

PROFESSOR CATHERINE HALL
University College London

PROFESSOR MARIAN
University of Michigan

In *Gentlemanly Terrorists*, Durba Ghosh explores the history of terrorism in the colonial and postcolonial India, and how so-called "bhadrakal dacoits" used armed robberies to accelerate the departure of the British from India and how, in response, the colonial government effectively declared a state of emergency, suspending the rule of law and detaining hundreds of suspected terrorists. She charts how each measure of constitutional reform to expand Indian representation in 1919 and 1935 was accompanied by emergency legislation to suppress political activism by those considered a threat to the security of the state. Repressive legislation became increasingly seen as a necessary condition to British attempts to promote civic society and liberal governance in India. By placing political violence at the center of India's campaigns to win independence, this book reveals how terrorism shaped the modern nation-state in India.

DURBA GHOSH is Associate Professor at Cornell University. Her research interests focus on understanding the history of British colonialism on the Indian subcontinent, the history of colonial governance and law, gender, sexuality, and the tensions between security and democracy in modern liberal democracies, such as India and the United States. Previous works include *Sex and the Family in Colonial India: The Making of Empire* (Cambridge University Press), *Decentering Empire: Britain, India and the Transcolonial World*, co-edited with Dane Kennedy, and a number of articles and chapters for the *Oxford Handbook of the History of Terrorism*, the *American Historical Review*, *Gender and History*, and *Modern Asian Studies*.

COVER ILLUSTRATION: The hanging of the young Khudiram Bose (1889–1908) for an attempted bomb assassination, anonymous, 1940s. Image courtesy of Kroch Library, Division of Asia Collections, Cornell University Library.

CAMBRIDGE
UNIVERSITY PRESS
www.cambridge.org

ISBN 978-1-316-63738-8



9 781316 637388 >

UB Bochum



RWB2625

RWB
2625

GHOSH
Gentlemanly Terrorists

Gentlemanly Terrorists

Political Violence and the Colonial State in India,
1919–1947



DURBA GHOSH

Conclusion

Even though India did not have a revolution, it has a large number of revolutionaries. As India transitioned from a British colony to the world's largest liberal democracy, the history of revolutionary terrorism in the province of Bengal generated two simultaneous and linked developments. Although participants of underground groups, such as Anushilan Samiti and Jugantar, did not always work in concert, the history of different actions came to seem as part of a coordinated revolutionary campaign, marked by famous high points, including the 1908 Muzaffarpur Bomb Outrage and the 1930 Chittagong Armoury Raid. This lineage created a sense that members of these groups were adherents to a shared cause of violent anticolonial protests that spanned a generation of young activists who emerged in the 1910s to those who were active in the 1920s, 1930s, and 1940s. Historical accounts, generated by British intelligence officials and by Indian participants, such as Trailokya Nath Chakrabarty, became an important source of information as Indians began to write the history of the nation after 1947. Accounts of the revolutionary terrorist movement provided evidence of a history of militant nationalism that had resisted the British through acts of political violence and challenged an emergent government-endorsed narrative of progressive constitutionalism.

At the same time, the Indian government adopted and adapted colonial-era laws targeted toward terrorists, revolutionaries, and political dissidents of various kinds. As scholars have shown, this postcolonial legislation has developed from colonial laws such as the Defence of India Act of 1915 and Rowlatt.¹ From the passage of the West Bengal Security Act in 1948, to the promulgation of a series of extraordinary laws

at the national and provincial levels that escalated after 9/11 and the attacks on India's parliament building in December 2001, India's growing security state apparatus has expanded and consolidated the government's ability to detain those suspected of sedition, leading to a revival of colonial-era laws that are targeting a range of student protesters, Dalit activists, tribal groups, and others seeking a change in the political order.²

These two parallel developments have produced a framework for postcolonial citizenship that discriminates between "good" citizens and "bad" ones, in which patriotism requires political agreement with the state.³ While the postcolonial government of India has recognized the contributions of militant nationalists in the colonial period, it has escalated its efforts to contain militant political opposition through an expansion of security legislation. The government's security legislation requires the state to distinguish between freedom fighters and terrorists, rendering the freedom fighter as a figure of national honor and the terrorist as a figure outside the nation who cannot be prosecuted using ordinary laws. By targeting terrorists through extraordinary laws, the postcolonial government of India has drawn from the logic of protecting democracy as a rationale, a logic that would have seemed familiar to colonial officials of the interwar years. Ujjwal Singh, a political scientist at the University of Delhi, argues, "In this framework 'extraordinary situations' are seen as emerging due to the openness and freedom which democracy allows."⁴ By collapsing the state with the exceptions it can generate, both the colonial and postcolonial states have used the logic of protecting democracy and democratic norms and rights as a way of rationalizing a growing security apparatus. In terms of making laws and writing histories, the continuities between the colonial and postcolonial period show some of the central features of the world's largest democracy.

A Postcolonial History of Revolutionary Terrorism and Its Archives

The voluminous archives of terrorism testify to a sense of insecurity and created a kind of documentary "papereality" that instantiated the threat of terrorism. Archival materials in the form of history sheets, police

¹ Jinee Lokaneeta, *Transnational Torture: Law, Violence, and State Power in the United States and India* (New York: New York University Press, 2011), pp. 168–69; Anil Kalhan, Gerald P. Conroy, Mamta Kaushal, Sam Scott Miller, Jed Rakoff, "Colonial Continuities: Human Rights, Terrorism and Security Laws in India," *Columbia Journal of Asian Law* 20.1 (Fall 2006): 93–234, especially pp. 125–41; A. W. B. Simpson, "Round up the Usual Suspects: The Legacy of British Colonialism and the European Convention on Human Rights," *Loyola Law Review* 41 (1996): 629–712.

² Durba Ghosh, "100 Years Past Due: Why It's Time to Retire Colonial-era Laws," www.huffingtonpost.com/durba-ghosh/100-years-past-due-whyit_b_9853496.html; Shruti Kapila, "Once Again, Sedition Is at the Heart of Defining the Nation," www.thewire.in/2016/02/28/once-again-sedition-is-at-the-heart-of-defining-the-nation-22763/ [accessed March 8, 2016].

³ Mahmood Mamdani, *Good Muslim, Bad Muslim* (New York: Pantheon, 2004).

⁴ Singh, *State, Democracy, and Anti-terror Laws*, p. 16.

reports, memorandums, and reports documented the continued existence of a terrorist threat to the government in India until well into the 1940s.⁵ Until India gained its independence in 1947, confidential printed reports by the Intelligence Branch were filed away in archives across India and in Britain, read by a select few who had access to secret and classified information. Since the early 1950s, copies and versions of these reports have been available in select libraries and archives. Much of the correspondence between high-ranking officials, such as the secretary of state for India, the viceroy, governors, and officials in British government offices in Delhi, Kolkata, Simla, and Darjeeling, are stored at the British Library in London, where any researcher can request them through the online system.

In Delhi and Kolkata, there is a similar mountain of material about these groups and it illuminated the concerns and anxieties of officials in India. In Delhi, many of the files have been lost or were "not transferred" by the relevant bureau or ministry. In Kolkata, these files are strictly regulated. As should be clear from the footnotes, I used the documents from the West Bengal State Archives. The West Bengal State Archives are divided into three branches – the Home Political, the Intelligence Branch, and the main branch that contains all documents until 1911, when the capital of India was moved to New Delhi. Until recently, all IB documents in the state archives were subjected to redaction by officials in the Home ministry to whom researchers have to submit their notes for scrutiny before they can be used in research. In recent years, only documents that were dated after 1947 were exposed to this scrutiny. What this obscures is that many files were "reconstructed" several times; first, in the 1950s, when the postcolonial Intelligence Branch used files of political activists they were following (communists, peasants and labor organizers, refugee activists) by using the colonial-era file numbers, and then in the 1970s, when a government scheme rendered some men and women eligible for a pension.

While the files of the Intelligence Branch continue to be transferred to the archives, a shortage of staff has made the cataloging process difficult; I was granted special permission to see the materials in the Intelligence Branch itself (not the archives) in the spring of 2009, but many of my notes – again, evidence of the ways that revolutionary terrorists continued to be under state surveillance into the 1960s – were redacted. The West Bengal State Archives branch that was located in the Writers' Buildings that include all the Home Political documents after 1911 continue to closely regulate which documents researchers have access to, barring the

⁵ Raman, *Documenting the Raj*; Hull, *Government of Paper*.

use of laptops and digital photographs. I took all notes by hand and submitted them to the archivists who scanned my handwritten notes at the end of each day. Many of these records were marked "lost" when I returned in subsequent trips, perhaps because they were not properly returned to the shelf.⁶

The colonial archive on terrorism casts a long shadow in terms of how the movement might be understood by historians, particularly those who were keen to represent the history of the new nation in positive terms. In newly independent India, politicians and the historians who were commissioned to write an authorized account of India's freedom struggle used history as a lesson for the future, documenting Gandhi's nonviolent movements and the widespread involvement of India's masses as the grounds for an emergent democracy: as Rajendra Prasad, the first president of the Indian republic, noted in a speech to the All-India History Congress, he hoped that "historians of India would be cognizant of the unique importance of the new technique of resistance forged by Gandhi," as he encouraged historians to see that "non-violence has victories more glorious than war."⁷ Prasad's call to action was followed by a government-funded project on writing the history of India's freedom movement.⁸ A group of eminent historians was gathered in 1950, including R. C. Majumdar, an eminent Bengali historian of ancient India, and the board asked state officials to forward materials to New Delhi so they could gather information and construct a narrative. According to Majumdar, he submitted a draft of the first volume to the board, it was approved, but then mysteriously, the approval was withdrawn and the board of historians was disbanded. At issue with Majumdar's account was the over-emphasis on Bengal and its revolutionaries.⁹ Majumdar's three-volume account appeared at the same time as the final volume of the government-sponsored *History of the Freedom Movement*, written by Tara Chand, which appeared in 1972; throughout the three volumes, Majumdar singled out militant nationalism and revolutionary movement as an important subject ignored in other accounts.¹⁰

⁶ The four-part series by Dinyar Patel, *New York Times*, India Ink blog, March 2012, details the challenges faced by Indian archives.

⁷ Rajendra Prasad, "The Role of History," in *Speeches of Rajendra Prasad, 1952–56* (New Delhi: Government of India, Ministry of Information and Broadcasting, Publications Division, 1958), pp. 103–08, cited in Lal, *History*, p. 82.

⁸ Lal, *History*, pp. 84–88.

⁹ R. C. Majumdar, *History of the Freedom Movement in India*, vol. 1 (Calcutta: Firma K. L. Mukhopadhyay, 1971), pp. xi–xii, pp. 445–57.

¹⁰ Tara Chand, *History of the Freedom Movement in India*, 4 vols (New Delhi: Government of India, Ministry of Information and Broadcasting, Publications Division, 1961–1972); Majumdar, vol. 1, pp. 370–412; vol. 2, pp. xvii–xix, pp. 265–327; vol. 3 pp. 488–529, pp. 872–73.

Majumdar was perhaps the most eminent Bengali historian to claim, against an official nationalist consensus, that Bengal's history of militant nationalism had been central to forging the necessary politics for an anticolonial movement. He relied on vernacular accounts to write his narrative, arguing that they were corroborated by government documents. In addition to the arguments he made in *History of the Freedom Movement*, he became a patron of others who lamented what appeared as a widespread ignorance of Bengal's contributions to India's freedom struggle. In a foreword to another historian's book, Majumdar noted that "In spite of the attempts in some quarters to minimize the role of the revolutionaries in the history of the freedom movement in India, their countrymen are now becoming gradually conscious of the deep debt of gratitude they owe to these heroes for the achievement of Indian independence."¹¹

Among participants of the underground groups, there were widespread concerns throughout the 1950s and well into the 1960s that the history of revolutionary terrorism would be forgotten. In countless commemorative texts, collections of images and documents, and historical accounts, writers repeatedly drew attention to the relative inattention historians and public figures had paid to the important contributions of the revolutionary movement. Jogesh Chandra Chatterjee, a Bengali ex-detainee and political prisoner who had been mainly active in the United Provinces, was the driving force behind the conference, which began its planning in 1951. The conference was eventually convened in New Delhi and held in December 1958 to consider the idea of commemorating the movement through building monuments at historical sites, writing histories of the movement, and marking particular anniversaries. Barindra Kumar Ghosh, Bhupendranath Dutta, Suniti Choudhury, (now Ghosh), and others who had been active in Bengal attended. Bina Das and Trailokya Nath Chakrabarty telegraphed their support from Calcutta and Dacca, respectively.¹² At the conference, a group of former revolutionaries were deputed to write a new history of the freedom movement. Chatterjee recorded that the participants "spoke in very strong terms against the nefarious conspiracy to falsify history and give all credit to a particular section of the fighters for freedom . . . It was claimed and proved that the revolutionaries were the first to raise the slogan of complete independence."¹³ Aside from this high-profile national event, there was a good deal of local activity surrounding revolutionaries who had

¹¹ R. C. Majumdar, "Foreword," in Uma Mukherjee, *Two Great Indian Revolutionaries: Rash Behari Bose and Jyotindra Nath Banerjee* (Calcutta: Firma K. L. Mukhopadhyay, 1966).

¹² Chatterjee, *Indian Revolutionaries*, pp. 53–54.

¹³ Chatterjee, *Indian Revolutionaries*, pp. 67–68.

relocated to west Bengal. Many became historical activists who joined associations such as the Anushilan Bhawan, which was set up in 1960 in south Calcutta to serve as a meeting place for former detainees and political sufferers.¹⁴ The Ex-Andaman Political Prisoners' Fraternity Circle was founded in 1969 by Ganesh Ghosh, a member of the Chittagong Armoury Raid group, when he and a group of ex-detainees became involved in preserving the Cellular Jail as a historical site, which occurred in 1979.¹⁵

These associations served as a form of grassroots historical activism that evolved into a vehicle for claims-making, eventually putting enough pressure on government archivists to acknowledge the contributions made by the revolutionary terrorist movement. In recent years, a range of central and provincial governments have promoted the historical study of revolutionary terrorism. The volume, *Political Trouble in India, 1907–1917*, which had originally been produced as a precursor to the Rowlatt report, was reprinted in 1973. Jamna Das Akhtar, the editor, noted in the foreword: "The book contains details of revolutionary activities which are generally unknown to modern historians . . . this documentary collection [reveals] to hitherto unknown young men who had devoted their lives to the armed struggle for liberation of the motherland."¹⁶ Akhtar was "proud to state" that he had met many of those whose lives were described in the book, and was a protégé. Using records from the Intelligence Branch, scholars writing in independent India hoped to restore the history of revolutionaries, whose violent acts and sacrifices had been forgotten. *Political Trouble in India, 1917–1937* by H. W. Hale was first published by the Government of India in 1937, and was reprinted in 1974. In the 1974 foreword, Dr. Ishwari Prasad noted, "Before India became free, it would have been impossible to produce a work of this kind . . . a history of those brave men who worked, suffered and died for the freedom of the country."¹⁷ Prasad noted (much as Indian

¹⁴ Buddhveha Bhattacharya, ed., *Freedom Struggle and Anushilan Samiti* (Calcutta: Board of Trustees, Anushilan Bhawan, 1979), pp. xiii–xiv; see also, DNB, Ashutosh Kali (1891–1965) and Kedareshwar Sen Gupta (1894–1961) were credited with founding the association. Sen Gupta broke his leg in the building in 1961 and Kali died after an accidental fall down the stairs in 1965.

¹⁵ NMML, Ganesh Ghosh collection, section 2, "Notes, Articles and Related Printed Material Relating to the Cellular Jail and Andaman and Nicobar Islands"; S.N. Aggarwal, *The Heroes of the Cellular Jail* (Chandigarh: Punjab University, 1995; New Delhi: Rupa Publishers, 2006), p. 284.

¹⁶ J. C. Ker, *Political Trouble in India, 1907–1917* (originally published by the Government of India, 1917; Delhi: Oriental Publishers, 1973, reprint), p. v.

¹⁷ H. W. Hale, *Political Trouble in India, 1917–1937* (Allahabad: Chugh Publications, 1974, reprint), p. v.

politicians predicted in the 1930s) that "The terrorist activity [sic] came to an end with the announcement of Independence."¹⁸

In West Bengal, by the 1980s and 1990s, under the auspices of the West Bengal Government, and the leadership of Amiya Samanta, director-general of the Intelligence Branch of West Bengal, the West Bengal State Archives brought out a six-volume compendium of printed material from the Intelligence Branch titled *Terrorism in Bengal*, so that scholars could have greater access to sources to study the movement.¹⁹ In 2008, on the hundredth anniversary of Khudiram Bose's execution for the deaths of Mrs. and Miss Kennedy at Muzzafarpur, the West Bengal State Archives staged an exhibition to honor the movement. Even though Khudiram had not killed his intended target, he retained his status as a young revolutionary a hundred years after this death. The Government of India produced a commemorative pamphlet through its publications division for Khudiram, noting, "sadly, the [sic] historians have not given adequate attention to the history of [the] military revolutionary movement in India."²⁰ In 2013, the West Bengal State Archives staged another exhibition titled "Women Revolutionaries of Bengal: Indian Freedom Movement" that featured profiles of key figures such as Kalpana Dutta, Pritilata Waddadar, and others.²¹

As the history of revolutionary terrorism became integrated in official histories of Indian nationalism authorized by government archives, revolutionary terrorists have been recognized as freedom fighters by the national government. Recognition of their special status originated in the colonial era, when successive administrations granted political prisoners particular rights and benefits while in detention that distinguished revolutionaries from the "common" or "habitual" criminal. From their status as "detenus," with a right to allowances that compensated for lost income, they became "political sufferers" who received small grants first from Congress, and later, from the postcolonial government to enable them to meet their family's needs. On the occasion of India's 25th anniversary of independence, the Government of India promulgated a *Freedom Fighters' Pension Scheme* that granted eligible former freedom fighters and their families a pension of up to Rs. 400 per month, based on the number of dependents and financial need. The criteria was broad – those imprisoned for more than six months, living underground evading a detention or arrest order, or in village or house arrest. Their status had

¹⁸ Hale, *Political Trouble*, p. vi.

¹⁹ Amiya Samanta, ed., *Terrorism in Bengal* (Kolkata: West Bengal State Archives, 1995).

²⁰ Hitendra Patel, *Khudiram Bose: Revolutionary Extraordinaire* (New Delhi: Government of India, Ministry of Information and Broadcasting, Publications Division, 2008), 2.

²¹ www.wbsadte.in/exhibitions-2013.php [accessed May 26, 2016].

to be confirmed by the relevant official documents, which often meant colonial-era records. The Freedom Fighters' Pension was superseded by the Swatantrata Sainik Samman Pension Scheme in 1980, which granted the pension to all those eligible notwithstanding their financial need.²² The Government of India also granted pensioners and their families free railways passes in first-class or second-class air-conditioned cars, installation of telephones and half the cost of phone rental, free medical care in central government facilities, and accommodation (if they needed) in the Freedom Fighters' Home established in central New Delhi. For those who had been imprisoned at the Andamans, the government granted an annual trip to the islands for each freedom fighter and a companion.

The state benefits defined who is considered a freedom fighter to include those who were members of the Indian National Army, involved in the Telengana struggles in Hyderabad, or who challenged the French in Pondicherry or the Portuguese in Goa, as well as older struggles such as the Mappila rebellions and the Ghadar uprising.²³ Although members of the underground groups in Bengal were not listed as part of a movement or campaign, their time in jail qualified many for the pension. In 2008, when I was working in the West Bengal State Archives branch in the Writers' Building, I discovered that the Freedom Fighters' Pension office was just across the alley. I visited the office one day, and was told by the clerk that the office was responsible for distributing and processing slightly over 4000 pensioners each month. When I asked how he verified who should receive the pension, he directed me to a green bounded book that listed in neat, printed columns, alphabetically by district, those who had been detained under Regulation III of 1818, the Bengal Criminal Law Amendment Act of 1930, the Bengal Suppression of Terrorist Outrages Rules of 1932, and anyone who had been convicted on involvement in "revolutionary and anarchical conspiracy" by the Indian Penal Code. I had seen this book before – in the British Library in London – but I had not seen a copy of it in an Indian archive. I asked whether this was the only copy there was and the gentleman in the office responded in the affirmative, noting that there was one copy in West Bengal and it was needed for verifications by the West Bengal Freedom Fighters' Pension office.²⁴ When the first pensions were granted in 1972, the green book

²² www.mha.nic.in/sites/upload_files/mha/files/FFR-Annexure1-100513_0.pdf [accessed March 5, 2016].

²³ www.factly.in/independence-day-what-the-indian-government-is-doing-for-freedom-fighters/ [accessed May 31, 2016].

²⁴ APAC, L/P&J/12/676, "Marked SECRET: List of Persons in Bengal Warned or Dealt with (since 1930) under Regulation III of 1818, the Bengal Criminal Law Amendment Act, 1930 (Act VI of 1930), and 16A of the Bengal Suppression of Terrorist Outrages Rules, 1934, Including Members of the Revolutionary and Anarchical Conspiracy

provided guidance to the Intelligence Branch, who was tasked with releasing documents having to do with former terrorists; if the original files were lost, the green book gave some basic facts (birthplace, father, education, and periods in detention) to government officials as they reconstructed each freedom fighters' career as a revolutionary terrorist and their right to a pension.²⁵ This particular document's continued use speaks to the ways in which the history of revolutionary terrorism remains very much a live concern.

The making of revolutionaries into freedom fighters remade anticolonial protesters, many of whom believed in militant action as a political strategy, into citizens of the postcolonial state. This transition, however, does not mean that the postcolonial Indian state no longer views political violence as a threat against the state. Instead, as I show below, the laws that were used to detain erstwhile freedom fighters were re-enacted and resurrected to manage a new generation of protesters against the government's policies. Concomitant to the emergence of revolutionary terrorists as freedom fighters, the government of India adopted more emergency legislation. These may appear as paradoxical processes, but I argue these closely linked developments clarified who poses a threat to the security of the nation. Although India and Indians pride themselves on being members of a liberal democracy, one in which representative institutions, rule of law, universal suffrage, freedom of speech and the right to assemble are held as constitutional rights by each citizen, repressive laws designed by colonial officials to repress the revolutionary terrorist movement have been revived; first in the early years of the Indian republic, through India's secessionist battles in the 1950s and 1960s, and latterly in the post-9/11 world.

A Postcolonial History of Emergency Laws

Extraordinary or emergency legislation was vociferously challenged in colonial India, not just by revolutionaries, but also by those considered 'moderate' Indian politicians; yet emergency laws have proved distressingly ordinary in the postcolonial period. Over time, a long chain of temporary emergency legislation has become more or less permanent.²⁶ As the India's postcolonial nation-state has adapted security legislation

Convicted under the Indian Penal Code, the Arms Act and Explosives Substances Act or Bound Down under the Preventive Sections of the Criminal Procedure Code," Government of West Bengal, Intelligence Branch, 1939.

²⁵ WBSA, IB File "Himangshu Sen, a.k.a. Sengupta," File number redacted.

²⁶ Singh calls this the "permanence of the temporary": Singh, *State, Democracy, and Anti-terror Laws*, pp. 63–78, 302–10.

to protect the world's largest democracy, new groups of detainees, political prisoners, and security threats have been identified as risks to the state's sovereignty. Distinct from the case of interwar Bengal, few contemporary officials make the case that today's insurgents are "gentlemanly terrorists" whose interests were "honourable" even if their methods were dangerous.

Between 1947 and 1952, the early years of independent India, as the government of India began a project of national consolidation, it resorted to classifying opposing political movements such as communism, trade union organization, and battles for land redistribution as threats to national security. As Sekhar Bandopadhyay, a historian of this period, has argued, "In the first few years of freedom, in the name of protecting the freedom of the state, the Congress movement sought to curb the civic freedom of its citizens."²⁷ Detaining those who threatened the state was supported by a number of ordinances, starting with the Bengal Special Powers Ordinance and then the West Bengal Security Act (WBSA).²⁸ The ordinances targeted "subversive movements," and authorized any police official to "use such force as may be necessary even to the causing of death in order to stop the commission of the offence."²⁹ In Bengal, the passage of the West Bengal Security Act in 1948 was vehemently protested in the Legislative Assembly by figures such as Sarat Bose and Jyoti Basu, then a young communist, and later the chief minister of West Bengal. Both were aware of the colonial resonances: Jyoti Basu said in the Legislative Assembly, "It seeks to perpetuate the hated Defence of India Act of an alien Government. It is contrary to democracy and is in clear violation of all that Congress has stood for and fought for so many years."³⁰ The next month, when told that Nehru and Gandhi had supported the security act, Sarat Bose noted, "It is impossible for me or the West Bengal public to forget that Gandhiji's opposition to the Rowlatt Bill was uncompromising."³¹

Yet, the West Bengal Security Act was enacted and 582 people were arrested by the middle of June 1949; by the end of the year, 953 had been arrested and 589 were under detention.³² The law was due to expire after a year, yet was reenacted multiple times. In 1950, a clause was added that barred any legal action against the government, and that clause found its

²⁷ Bandopadhyay, *Decolonization*, p. 94. ²⁸ Bandopadhyay, *Decolonization*, pp. 73–74.

²⁹ National Library, Kolkata, GP 351.75 (5415) W52, Government of West Bengal, Judicial and Legislative Department, "West Bengal Security Act, 1948," Chapters 2–3.

³⁰ Quoted from West Bengal Legislative Assembly Proceedings, vol. 1, no. 1, 27 November 1947, pp. 48–50 in Bandopadhyay, *Decolonization*, p. 74.

³¹ Cited in *The Statesman*, 20 December 1947, in Bandopadhyay, p. 76.

³² Bandopadhyay, *Decolonization*, pp. 110–11.

way into other legislation. Through multiple expirations and reenactments, the West Bengal Security Act remained in force until 1968.

At the national level, repressive legislation such as the Preventive Detention Act (1950) reinforced the terms of the WBSA, and members of the Communist Party of India were detained in large numbers, as documents from the Intelligence Branch show. By the time the first elections were held in 1952, the Ministry of Home Affairs in New Delhi reported that about 165 detainees belonging to the CPI remained in the Buxa jail under the terms of the Preventive Detention Act. The government was reluctant to release these detainees on the grounds that "the creed of the Party, namely, to seize power by the use of violence remains completely unchanged," but several groups of detainees were released later that spring, largely in order that they might run for office in the 1952 elections.³³

Until the 1960s, Indian officials appeared to be aware of a colonial history of detention from which the government's measures drew inspiration. In a series of memos between the Jails Department of West Bengal and the Intelligence Branch dated sometime around 1959, officials in Bengal debated how to define "terrorist." They were discussing the number of interviews detainees ought to be granted. One official noted that the rules for granting interviews had been "issued in the days of the British regime as a more cautious and restrictive measure against the so-called terrorist convicts of those days. Since independence we have no separate groups as terrorists." Another official noted that the interview rules were based on the Defence of India Rules of 1939, which could not apply to the current detainees: "It has to be remembered that these rules [1939] were applied to a number of persons who were then fighting for the political freedom of the country . . . This latter category of persons has committed . . . treason by any standard."³⁴

Provincial and national legislation has enacted an interlocking regime of emergency laws in the postcolonial period.³⁵ From frontier legislation that targeted places such as Assam, Manipur, and Nagaland on the northeastern frontier, to Punjab and Jammu and Kashmir in the northwest, legislation such as the Armed Forces Special Powers Act (AFSPA)

³³ West Bengal Home Political, Government of India, Ministry of Home Affairs, New Delhi, to all state governments, including Jammu and Kashmir, February 5, 1952, file number redacted; West Bengal Home Political, "Review of Cases of Detenu Candidates against Whom There Are Orders under the Preventive Detention Act," file number redacted; West Bengal Home Political, Special Branch, confidential, "Review of Detenu Cases," file number redacted.

³⁴ West Bengal Intelligence Branch, file name and number redacted.

³⁵ *Extraordinary Laws in India: A Reader for Understanding Legislations Endangering Civil Liberties* (New Delhi: Indian Social Institute, 2002).

of 1958 allowed the army and state police officials the right to arrest and detain insurgents in "disturbed areas," raid houses in search of evidence, and perhaps, most controversially, the right to shoot or kill anyone who did not obey police orders. AFSPA was first used in the northeast in 1958 to suppress tribal movements in the northeastern region of India that called for self-determination; the act was subsequently extended to Jammu and Kashmir in 1990. The act guarantees that military officials working in areas where AFSPA is in force will be immune to prosecutions, with the result that hundreds, if not thousands, of extra-judicial killings, rapes, and robberies by armed forces have been committed.³⁶

Provincial measures such as the West Bengal Security Act and AFSPA have paved the groundwork for much of the security legislation that has followed, including the Defence of India Act (1962), which was enacted during the Sino-Indian War and used in Bengal to detain members of the Communist Party who were seen to be pro-Chinese. Deoli, which had served to house detainees in the colonial era, was used in this period as an internment camp for Indians with Chinese ancestry. Nearly 3000 Indians of Chinese descent were transported from West Bengal to Rajasthan and detained for five years.³⁷ The Unlawful Activities Prevention Act (1967), the Maintenance of Internal Security Act (1971), the Prevention of Terrorism Act (1974), and the Terrorism and Disruptive Activities Prevention Act (1987) have extended emergency legislation to make India into, as the jurist A. G. Noorani notes, "a security state."³⁸ Collectively, this legislation has outlawed particular associations on the grounds that they posed a threat to the integrity of the nation, allowed the use of forced confessions in trials, allowed trials without legal representation for the defendant, and enabled the long-term detention of those suspected of terrorism in the name of preventing attacks. Although POTA had expired in 1995, 9/11 and the attack on the Indian parliament in December that year led to the passage of POTA in March 2002; it lapsed two years later in 2004. Yet, as Singh has argued, "The jubilation over its repeal, moreover, shrouded other laws that continue to be in operation in parts of India." The Indian government has since changed the right to maintain one's silence, making it easier to have confessions be admissible in court; these reforms lowered the state's burden to prove

³⁶ A briefing by Amnesty International summarizes some of these episodes and the investigations that followed: www.amnestyusa.org/sites/default/files/asa200422013en.pdf [accessed May 26, 2016].

³⁷ James Griffith, "India's Forgotten Chinese Internment Camp," *The Atlantic*, August 9, 2013, www.theatlantic.com/china/archive/2013/08/indias-forgotten-chinese-internment-camp/278519/ [accessed June 14, 2016].

³⁸ A. G. Noorani, "India: A Security State," *Economic and Political Weekly* 44.14 (April 4-10, 2009): 13-15.

a crime and facilitated the prosecution of political dissidents.³⁹ The ordinary law has been transformed by the longstanding existence of extraordinary and emergency laws.

Emergency laws evolved from targeting members of underground revolutionary groups in the colonial period, to communists in the early years after Indian independence, to detaining Maoists, tribal leaders and Dalit activists, whose political protests have been viewed as a security threat to the government. From the interwar years onward, as British officials devolved political authority from the center to the provinces and expanded Indian representation in governing India, emergency laws were used to protect the process of democratic and constitutional reform from the disruptions posed by political violence. The kind of colonial liberalism that was held by India's British rulers has been replicated within the political formations of postcolonial liberal India, sometimes by the same figures who were subjected to illegal detention. Jawaharlal Nehru, who protested extraordinary laws and advocated for full universal suffrage at India's independence, authorized the passage of the Preventive Detention Act in 1950, and AFSPA in 1958. In both the colonial and postcolonial periods, political leaders rationalized emergency laws as a way of protecting the process of democracy, even as the civil liberties of political groups have been eroded and the executive power of the armed forces has been enhanced.

This trajectory toward more emergency laws, rather than less, shows the ways in which colonial occupation produced particular outcomes. India's colonial history of revolutionary terrorism is very much a part of its present, a legacy of colonial occupation and liberal ideals as they developed in concert through the twentieth century.

³⁹ Singh, *State, Democracy, and Anti-terror Laws*, p. 287.

Bibliography

Archives with Abbreviations

In the United Kingdom

Africa, Asia and Pacific Collections, British Library, London (APAC)
European Manuscripts (Mss Eur series)
Public and Judicial Department Papers (L/P&J/6–12 series)
Files on Political and Constitutional Development (L/PO/6 series)
Parliamentary Branch Records (L/PARL series)
Public Records Office (PRO), Kew
Cabinet Papers (CAB)
Colonial Office Records (CO)
Centre of South Asian Studies Library, Cambridge (CSAS)
Finney Papers
Tegart Papers

In India

National Archives of India, New Delhi (NAI)
Home Political files
Indian Legislative Assembly Debates
Nehru Memorial Museum and Library, New Delhi (NMML)
Oral History Transcripts
All India Congress Committee Papers
Ganesh Ghosh Collection
West Bengal State Archives, Kolkata (WBSA)
Home Political files
Intelligence Branch files (IB)
National Library, Kolkata
Government Publications (GP)

Online Databases

Collected Works of Mahatma Gandhi online (CWMG)
[www.gandhiserve.org/cwmg/cwmg.htm]