctness of nation-states: migration. Here, I do not adopt the stance, increasingly common, that migration, especially in the current moment, scrambles and throws askew the distinctness of nation-states. Turning to a detailed analysis of the historical conditions and debates attendant on colonial Indian migration, I trace, instead, the historical contours of the relation between colonial migrations and state sovereignty to show how migration is implicated in *producing* the distinctness of nation-states through the category of state sovereignty. This distinctness, which codifies and institutionalizes sovereignty as a *general form* or *principle*, that claims the similarity and equivalence of nation-states, is one that embodies the *content* of difference and hierarchy. I will call this *historical relation between* nation-states—submerged, yet palpable, in notions of state sovereignty—inequality structured through the form of equivalence. This discussion will, in turn, return us to my larger concerns with the analytical modalities of comparison and co-production.

I. THE CONTENT OF THE FORM

With regard to colonial formations, in particular, a comparative method has produced a series of problems that range from analytical incoherence and historical inaccuracy to lasting epistemological conundrums and ethical dilemmas. For, a frequent epistemological problem with comparative analysis has been the Eurocentricity of the normative categories that ground the analysis. Thus, one obvious way out of the problems posed by such Eurocentricity is to reconfigure the relation between the empirical and the theoretical, from one that assumes Europe or the North Atlantic as the site of theory to one that uses a different empirical site for the formulation of “theoretical” categories. As Pheng Cheah observes, such a reconfigured approach, that begins the work of comparison from a vantage point other than the North Atlantic, characterizes the work of Benedict Anderson.⁹ If less evident in his classic *Imagined Communities*, this approach is the explicit framework for the more recent *The Spectre of Comparisons* that, as Anderson writes, is structured “to invite the reader to reflect first on some theoretical considerations, then move downward to the empirical studies [of Southeast Asia] out of which they grew, and finally to return to the more rarefied [theoretical] atmosphere.”¹⁰ Following, in this way, an inductive method, Anderson wishes to draw his theoretical conclusions from what he calls “country studies” as well from comparative analysis between countries in Southeast Asia.¹¹

⁹ Cheah, “Grounds of Comparison,” 4–5.

¹⁰ Benedict Anderson, *The Spectre of Comparisons: Nationalism, Southeast Asia and the World* (London and New York: Verso, 1998), 20 (hereafter “SC”).

¹¹ By my reading, it is difficult to reconcile Anderson’s “theoretical” claims with the “empirical” material proffered. Thus, in *Imagined Communities* I find the theoretical claims—though extraordinarily rich and productive—to be in excess of those warranted by the empirical materials.

However, comparison, for Anderson, is not only a methodological choice; indeed, comparison is the very *sine qua non* of the nation form. It marks what, in *Imagined Communities*, Anderson identifies as one of the key paradoxes of the nation form, namely “the formal universality of nationality as a socio-cultural concept—in the modern world everyone can, should, will ‘have’ a nationality, as he or she ‘has’ a gender—vs. the irremediable particularity of its concrete manifestations, such that, by definition, ‘Greek’ nationality is *sui generis*.”¹² For Anderson, the equivalence and comparability of particular nationalities characterizes, precisely, the distinctiveness of national identity as a collective subjectivity, in that it is located in a specifically “comparative field” (*IC*, 17). Comparison is, in fact, part of the very “grammar” of thinking the nation. Notions of the “grammar” of imagining the nation, the “modular” forms in which such imaginings take shape, point to the overarching argument Anderson advances: that there is an underlying *form* for thinking the nation, that is global or universal, and comparison—understood as equivalence—is *the* crucial element of this form. Thus, in *The Spectre of Comparisons*, Anderson distinguishes between two modalities of comparison and organizes his argument around two forms of seriality—unbound and bound—whose constituent elements are, at least formally, replicable entities; these entities, writes Cheah, “enable the comparison between nations. They are the basis of comparability, the *tertium comparationis*, precisely because they are the grammar of every nation.”¹³ It is this underlying grammar that allows Anderson to, as he puts it, “dispose of such bogeys as ‘derivative discourses,’ and ‘imitation’ in understanding the remarkable planetary spread, not merely of nationalism, but of a profoundly standardized conception of politics” (*SC*, 29).

Though Anderson refuses to cite Partha Chatterjee, the argument for an underlying grammar of nationalism and against the “bogey” of “derivative discourses” and “imitation” is, of course, an unmistakable response to him.¹⁴ Chatterjee’s critique of Anderson, as also of much other work on nationalism, objects especially to how the formulation of the modular forms of imagining national community denies creativity, or “originality,” to anti-colonial and, indeed, post-colonial nationalist discourse positioning them as always,

In *The Spectre of Comparisons* the difficulty comes from the near complete disjuncture between the “theoretical” and “empirical” parts of the text, wherein it is difficult to discern how the latter, the “country studies,” inform the former, the theoretical propositions.

¹² *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London and New York: Verso, 1991 [1983]), 5 (hereafter “*IC*”). It bears mention that in the modern world (as perhaps in certain regions of the pre-modern world) it is not clear everyone will “have” a gender.

¹³ Cheah, “Grounds of Comparison,” 9.

¹⁴ The reference is, of course, to Partha Chatterjee’s, *Nationalist Thought and the Colonial World: A Derivative Discourse?* (Minneapolis: University of Minnesota Press, 1993 [1986]).

already derivative forms.¹⁵ But while the bare-bone thematics of the critique are well known, the specific problematics it addresses are frequently misunderstood. As a result, Chatterjee's position is read as simply to mean that the colonized must also be granted, *a priori*, "full" capacities for originality and creativity.

Thus, according to Andrew Parker, for instance, Chatterjee's critique relies on "the ontologized distinction between origin and derivation," a distinction, Parker admiringly suggests, that Anderson—particularly in *The Spectre of Comparisons*—largely, if not entirely successfully, rejects.¹⁶ In Parker's reading, as also that of Harry Harootunian, Chatterjee is understood as arguing for a pure, authentic anti-colonial nationalism that emerges in its full originality, cut from whole cloth, unsullied by colonialism. As Harootunian puts it, Chatterjee is one who has "insisted on seeing the availability of uncontaminated autonomous cultures as a reservoir of anti-colonialism"¹⁷ While portions of Chatterjee's *The Nation and Its Fragments* might be amenable—though not entirely acquiescent—to such an understanding, it is difficult to conduct such a reading of *Nationalist Thought and the Colonial World*. One of the chief accomplishments of this earlier text was to unravel how nationalist thought in India sought to deal with the complex, contradictory, and often paradoxical situations produced by colonialism in crafting a nationalist discourse that was simultaneously "modern" but, nevertheless, not Western. In Chatterjee's view, this was no small order: nationalist thought—in India, as elsewhere—thus required immense creativity, and produced a discourse that cannot, retrospectively, simply be assimilated to other (nationalist) discourses through a quick (mis)recognition of seeming similarities. Distancing himself from those who draw too-easy parallels—one might say comparisons—between one nationalism and another, or who seek to explain it in terms of a determinism (for instance, of industrial capitalism, or of print capitalism, or indeed of census categories), Chatterjee is interested in the *specific* forms and contents of nationalist thought that take shape within power/knowledge complexes, the exigencies of *real politik*, and changing historical conditions.¹⁸ Thus, for him, it was a "major task" of *Nationalist Thought and the Colonial World* to show that the "dogmatic refusal to take seriously the *content* as well as the logical and theoretical *forms* of nationalist thought not only

¹⁵ Such is the position Chatterjee takes in *The Nation and Its Fragments: Colonial and Post-colonial Histories* (Princeton: Princeton University Press, 1993), 3–13. By my reading, this brief piece is a simple, simplified, and polemical rendition of a far more subtle and complex argument.

¹⁶ Andrew Parker, "Bogeyman: Benedict Anderson's 'Derivative' Discourse," *Diacritics* 29, 4 (1999): 40–57, p. 43, and note 2.

¹⁷ Harry Harootunian, *History's Disquiet: Modernity, Cultural Practice, and the Question of Everyday Life* (New York: Columbia University Press, 2000), 49.

¹⁸ See, especially, Chapters 1 and 2 of Chatterjee, *Nationalist Thought*.

leads one to miss out on the fascinating story of the *encounter* between a world-conquering Western thought and the intellectual modes of non-Western cultures, it also results in a crucial misunderstanding of the true historical effectivity of nationalism itself.”¹⁹ In short, his argument refuses the dictates of teleological history and thus refuses the *inevitability* of nationalism: neither industrial capitalism, nor print capitalism, nor census categories, nor any other sociological or cultural feature, such as race, language, or religion—nor any combination of these—could *guarantee* anti-colonial nationalism, though they might well have played their part in a saturated historical field.

Anti-colonial nationalism, Chatterjee hypothesizes and later concludes, is “a different discourse, yet one that is dominated by another.”²⁰ Different, yet dominated? How do we grasp this seemingly paradoxical situation? It can only be grasped if we do not remain tethered to the dictates of “pure” theorizing that would understand “difference” as purity, authenticity, autonomy, unmarked by *historical* fields of power and processes of domination and subordination. It is in this sense, then, that, for Chatterjee, nationalist thought in the colonial world is (not) a derivative discourse; it is, rather, a historical discourse that called forth localized, historically contingent forms of imagination and creativity—indeed, of thought.

If Chatterjee wishes to claim the non-derivative-ness of anti-colonial nationalism (a formulation decidedly different from claiming a romantic, uncontaminated originality) in the way I have outlined, how do origin and derivation figure in Anderson? Is their relation vis-à-vis nationalism one we must understand historically, or will a “purely theoretical,” that is, seemingly transhistorical, approach do? And how does the modality of comparison (what Anderson also calls “seriality”), the very *sine qua non* of nationalism, work to undo, or not, their relation? Whereas Parker understands Chatterjee—if incorrectly—as wedded to a naïve notion of derivation as “ontologically secondary,” requiring, in contrast, a pure origin, he understands Anderson as attempting to deploy a notion of derivation as ontologically “constitutive” of any notion of “origin.”²¹ In fact, seeing it, as he does, as a “bogey,” the question of the relation between origin and derivation is not one that directly occupies Anderson; he is concerned, rather, with a *global* transformation of consciousness, simultaneously produced via, and instantiated in, such mechanisms as the newspaper and the census, that makes “serial thinking,” or the specter of comparisons, proliferate. By Anderson’s account, this kind of consciousness is not interested, or vested, in either the specificity of each element in a series nor in

¹⁹ Chatterjee, *Nationalist Thought*, 41 (my emphasis).

²⁰ *Ibid.*, 42.

²¹ Parker, “Bogeyman,” 44. Parker believes that Anderson is only partially successful in this attempt; hence, while wishing to undo the distinction between origin and derivation, Anderson, nonetheless, falls prey to it.

the relationship *between* the different elements of a series—such as those of nationalists, anarchists, nations, states—that would pry open the question of origin and derivation as a question of historicity (we might say of content) vis-à-vis nationalism. Rather, in keeping with the formal logic of seriality, different elements are posited as equivalent. Hence, for instance, India, the Philippines, and the United States are all simply elements of the unbound series “nations,” one, moreover, that “makes the United Nations a normal, wholly unparadoxical institution” (*SC*, 29). In chasing down the formal structures that make nations “thinkable,” Anderson concludes that the “grammar” of the structure—thus those elements that make the discourse sensible—is serialization: “the assumption that the world is made up of replicable plurals” (*IC*, 184).

Anderson’s interest in form, or “grammar,” often leads him to the most quirky and untenable analyses and conclusions: as, for instance, in his discussion of Lord Acton’s 1860 remark that “exile is the nursery of nationalism” wherein Anderson finds “exile” in the most unlikely events, practices, and processes. Thus Anderson forms an untenable chain of equivalences, a series, that share, for him, the formal quality of exile: Elements of this series include Mary Rowlandson, who, when abducted by Native Americans, finds herself in “exile”; the experience of African slaves brought to the New World can also be understood as “exile”; Europeans who migrate to the New World are similarly in “exile”; in Europe, as public education expands, children find themselves “migrating” to schools and, by Anderson’s account, “should be read as under the sign of exile” so much so that, for Anderson, the teenager is a “nomad between childhood and working adulthood” (*SC*, 64) who can be thought of as emblematic, in form, of “exile.” If exile is, indeed, “the nursery of nationalism” and *comparable* feelings of exile (understood here as some ill-defined “unfamiliarity”) can be produced, *equally*, by being a slave or a teenager, is it any wonder that nationalism has so pervaded the world? If the content of these varied experiences are so superfluous that they can be united, in form, under the sign of exile, then not only is the inevitability of nationalism guaranteed, but inquiring into the specifics of different nationalisms is, indeed, to be distracted by a “bogey.” Anderson is, of course, not uninterested in the unevenness and inequities that shape the world. In *Spectres*, for instance, such unevenness finds description in the “country studies” Anderson provides, but posing this empirical unevenness as *itself* requiring theorization is largely absent from his inquiry. However, beyond this and despite Anderson’s commitment to discovering and discerning the underlying forms that produce the series of equivalent nation-states, is he really able to dispense with content?

To pursue an answer to this question, here I wish to direct our attention to a certain element of the modular form of national imaginings wherein content brushes against form to produce the now-famous definition of the nation Anderson coined in *Imagined Communities*: The nation, wrote Anderson in

1983, “is an imagined political community—and imagined as both inherently limited and sovereign” (*IC*, 6). While, for Anderson, communities “are to be distinguished, not by their falsity/genuineness, but by the style in which they are imagined” (*IC*, 6), it is not merely the *style* of certain imaginings that constitute them as identifiably “national;” it is, as importantly, the specific *content* of such imaginings, chiefly that the community be imagined as both limited and sovereign. In Anderson’s view, the nation is imagined as limited since even the largest nation is aware of its spatial finitude and knows that beyond its boundaries lie other nations. It is sovereign “because the concept was born in an age in which Enlightenment and Revolution were destroying the legitimacy of the divinely-ordained, hierarchical dynastic realm” (*IC*, 7). This resulted in the formations of nations as free and “[t]he gage and emblem of this freedom was the sovereign state” (*IC*, 7).

Imagined Communities is largely concerned with outlining the advent of a new, yet historical, form of imagination at work in the world, a kind of imagination that cultivated new forms of collective subjectivity that have come to be known as specifically “national” communities. But these imaginings, it appears, are circumscribed and constrained by something, what Lydia Liu calls “a grammar more fundamental than themselves.”²² This “grammar” is that of state sovereignty—that “innocuous,” “boring” political concept that “elicits a commanding silence,” and the silence it commands allows for an assumption of the seeming truth of the notion of state sovereignty as a principle of equivalence and equality between states. It is this assumption that underlies two aspects of Anderson’s argument that, to my mind, require special attention: First, the replicability and equivalence he posits *between* nations and *between* states, despite the chronologically different moments at which such nation-ness is achieved or the different paths that lead to such nation-ness. Second, that as he charts the emergence of equivalent nation-ness and equivalent sovereign states in diverse parts of the world, the nation-ness and sovereign-ness of other parts is understood as untouched, untransformed, and unrelated to such new emergences.²³ In contrast, or perhaps as a supplement or complication, to Anderson’s desire to understand “the remarkable planetary spread, not merely of nationalism, but of a profoundly standardized conception of politics,” I inquire here into the remarkable planetary spread of inequality *structured*

²² Lydia Liu, “The Desire for the Sovereign and the Logic of Reciprocity in the Family of Nations,” *Diacritics* 29, 4 (1999): 150–77, p. 152.

²³ Manu Goswami has recently drawn attention to the drawbacks of the flip side of my point, what she calls the “path dependency” of Anderson’s position, wherein “temporally prior nationalist movements significantly shape the dynamic and trajectory of later nationalist movements.” Her essay also contains an in-depth and illuminating analysis of the pitfalls and (unexplored) possibilities of Anderson’s notion of “modularity,” including the issue of mimesis and replicability the notion implies. See Manu Goswami, “Rethinking the Modular Nation Form: Toward a Sociohistorical Conception of Nationalism,” *Comparative Studies in Society and History* 44, 4 (2002): 770–99, p. 778.

through the form of equivalence enshrined in the nation-state system. I do so through a consideration of the notion of state sovereignty that, *pace* Anderson, cannot be understood through comparison but rather through co-production. If, as Chatterjee argues, anti-colonial nationalist thought is a discourse that is *different yet dominated*, perhaps norms of sovereignty of (national) state entities are *similar yet subordinating*? Like the former, the latter, too, is a paradoxical situation. In the remainder of this essay, I will illuminate the historical contours, and contents, of the constitutive asymmetries that characterize this paradox.

II. SOVEREIGNTY, HISTORICITY, EUROCENTRICITY

Sovereignty is a term that, in our times, lives in numerous domains: these range from poststructuralist and postcolonial critiques of the sovereign subject to Foucault's call to "cut off the head of the king" and reject models of power premised on sovereign authority; from Carl Schmitt's characterization of sovereignty as he who decides on the state of exception to Achille Mbembe's understanding of sovereignty (following Foucault and Giorgio Agamben) as the right to decide who might live and who must die; from Thomas Hansen and Finn Stepputat's suggestion that sovereignty, ultimately, is the "capacity for visiting violence on human bodies" to its colloquial and political usages designating freedom, autonomy, and self-determination.²⁴ These different usages are related, if discontinuous,²⁵ but of concern here are more restricted and "traditional" notions of *state* sovereignty that reside in the domains of international relations and international legal studies.

Within these domains, sovereignty is conventionally understood as a certain combination of autonomy and authority that serves as the organizing principle of the inter-state system. Central to sovereignty is the notion of recognition: an entity can only be sovereign if it is recognized as such by other sovereign entities. For theories of international relations and international law, every sovereign state is (formally) equivalent to the other. Sovereignty doctrine is fundamentally concerned with the coexistence of states and, hence, with matters of war and peace or, more broadly, with matters of security. Thus,

²⁴ See, respectively, Gayatri Chakrabarty Spivak, "Can the Subaltern Speak?" in Cary Nelson and Lawrence Grossberg, eds., *Marxism and the Interpretation of Culture* (Urbana: University of Illinois Press, 1988); Michel Foucault, *The History of Sexuality: An Introduction*, Robert Hurley, trans. (New York: Vintage, 1978), 89; Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, George Schwab, trans. (Cambridge: MIT Press, 1985 [1922]); Achille Mbembe, "Necropolitics," *Public Culture* 15, 1: 11–40; Thomas Blom Hansen and Finn Stepputat, "Introduction," in Thomas Blom Hansen and Finn Stepputat, eds., *Sovereign Bodies: Citizens, Migrants, and States in the Postcolonial World* (Princeton: Princeton University Press, 2005), see p. 3.

²⁵ Giorgio Agamben offers an excellent exploration of some of these relations and discontinuities. See *Homo Sacer: Sovereign Power and Bare Life*, Daniel Heller-Roazen, trans. (Stanford: Stanford University Press, 1998 [1995]).

infringements on state sovereignty, understood as direct threats to state security, are “routinely invoked as a justification for the use of force in international relations.”²⁶ Alongside this “external” dimension of sovereignty, which secures a state’s position in the international, or better yet, an inter-statal, arena, is an “internal” dimension: that which accords a state complete authority over a certain domain; this “domain” now incorporates a notion of a fixed territory as well as of a definable population.²⁷

If these might be some overarching features of what is understood by sovereignty, there are two conflicting views within theories of international relations and international law as to how colonialism is related to these defining features. The more dominant and canonical view posits sovereignty as an insulated European invention, and often dates this invention to the 1648 Treaty of Westphalia. Hence, even though the period in which sovereignty was being crafted coincided with the period of colonialism, especially in the “New World,” and was thus strewn with Europe’s encounters and dealings with numerous forms of authority (that we might, without violence, translate as forms of sovereignty), these encounters, it is held, did not have an impact on how European norms of sovereignty developed.²⁸ Rather, in this paradigm, as one scholar has recently put it, “sovereignty doctrine is understood as a stable and comprehensive set of ideas that was formulated in Europe and that extended inexorably and imperiously with empire into darkest Africa, the inscrutable Orient, and the far reaches of the Pacific, acquiring control over these territories and peoples and transforming them into European possessions.”²⁹ The story goes that with decolonization, new states are admitted, through the recognition by existing sovereign states, to these already-established norms of sovereignty, norms held to be objective and universal, working for one as they work for the other. Or, one might perhaps say, to use Anderson’s formulation regarding the nation, that, in this view, sovereignty “was an invention on which it was impossible to secure a patent” and that “it became available for pirating by widely different, and sometimes unexpected, hands” (*IC*, 67).

In contrast to this dominant understanding of the “origin and spread” of sovereignty is the work of scholars such as Antony Anghie, James Gathii,

²⁶ Thomas Biersteker and Cynthia Weber, “The Social Construction of State Sovereignty,” in *State Sovereignty as Social Construct* (Cambridge: Cambridge University Press, 1996), 1–21, p. 1.

²⁷ Much of the recent literature on sovereignty, including that cited above, is concerned with the “internal” dimensions of sovereignty and thus has little to say on the “external” as well as the relational, inter-statal elements of sovereignty.

²⁸ For a discussion for the conundrums raised by translation with regard to sovereignty, see Lydia Liu, “The Desire for the Sovereign”; and “Legislating the Universal: The Circulation of International Law in the Nineteenth Century,” in Lydia Liu, ed., *Tokens of Exchange: The Problem of Translation in Global Circulations* (Durham: Duke University Press, 1999), 127–64.

²⁹ Antony Anghie, “Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law,” *Harvard International Law Journal* 40 (Winter 1999): 1–80, p. 6.

Gerrit Gong, and Siba N’Zatioula Grovogui.³⁰ In their view, it is impossible to provide an adequate account of sovereignty, or, for that matter, of international law, without “analyzing the constitutive effect of colonialism.”³¹ In fact, in his recent work, legal scholar Antony Anghie demonstrates how colonialism was central to the defining features of sovereignty.³² It is impossible to do justice here to his wide-ranging, meticulous, and definitive argument; a sketchy overview will have to suffice. Anghie’s work addresses such crucial issues as how sixteenth-century international law, working within a natural law tradition, would resolve debates occasioned by the “discovery” of the New World, as well as how the nineteenth-century shift from natural law and jurisprudence to positivist jurisprudence would accommodate the expansion of colonialism in Asia and Africa. Recounting these discussions, Anghie outlines, for instance, how sovereignty was sutured to territory in order to delegitimize the claims of nomadic colonial peoples; how notions of “discovery,” “conquest,” and “cessation by treaty” came to acquire a legal status as they were incorporated as legitimate means for taking possession of, and proclaiming sovereignty over, territories; how “unoccupied” territories were deemed fair game for any sovereign authority; how the recognition doctrine invested in those already positioned as sovereign the authority to admit new members into the realm of sovereignty; how the criteria for what could count as sovereign authority, especially with regard to the non-European world, were themselves in a constant state of flux; in sum, how Europe arrogated to itself the authority to decide who or what would count as sovereign authority, and when.³³ Underwriting this entire structure were not only complex racialized discourses of civilized versus uncivilized peoples, but superior military might and the brutal use of force. Thus, for instance, if an “African chief” did not hand over his territory through the so-called process of “cessation by treaty,” a more amenable “chief” would be found and be vested with the authority to do so. And, failing this, the use of force was always a frequent option, if cast as one of last resort. Force, moreover, was decisive at the crucial moments of granting, suspending, or transferring sovereignty.

However, the different constitutive elements of sovereignty that emerged from the complex historical matrix of colonialism did not develop in any

³⁰ Antony Anghie, “Finding the Peripheries,” and “Francisco de Vitoria and the Colonial Origins of International Law,” *Social and Legal Studies* 5, 3 (Sept. 1996): 321–36; James Thuo Gathii, “International Law and Eurocentricity,” *European Journal of International Law* 9, 1 (1998): 184–211; Gerrit Gong, *The Standard of “Civilization” in International Society* (Oxford: Clarendon, 1984); Siba N’Zatioula Grovogui, *Sovereigns, Quasi Sovereigns, Africans: Race and Self Determination in International Law* (Minneapolis: University of Minnesota Press, 1996).

³¹ Anghie, “Finding the Peripheries,” 6.

³² Anghie, “Francisco de Vitoria,” and “Finding the Peripheries.”

³³ An especially significant and poignant example of this is the Berlin Conference of 1884–1885, where the European powers, without a single African representative present, proceeded to partition West Africa between them.

systematic or cohesive way. Indeed, as Anghie shows, the edifice of sovereignty emerged out of historical exigencies in a random and chaotic manner. In other words, what dominant theories of international relations and international law today posit as the “principles” that govern international relations developed not as “principles” that normed or regulated practice; rather, they developed in a hodge-podge fashion and through a series of frequently bloody colonial encounters whose outcomes, though often contradictory, have over time been bequeathed the status and aura of incontestable “principles.” These principles, that embody inequality, are the principles that international law now treats as normative. Moreover, the erasure of the place of colonialism in the making of sovereignty, evident in the dominant narratives the disciplines of international relations and international law have composed, not only enables a denial of the emergence and sedimentation of these hierarchical structures. It also enables their perpetuation through a process that can be called inequality structured through the form of equivalence.³⁴

What becomes evident through work such as Anghie’s is the centrality of colonialism to the formation of sovereignty, perhaps the most prized possession of states in the current inter-state system. It also illustrates the urgent necessity for placing metropole and colony in a unified field of analysis. For such approaches allow us to subject notions customarily held to have entirely isolated and parochial histories to analyses alive to tracing complex genealogies that are less concerned with the specter of comparisons and more attentive to the repressed histories of co-production. Further, they enable us to think of Eurocentricity not only as a paradigm that speaks to the specificity of “Europe,” or as a paradigm that grants “Europe” epistemic privilege, but as a paradigm that *literally* privileges “Europe” by generating *institutionalized* norms wherein the Others of “Europe” are *structurally*, and thus enduringly, positioned in a relation of inequality. In the next section, I deploy the modality of co-production to analyze some crucial moments in the history of colonial Indian migration in terms of the adjacent notions of sovereignty, security, and mobility. Focusing on the relationship between colonialism and sovereignty, my analysis will both serve as an instance of how inequality is produced through the form of equivalence and clarify the value of analytical approaches more attuned to co-production. And, we can then return to the matter of comparison and co-production, as also the work of Benedict Anderson.

III. SOVEREIGNTY, SECURITY, MOBILITY

In the current moment, the renewed efforts directed at consolidating the connections between sovereignty, security, and mobility are everywhere evident.

³⁴ Siba N’Zatioula Grovogui provides an in-depth analysis of Namibian decolonization and independence in the 1980s as a clear instance of the perpetuation of such regimes. See, *Sovereigns, Quasi Sovereigns, Africans*.

The USA PATRIOT Act, which seeks to aggressively control and monitor migration in the name of national security, is but one instance of such renewed efforts. Even as there are challenges to this or that aspect of particular legislation—for example, to the undisguised racialized logic of the PATRIOT Act(s)—the authority of the national state in managing migration is treated as an unquestionable element of sovereignty. If one uses a formalist approach, inattentive to the vicissitudes of history, it is simple to derive, *post hoc*, the global monopoly of a system of states over migration as axiomatically emanating from the so-called “principle” of sovereignty. In this flawed view, though state control over migration is a relatively recent phenomena, and state monopoly less than a hundred years old, it is held that the principle of state sovereignty has *always* implied the legitimacy of such control—it simply was not used until recently. Two moments in the history of colonial Indian migration, however, make it especially difficult to sustain this view.

The first occurred in the early nineteenth century with the movement of (indentured) Indians to Mauritius and the Caribbean following the British abolition of slavery in 1834.³⁵ Coming as it did on the heels of slavery, the migration of Indians was from its outset riddled with anxiety regarding the “freedom” of the migrants. Hence, as early as 1835, when the migration to Mauritius was gaining momentum, the Court of Directors of the East India Company (in charge, at the time, of British administration in India), in an effort to ensure freedom, stipulated that “intending emigrants [were] to appear before a magistrate and satisfy him of their freedom of choice and knowledge of the circumstances of the case.”³⁶ Despite this oversight by a quasi-sovereign (in form of the East India Company) of a quasi-contractual arrangement, the anxiety over the freedom of the migrants continued.³⁷ Thus the Court of Directors of the East India Company, though recognizing “the inexpediency of throwing impediments in the way of free emigration of the native Indian labourer,”³⁸ had asked the Law Commission in India to give the matter their “serious consideration” and determine “whether any further security can be afforded to these people against ill-treatment than is provided

³⁵ The term “indenture” is a misnomer—the movement was, in fact, of “free” migrants who were only later coded as “indentured.” Further, Emancipation did not result, immediately, in the slaves being granted the status of “free” or sovereign subjects (except in Antigua and Bermuda); rather, it bound them to a system of apprenticeship for four years. Thus, 1838 marks the formal end of slavery in British colonies.

³⁶ Parliamentary Papers (House of Commons), 1874, XLVII, 314, “Report by Mr. Geoghegan on Coolie Emigration from India,” 2.

³⁷ The delegation of sovereign authority to an entity such as the East India Company raises also a host of questions regarding the relationship between colonialism and the formation of sovereignty doctrine that I cannot address here. In designating it as a “quasi-sovereign,” I follow Siba N’Zatioula Grovogui, *Sovereigns, Quasi-Sovereigns, Africans*, 68–69.

³⁸ Edward Lawford, Solicitor to the East India Company, to David Hill, 12 June 1838, in *Papers Respecting the East India Labourers’ Bill*, India Office Library and Records.

for by the existing orders.”³⁹ The Law Commission felt that extensive legislation and regulation were unwise and unnecessary:

no legislation is advisable, except . . . such as have already been made, to prevent undue advantage being taken of the simplicity and ignorance of [these] persons. . . . [And] If sufficient care be taken to ascertain that every essential point is provided for in the engagements [i.e., the contracts] . . . it does not appear to the Commissioners that there is anything more which the Government of this country can reasonably be expected to do for the protection of [this] class of persons.⁴⁰

It was also along the lines of such minimalist state involvement that the first piece of legislation regulating the movement of indentured Indian labor was ratified by Parliament in 1837. In conjunction with the regulations in India and the Act of Parliament, in 1835 the government of Mauritius passed two ordinances that, in addition to stipulating the precise terms of labor, prohibited the entry of laborers into Mauritius, “except under the authorization of his Excellency the Governor.”⁴¹

Given that over the course of the nineteenth century the regulation of Indian indentured migration would blossom into a massive, micro-managed, state-controlled enterprise, it is significant that this minimalist, early intervention in the form of state oversight of private contracts constituted a radical departure from past practice. Indeed, in asking for the recommendations of the Law Commission in India, the imperial government had stated: “It is to be observed that this practice [of regulating migration] has no foundation in existing law, but was prescribed by [an] Order of Government on the first case coming under its notice.”⁴² Not only was the state aware of the newness of the event, but these initial regulations, particularly in Mauritius, occurred amidst challenges to the authority and legality of the state in monitoring “free” migration. For instance, Hollier Griffith, a planter in Mauritius, writing to G. F. Dick, the Colonial Secretary of Mauritius, found the nature of the Mauritius ordinances to be unprecedented: “no example does exist, to my knowledge, in any civilized country, in modern times at least, of the creation by legislative acts of obstacles to the augmentation of the labour and industry of a community.”⁴³ He did not only object to the ordinances on the grounds that they would “discourage the introduction into this colony [Mauritius] of free workmen or labourers,” whereas what was needed was to “promote the establishment of free labourers in this island by means of premiums”; he also found it his “duty to question the competency of the authority by which the enactments . . . have

³⁹ Secretary to the Colonial Office to Law Commissioners, India, 25 May 1836, quoted in *ibid.*

⁴⁰ Response of Law Commissioners’, quoted in “Report by Mr. Geoghegan,” 3.

⁴¹ Hollier Griffith to G. F. Dick, Colonial Secretary, Mauritius, 1835, enclosure in no. XIX, *Papers Respecting the East India Labourers’ Bill.*

⁴² Secretary to the Colonial Office to Law Commissioners, India, 25 May 1836, quoted in Edward Lawford, Solicitor to the East India Company, to David Hill, 12 June 1838, *ibid.*

⁴³ Hollier Griffith to G. F. Dick, Colonial Secretary, Mauritius, 1835. Enclosure in no. XIX, *ibid.*

been made.”⁴⁴ Griffith pointed out that while the sovereign had the authority, in exceptional cases, to prohibit the *departure* of a British subject from British territory, or even to recall him, the royal prerogative “[did] not extend so far as to prohibit the *entrance* into his dominions of any of his subjects.”⁴⁵ And, moreover, wrote Griffith, “this power vested in his Majesty has been considered so contrary to the liberty of the subject, that very few instances are on record of its ever having been exercised.”⁴⁶ Griffith worried that if the government of Mauritius “was legally entitled thus to infringe on the rights of his Majesty’s subjects, natives of India, it might equally claim the same authority in respect to the subjects of his Majesty, natives of Great Britain . . . [who would] thus [be] deprived of a right appertaining to [them] by birth.”⁴⁷ By passing the ordinances of 1835, restricting the entry of immigrants, the local Council of Mauritius had, in effect, superseded even the authority vested in the sovereign.

The relation between mobility, freedom, and the state has received relatively little elaboration in theories of the state. This is true both of the classical liberal philosophers such as Hobbes and Locke and of later theorists. Significantly, one of the historical occasions for the little discussion that does exist concerns European migration to the Americas, and the accompanying seizure of territories. This negligible attention might today appear curious, but it is indicative of the widespread view, held well into the nineteenth century, that for the state or sovereign authority to hinder the free movement of persons, traveling for “peaceful and lawful reasons,” was an exceptional, and largely indefensible, exercise of sovereign power.⁴⁸ In this regard, the tenets of natural law were incorporated into those of positive law.⁴⁹ Thus, for instance, when, in 1792, England exercised such exceptional powers to monitor the entry of Jacobins following the French Revolution, it was not without dissent, and contemporaries even denounced the accompanying Act of Parliament as “equivalent to the suspension of . . . Habeas Corpus.”⁵⁰ The basis for this exceptional Act was directly related to the *political* threat—almost akin to the threat of an entering army—that the Jacobins were thought to pose to sovereignty. Hollier Griffith in Mauritius was therefore entirely correct in asserting that there did not exist, at the time, legislative acts on migration that functioned as “obstacles to the augmentation of the labour and industry of a community.”

⁴⁴ Ibid.

⁴⁵ Ibid. (my emphasis).

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Richard Plender, *International Migration Law* (Leiden: A. W. Sijthoff, 1972), 38–50.

⁴⁹ For a discussion of some of these points see Ann Dummett, “The Transnational Migration of People Seen from a Natural Law Tradition,” in Brian Barry and Robert E. Goodin, eds., *Free Movement: Ethical Issues in the Transnational Migration of People and of Money* (London: Harvester Wheatsheaf, 1992).

⁵⁰ Plender, *International Migration Law*, 43.

While Hollier Griffith, the planter from Mauritius, was concerned with how the state ordinances infringed on the “liberty of the subject,” P. D’Epinay, the Protector General of Mauritius, in responding to Griffith, raised the issue of the need to protect the Indians, and reminded Griffith, “it is not of their own spontaneous movement that these men expatriate themselves . . . it is the contractors of the Mauritius, speculators, who go in quest of them, and drag them from their home, under the enticement of greater wages than they can obtain where they are.”⁵¹ Though casting the migration as necessarily coerced, D’Epinay both affirmed that British Indian subjects had the same rights as “those who reside in any possession, territory, or dependency of Great Britain” *and* questioned whether “the term British subject, and the privileges attached to it, are not according to places and circumstances, susceptible of important division and modification.”⁵² While D’Epinay showed a concern with the welfare and protection of the Indians, he justified the Mauritius ordinances on the grounds of the special circumstances that obtained with the end of slavery and the continuation (indeed, expansion) of colonialism: “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 (especially when slavery existed); [hence] the same system of legislature is not applicable.”⁵³ But despite the fact that slavery had now been abolished, the ordinances were, according to D’Epinay, “a measure of foresight and of internal police, the object of which was not to permit the indiscriminate introduction of persons [into the colony], without means or morality . . . [since] it was felt that such a promiscuous introduction would be more calculated to sow tumult and disorder than to [an] increase in [the] industry of the country.”⁵⁴

The careful selection of immigrants into Mauritius, D’Epinay explained, was crucial to maintaining “public tranquility” and it was especially “prudent” to take “precautionary measures,” such as those embodied in the ordinances, which would function “to prevent the bringing to the colony the refuse of the Indian bazaars and with such the germs of disorder.”⁵⁵ This was particularly vital as the period of apprenticeship approached its end, for it was important that the “new population” serve as an example of industriousness and disciplined labor to the apprentices:

[W]ise and prudent precautionary measures [should] be taken . . . when this new population is put into immediate contact with the new apprentices just emerging from slavery, still susceptible of every impression; and to whom it is of importance, at the first step towards civilization, to give [an] idea and examples of order, labour, discipline. This

⁵¹ P. D’Epinay to Hollier Griffith, 5 Jan. 1836, in *Papers Respecting the East India Labourers’ Bill*.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

end would be frustrated, if permission were given to associate them with all the vagabonds and all the idlers with which India swarms. . . . Who can say what influence this medley of individuals, with their manners, their usages, and their vices will have on our indigenous population, especially when it shall become wholly free? . . . It is the part of a wise Government to give to it serious attention; it is, therefore, necessary to proceed with caution in the new order of things.⁵⁶

D'Épinay's comments are remarkable for what we can now read as their pre-science. In their invocation of such elements as "internal police," the notion of "public tranquility," the protection of public order, or the idea of the state managing and orchestrating the discipline and development of its subjects in particular directions, they already embody new understandings of danger, protection, and security that would be widely mobilized, decades later, to reconfigure the terms and limits of state sovereignty, particularly in relation to migration control. However, D'Épinay offered these understandings of danger, protection, and security not as a *general* rationale for the regulation of migration, but as a rationale for the *exceptional* ordinances in Mauritius, warranted by the *exceptional* occasion of abolition combined with the *exceptional* case of the colonies, that necessitated special legislative measures. In other words, state authority for intervening in free migration was not yet deemed to be a general feature of sovereignty, but was recognized as an exceptional occasion.⁵⁷

Though the issue is addressed most directly in the exchange between Griffith and D'Épinay, it framed also the correspondence emanating from the Court of Directors of the East India Company in London and the Law Commissioners in India that, while instituting regulatory measures, simultaneously recognized that they had "no foundation in existing law." Moreover, the remarks in the correspondence surrounding the acceptance of these earliest regulations at each site—that is, in India, Britain, and Mauritius—readily admitted that they violated the fundamental "liberty of the subject." The regulations were justified not only on the basis of the "special circumstances" that obtained with abolition and the status of colonized subjects, but also that of protecting this same liberty of the subject. Thus, at one end, in India, state supervision of contracts was deemed necessary to protect the Indians from abuse, and, at the other end, in Mauritius, the restriction on the entry of immigrants was deemed necessary to protect the apprentices. However, what emerged as an exceptional discourse

⁵⁶ Ibid.

⁵⁷ The "exceptional" nature of these resolutions might predispose those familiar with Schmitt and Agamben to assimilate this to an obvious exercise of sovereign power—he who decides on the state of exception. I warn against such an understanding since these events are well outside the realm of either theorists' "empirical" considerations, and ask us to rethink the coherence of their conclusions: In addition to the problems raised by the personification of sovereignty, how might we understand sovereignty in light of the fact that in the case before us we are dealing with the East India Company negotiating between French and British law in an ex-slave colony? Unfortunately, other than issue this caution, I am unable here to develop the points further.

of protection would later become the general discourse underwriting state authority in monitoring migration and reconfiguring the definition of state sovereignty. Indeed, if D'Epinay's description of new kinds of threats and thus new measures of protection, that were concerned with the management of the population, resonate with us today it is because the understandings of danger and protection precipitated by these exceptional events would soon be incorporated into the general framework of state control of migration. In short, state control of migration and attendant definitions of state sovereignty have a crucial colonial genealogy.

In order to further explicate such genealogies of state sovereignty and migration control, particularly how it gains an explicitly *national* character, let me turn to the debates occasioned by the migration of "free" Indians in the early twentieth century. Crucial to the nineteenth-century state regulations I have surveyed above was what the documents called the "necessary ignorance" of the "class of persons" who might be duped into indenture. The regulations that were framed thus did not extend to those *not* deemed "necessarily ignorant" or in danger of being duped. Indeed, until the early twentieth century the state monitored *only* the movement of indentured Indian labor and did not interfere with the migration of those not participating in the indenture system. In fact, within the law, the terms "emigrate," "emigration," and "emigrant" referred *only* to indentured labor. Thus Act XXI of 1883, the definitive Indian emigration regulation 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."⁵⁸ The term "to labour," moreover, had been interpreted as "manual labor," thus exempting, in particular, emigrants from the wealthier classes. Moreover, 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. 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," or those whose destination was not among the specified countries of "emigration," were free to travel unhindered, especially between parts of the British Empire. Further, though we are accustomed today to thinking of state regulation of migration as operating along a logic of constraint and prohibition, what is significant about these early nineteenth-century regulations is that they were put in place and functioned along a logic of facilitation. In other words, the goal of the regulations was not to constrain

⁵⁸ "Question whether the term 'emigrant' applies to soldiers recruited in India under agreement with the colonial secretary for service in Africa." Home Department (Sanitary/Plague), Proceedings no. 114–17, Feb. 1899, National Archives of India, New Delhi.

the migration but rather to facilitate it, while guarding against charges that indenture was but slavery by another name.

State control over migration that explicitly draws on a logic of constraint and curtailment has a different history, one that mobilizes a justificatory discourse of state sovereignty and security in terms more familiar to us today. As I have pointed out, until the early twentieth century state control over Indian migration covered only indentured migration. Within the history of Indian migration regulations, it is only with the migration of small groups of non-indentured Indians to the white-settler colonies of 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 movement. The specific aim of these demands was to restrict and prohibit the migration. I outline here some of the more significant historical events and elements of the protracted ten-year debate that ensued following this demand in relation to Indian migration to Canada.

The anxiety over the migration of Indians to Canada began in earnest around 1906, with the arrival of about two thousand Indian men at Vancouver.⁵⁹ Their arrival prompted the Governor General of Canada to telegram the Secretary of State for the Colonies in London asking that the migration be curtailed. As the basis for such restriction he claimed that Canada was confronting an unemployment problem and the migration would thus result in a large-scale destitution (this was untrue; the Canadian government had, in fact, enlisted the Salvation Army to recruit European migrants). And, the Governor General further claimed, such restriction had, in fact, a humanitarian impulse, 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.”⁶⁰ In 1908, with continued Indian migration due to a lack of cooperation from the Government of India, the Canadian Prime Minister, Wilfrid Laurier, offered two options for the consideration of the Colonial Office in London and the Government of India. The first option reiterated the humanitarian theme and suggested a monetary requirement of \$200 for each Indian migrant seeking entry into Canada. This was deemed “necessary to avert real suffering and distress and consequently would appear to us to be called for in the best interests of humanity.”⁶¹ The second option Laurier offered was the implementation of a system of passports, issued selectively, to certain migrants within India. (This is akin to what

⁵⁹ Details presented in this section draw on Radhika Mongia, “Race, Nationality, Mobility: A History of the Passport,” *Public Culture* 11, 3 (1999): 527–56.

⁶⁰ “Memorandum: Re: Immigration of Hindoos [sic] to Canada.” Department of Commerce and Industry, *Emigration Proceedings A*, May 1907, no. 7, National Archives of India, New Delhi. All further citations of *Proceedings A* and *Proceedings B* are parts A and B, respectively, of Department of Commerce and Industry, *Emigration Proceedings*.

⁶¹ Governor General, Canada to Secretary of State for the Colonies, telegram received 11 Nov. 1907, *Proceedings A*, Feb. 1908, nos. 18–33.

we now know as a visa.) However, the Government of India rejected the passport system with the Viceroy writing in a confidential telegram: “After very careful consideration, [we] regret [that] we are unable to agree to any proposal for placing in India restrictions such as 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.”⁶²

The uncooperative attitude of the Government of India had, meanwhile, led the Canadian government to pursue its own methods for curtailing the migration. It mobilized 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—to inquire into every aspect of the movement of Indians to Canada. This massive fact-finding mission yielded a small, yet crucial, piece of information: that a proportion of the Indian immigrants to Canada were re-immigrants—that is, they had completed their term of indenture or military 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 immigrants came from Punjab and, in the absence of the possibility of making a direct voyage from India to Canada, went first from Calcutta to 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 and notorious Order in Council which stated: “immigrants shall be prohibited landing [in Canada] unless they come from [their] country of birth or citizenship by continuous journey, and on through tickets purchased before starting.”⁶³ This order effectively prevented both re-immigrant Indians and immigrants coming directly from India to enter 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 since no steam ship company operated a direct transit from India to Canada. In addition to the continuous journey regulation, Canada imposed the monetary requirement of \$200 on Indian immigrants seeking entry into Canada.⁶⁴

I have dealt at length elsewhere on the explicit racial fear that informed the Canadian position as well as the liberal imperative to disguise the racialized logic of migration regulations in an idiom that could be construed in non-racialized terms.⁶⁵ Here I am recounting the series of machinations the Canadian state had to undertake in order to point our attention in a

⁶² Viceroy of India, Calcutta, to the Secretary of State for India, telegram received 22 Jan. 1908, *Proceedings A*, Feb. 1908, no. 28, ser. no. 16 (confidential).

⁶³ Governor General, Canada to Secretary of State for the Colonies, London, telegram received 15 Jan. 1908, *Proceedings A*, May 1908, no. 6, ser. no. 22, encl. no. 3, annex 1.

⁶⁴ Mongia, “Race, Nationality, Mobility,” 541.

⁶⁵ Mongia, “Race, Nationality, Mobility.”

different direction. In making his recommendation that the Government of India consider a system of passports to prohibit Indian migration, Wilfrid Laurier was hoping that the matter could somehow be resolved within India. The Government of India, on the other hand, in refusing to enact policy and legislative changes, had cited the Indian Emigration Act of 1883 that, as we have seen earlier, pertained only to indentured migration. They had, however, not only supported but also suggested that Canada devise immigration policy so long as its racist motivations were suitably disguised. Though both the Governor General of Canada and Laurier had attempted to activate a discourse of migration control grounded in humanitarian concerns, this was unsuccessful. The initial regulations on indentured migration in the nineteenth century, couched as they were in a discourse of protecting the liberty of the subject, can also be understood as having a strong resonance with a humanitarian discourse. However, notably absent from the Canadian discussions and debates on controlling migration in the early twentieth century is a discourse of state sovereignty and its corollary, a discourse of state security. It was not until the arrival, at Vancouver, of the ship the *Komagata Maru* carrying Indian immigrants in the context of an impending World War that these discourses could be activated in any credible way.

The *Komagata Maru* arrived at Vancouver on 23 May 1914 carrying 376 passengers, mostly Sikhs. This followed close on the heels of the *Panama Maru* that had arrived at Victoria in October 1913 with fifty-six Indians on board. These fifty-six Indians had all managed to gain entry into Canada, through a variety of means that included claiming Canadian domicile as the basis for (re)admission, successfully challenging the continuous journey regulation in court, and simply running away from the Immigration Hall where they were locked up. It was in part the successful entry of the *Panama Maru* passengers into Canada that had motivated Sardar Gurdit Singh to hire the *Komagata Maru* to set sail from Hong Kong with Indian passengers on board. The fate of these passengers was, however, rather different. I cannot provide here an account of the extraordinary web of events surrounding the *Komagata Maru* incident, except to note that it generated a furor in the Canadian House of Commons and a rapid transformation in policy on part of the Government of India. Framing the responses at both sites was the appearance of a discourse of state sovereignty and, more specifically, a discourse of *national* sovereignty. 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 [*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.⁶⁶

R. W. Gillian, in India, took a similar position. He argued that while the Government of India's reluctance to interfere with "free" migration rested on the principle that "a British subject [had] a right to go and reside in any part of Empire," this position could not 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."⁶⁷ Viceroy Hardinge echoed this theme, proclaiming: "thoughtful people will agree that states and countries have an inherent right to decide whom they will or will not admit within their borders."⁶⁸

However, such appeals to the "inherent rights" of states were not without problems, particularly in a world dominated by Empire. As Gillian pointed out "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."⁶⁹ According to R. E. Enthoven, the justification for such state control over migration would best be managed through a mechanism that would "secure some kind of reciprocity,"⁷⁰ and "which [would] above all things . . . have the appearance of giving equal treatment to British subjects residing in all parts of the Empire."⁷¹ State sovereignty would prove to be this mechanism, one that would manage that liminal space between "external" and "internal" sovereignty where inter-national migration resides. Attaching itself to the discourse of sovereignty in the early twentieth century would be the discourse of nationality. This articulation, which results in the formulation of *national sovereignty*, would do the job of "securing some kind of reciprocity," "have the appearance of giving equal treatment" to all subjects of Empire, and legitimate a state monopoly over migration in the discourse of equivalent state sovereignty and security. Put another way, nation-state sovereignty would enable an enduring

⁶⁶ "Official Report of a Debate in the Canadian House of Commons on Asiatic Immigration," *Proceedings A*, Oct. 1914, no. 1.

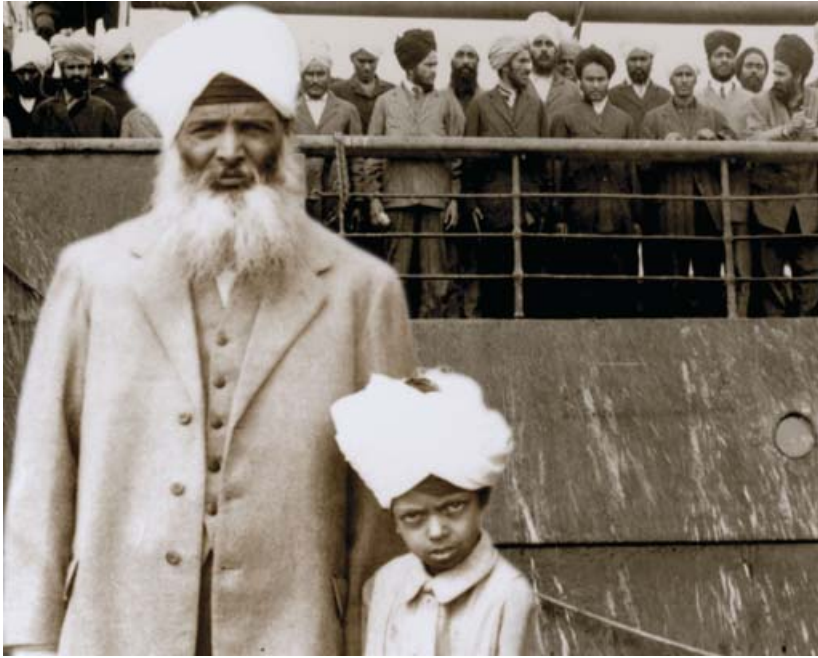
⁶⁷ Comments of R. W. Gillian, 23 June 1914, *Proceedings A*, Sept. 1914, nos. 18–20 (confidential).

⁶⁸ Comments of Lord Hardinge, Viceroy of India, 8 July 1914, *Proceedings A*, Sept. 1914, nos. 18–20 (confidential).

⁶⁹ Comments of R. W. Gillian, 23 June 1914, *Proceedings A*, Sept. 1914, nos. 18–20 (confidential).

⁷⁰ *Ibid.*

⁷¹ Comments of R. E. Enthoven, 13 June 1914, *Proceedings A*, Sept. 1914, nos. 18–20 (confidential) (my emphasis).



Gurdit Singh with his son, with the passengers on board the *Komagata Maru* behind, 1914. Photo Montage from the feature documentary *Continuous Journey* by Ali Kazimi (Copyright 2004 Peripheral Visions Film & Video Inc.—www.continuousjourney.com).

inscription of inequality structured through the form of equivalence in regimes of migration regulation. Indeed, the official rules that required state authorization for all “free” migrants departing from British India appeared as Defence of India (Passport) Rules, which were a subsection of the Defence of India (Criminal Law Amendment) Act, 1915. This act—more about the “defense” of a white Canada than of India—made it a criminal offence to embark on a journey from any port in British India without a passport.⁷²

From reading most current scholarship on migration one would think that state control of migration is an inviolable and persistent feature of state sovereignty that dates not merely to Westphalia but to some even prior mythic time.⁷³ As we have seen, however, in examining the formation of such control one finds a rather different genealogy. One that points in the direction of the piecemeal development of state control over migration that eventually

⁷² “Compulsory Passport Regulation,” *Proceedings A*, June 1917, nos. 8–22.

⁷³ An exception here is John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 2000). However, Torpey, too, fails to consider the colonial genealogies at stake.

culminates in nation-state monopoly over migration. Colonial relations, moreover, were central to the emergence of such new formations that radically transformed understandings of the purview of sovereignty and thus were central to the formation of what is called sovereignty *doctrine*. The recent postcolonial scholarship in international legal studies I surveyed earlier makes us question the European “origins” of the suture between territoriality and sovereignty as an autochthonous development, and draws our attention to how notions such as “discovery,” “conquest,” and “cessation by treaty,” were incorporated as legitimate means for taking control over territories. The kinds of debates I have outlined here ask us to consider the colonial relations that sutured sovereignty to a delimited and definable *national* population through a control over migration. Lest a certain presentism obscures the significance of these events and debates, it is important that we attend to the different context that framed these early twentieth-century discussions on migration: Thus, for instance, Frank Oliver’s fear that the *Komagata Maru* incident was “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” was a *serious* fear, for it was by no means certain that the matter would be resolved in favor of the barely-emergent and fluctuating category of the “Canadian people.” The solution offered by Gillian and Enthovan in India that sutured sovereignty to migration control was an inspired and ad hoc solution; a solution, moreover, that had evaded all parties to the discussion for ten years. Similarly, Viceroy Hardinge’s appeal to “thoughtful people” and the “inherent rights” of states clarifies explicitly the historically contingent nature of the relation between sovereignty and migration control, for such “inherent rights” had not made themselves apparent earlier, to Hardinge himself.

As with the debates attendant on state regulation of indentured Indians, what we can witness in these debates and correspondence is a critical re-making and transformation of the *norms* or *doctrine* of state sovereignty with regard to migration. At the same time, much had also changed from the early nineteenth-century regulations of indentured migration that, we will recall, were in part justified in terms of protecting the sovereignty and liberty of the subject. The early twentieth-century regulations of “free” migration were justified solely in terms of protecting the sovereignty and liberty of the state. Moreover, while the nineteenth-century regulations were instituted as an *exception* to the rule of “free” movement, the twentieth-century regulations were offered as a *general* principle. Neither set of regulations, however, emerged without extensive contention, conflict, and debate related to the precise historical conditions that prevailed; they could not simply utilize notions of sovereignty, be it of the subject or of the state, in uncontested terms.

IV. CONCLUSION

In light of such histories of the relation between colonialism and sovereignty, and its variant, *national* sovereignty, by way of conclusion let me return to Anderson's definition of the nation as "an imagined political community—and imagined as both inherently limited and sovereign." That Anderson under-theorizes and de-historicizes sovereignty is, I hope, quite evident. In fact, sovereignty, Lydia Liu observes, functions for Anderson as what he would call one of those "quotidian universals" that characterize the "grammar" of the nation form.⁷⁴ But what are the consequences of the kind of de-historicized and under-theorized understanding of sovereignty on which Anderson's imagined community of the nation relies? As I have indicated earlier, this perspective underlies two important elements of Anderson's argument: first, it enables him to posit an equivalence and replicability between nations and between states; second, by Anderson's account, the "spread" of nationalism has no impact on nationalisms that emerged earlier. Together, these arguments permit Anderson to "dispose of the bogey of 'derivative discourses'" and assert, instead, the "remarkable planetary spread, not merely of nationalism, but of a profoundly standardized conception of politics" (SC, 29). I have sought to demonstrate here that this "standardization" is not one of equivalence, as Anderson would have it; it is, rather, the standardization of inequality structured through the *form of* equivalence. What we can call the "brute reality" of this global formation is readily apparent in a body such as the United Nations—an example that Anderson invokes as "a normal, wholly unparadoxical institution" (SC, 29). Yet, one can only arrive at the "wholly unparadoxical" nature of the UN if one excises the history of its formation and ignores the actual structure of the UN, for instance, by turning a blind eye to the decidedly hierarchical and thus paradoxical structure called the Security Council. If, in other words, one restricts the analysis to pure form and succumbs to the canonical narrative of state sovereignty propounded by the disciplines of international relations and international law; a narrative where each entity that is "recognized" as a sovereign state is held to ascend into the realm of pre-given, historically invariant, equivalent norms of sovereignty.

It is, in fact, the focus on form that allows one to posit the nation-state as a "standardized" or normative category of and for comparative analysis. Such a perspective, dedicated to comparison, must necessarily bracket, or extract, the uneven and unequal historical "contents," or relations, *between* entities we describe as nation-states. For, an attention to such historical engagements opens the more complex and the more troubling issue of "standardization" not as simple equivalence, but as inequality structured through the form of equivalence. Indeed, a comparative approach both obscures and is insufficient

⁷⁴ Lydia Liu, "The Desire for the Sovereign."

to address *this* form of standardization. To address the standardization of inequality structured through the form of equivalence, and to substantively undo the ontological distinction between origin and derivation that haunts Anderson's work, not only requires us to question the distinction between form and content. Perhaps more importantly it requires analytical approaches that travel the globe, not in search of comparison, but to trace genealogies of co-production.