

CENISEAS PAPERS

7

**TERROR AND THE MATERIALITY
OF COLONIAL RULE**

RANABIR SAMADDAR

Sanjib Baruah, SERIES EDITOR



**Centre for Northeast India, South and Southeast
Asia Studies**

**OMEQ KUMAR DAS INSTITUTE OF
SOCIAL CHANGE AND DEVELOPMENT
GUWAHATI, ASSAM, INDIA**

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Published by

Centre for Northeast India, South and Southeast Asia Studies
Omeo Kumar Das Institute of Social Change and Development
39, Sapta Swahid Path
Dispur, Guwahati - 781 006
Assam, India

Price : Rupees Thirty Only

Printed at :
Everywhere
Dispur, Guwahati - 781 006
Assam, India.
Cell No.: 98640-82516

SERIES EDITOR'S NOTE

The CENISEAS papers seek to promote the intellectual mission of the Centre for Northeast India, South and Southeast Asia Studies [CENISEAS] (briefly described on the back cover of this publication). Most of the papers grow out of lectures, seminars and other events at the Centre. This paper by Ranabir Samaddar — the seventh in the series — was the basis of his lecture at CENISEAS in Guwahati on Tuesday, June 29th 2004.

For a number of years now violence has been a part of the Northeast Indian political landscape. The actions of insurgent groups and the official response to them have led to significant militarisation of the region. The urgency about responding to the challenge has not left much room for serious reflections on the nature of the challenge itself. But the need for intellectual engagement can hardly be exaggerated. The conversations about terrorism that are taking place in the world since 9/11 may especially resonate in Northeast India. A philo-

sophical response to 9/11, according to Jacques Derrida, would fundamentally question the most deep-seated presuppositions of our discourse about ‘war’ and ‘terrorism.’ “The concepts with which this ‘event’ has most often been described, named, categorised,” he said, “are the products of a ‘dogmatic slumber’ from which only a new philosophical reflection can awaken us, a reflection on philosophy, most notably on political philosophy and its heritage.”¹

With the hope of initiating such a conversation in North-east India, CENISEAS invited political thinker and social activist Ranabir Samaddar to speak on “terror and the materiality of colonial rule.” Samaddar argues in this paper that terror cannot be seen only as “individual, scattered, and demonstrative acts of hatred, revenge, sacrifice, redemption, and various millenarian ideas.” The history of British colonial rule in India, he says, points to links between terrorist violence and collective violence, and collective violence and collective action. Without those links terrorist politics in colonial India would not have been as turbulent as they were. In his usual provocative manner, Samaddar connects terror with law: “because terror denotes uncertainty - terror is uncertainty - the State wants to make sure that the world of terror becomes law bound, its grammar is subjected to legal cognition, so that terror is stripped

¹ Jacques Derrida in Giovanna Borradori (ed.) *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida* (Chicago: University of Chicago Press, 2003).

of uncertainty.” Colonial rulers in the nineteenth century, he argues, achieved “pacification” by combining “terror with law, suppression with responsibility, conquest with constitutionalism.” Naming the opposition to colonial rule — especially subaltern opposition — as terror-driven and counter-posing the “terrorist” methods of its opponents to “responsible governance” was part of the discursive strategy of the colonial power.

Samaddar’s historical account of the advent of modern law in India is reminiscent of Carl Schmitt’s argument that the hegemony of particular interests lies behind law’s claim to universalism. But that fact alone need not disable us in terms of political action. Even if we agree with Samaddar’s account of the origins of law, it still provides the precondition for a realm of politics where we can debate questions of rights, justice and the common good.

The Centre for Northeast India, South and Southeast Asia Studies and the CENISEAS paper series have been made possible by a grant from the Ford Foundation.

Sanjib Baruah

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Terror and the Materiality of the Colonial Rule

In discussing terror and law in the colonial world this essay is an exercise in argumentation against the genre of writings that go by the name of “cultural studies” and try to explain the materialities of politics by the new-fangled theories of culture. Obviously I do not intend to suggest for a moment that we need not study culture in politics. My sole intention here is to bring back into attention the material process of politics, here the colonial politics, in the making of which terror and law played such a vital part. To explain the sheer physicality of colonial violence and the anti-colonial resistance – in which terror and law were critical - I take a slice out of our colonial history. I intend to show how terror has been always relevant to politics, and how law could not have developed without striking roots in violence, violence that made law secure in the first place. I argue in the process that what I have termed elsewhere as “colonial constitutionalism” is not an exceptional experience; this physical model of rule has been

replicated worldwide, countless times and on countless, including most recent, occasions. In my talk I try to pose through a brief historical account the following questions related to the physicality of the colonial world of fear and violence –

- Who terrorises whom, yet who becomes terrorist?
- What is then effaced when terror is substituted by the word “terrorism”?
- How does terror become relevant to politics?
- What is then the function of law?
- How does law relate to terror?
- What roles do intelligence and analysis play in this?
- Why indeed does law need terror (as an occasion and as instrument) to develop itself?

II

Terror is of concern for the State because above all it brings unsanctioned and unwarranted deaths. Extra-ordinary measures are taken, juridical serenity breaks down, schizophrenia takes possession, and collectively they give a push to a reorganisation of polity. Most of the time we know this prospect by the word “terror”. Terror means uncertainty, capacity to scare, “terrorise”, violence, symbolic violence, extra-ordinary methods, unaccountability, uncertain prospects, different rules (if you understand them) of engagement and murder, and

different methods – but in whichever way you interpret and make sense of the word, this is a game with death. The act and the response, both are locked in death acts. Yet, because terror denotes uncertainty - terror is uncertainty - the State wants to make sure that the world of terror becomes law bound, its grammar is subjected to legal cognition, so that terror is stripped of uncertainty, it is made certain in terms of definition, knowledge, action, and retribution, and thus the uncertain is legally defined, becomes subject to state’s reasons, to the world of knowledge, therefore to calculated decisions. This process of attempting to subject the essential uncertain to the most extreme certainty, *law*, is coupled with a recognition of the limits of this enterprise, and therefore with a frenzied invocation of the great arbitrary method of governing from the time immemorial, *intelligence*, that forms the bedrock of the trinity – state, terror, and law. In studying the trinity, it will serve us if we remember that the colonial strategies of governing have been the basis on which the unity of the three elements of politics stand today, namely, state, terror, and law; and it is this unity that has made a law-bound world amenable to what a French jurist working on Algeria, Olivier Le Cour Grandmaison, has called the “permanent exceptions”.

The suggestion to study “permanent exceptions” besides carrying historical and philosophical interest carries also a momentarily embarrassing irony because it will inevitably raise

the question, how can law be so close to terror, so close that terror can never be thought of without its legal definition, without the legal mechanisms to cope with it - indeed without terror becoming one of the most significant moments, or at least the next moment, in the development of law? The entwined or entangled story of law and terror presents to us the appearance and disappearance at will of what we can call the "will of law" or "the will to legislate". Now going beyond law to combat or inflict terror, now shrinking back to the confines of law to take stock and legislate in order to forge an appropriate tool of terror and counter-terror, the *will to legislate* becomes contingent on elaborate phantom-building exercises. Drawing the widest canvas of a terror that has supposedly engulfed society becomes the occasion to legislate. The most hard measures enacted are found, therefore, suspended in a kind of mythological abyss of terror, horror, and calamity, which becomes quickly the caricature of constitutionalism, a caricature that law cannot tolerate for long. The normalisation of terror in politics becomes a juridical task of high priority - normalisation in the sense of bringing the phenomenon back to the "normal" level, also "normalising" the level achieved. The story of the colonial state in relation to terror and law is significant for it shows in embarrassing clarity the material conduct of the state in an age when terror has once again appeared as one of the most essential ingredients of politics, and therefore physical control has become once again one of the chief instruments of ruling.

The colonial state in India was an extra-ordinarily war like state. In some way, it had continued the record of the pre-colonial state in making war, conquest, and large-scale murders the basis of state foundation, expansion, and consolidation. But the colonial state raised the level of violence to an unprecedented level. Throughout the nineteenth century, the truly colonial century in India's history, wars, plunders, conquests, battles of attrition, destruction, mutinies, revolts, massacres, famines, pestilence, and widespread depopulation marked the country's life. It meant employing warriors and guns, raising of mercenary armies, anarchic modes and results of taxation, seizing land, planting or re-planting it, forcibly colonising tracts with huge loss of lives, imposing trade rules with devastating effect; the war-struck century meant due to all these a terror-struck century. It also meant that a huge land mass dotted with points of intense violence needed to be aggressively ruled by guns and regulation-making at a ferocious pace. What the liberal history of the nineteenth century India paints as one of increasing tranquility and civility is actually what modern administrators and policy makers would call "pacification", achieved through terror and rules, that required an entire century of will to legislate. Yet as we all know, the pacification that started with Regulation III of 1818 did not quite achieve the success that it claimed. With the onset of the new century violence struck the political horizon of the country again. The early terrorists had learnt the lesson - the vio-

lent colonial state understands only the language of terror, or at least mass non-violent movements must be laced with appropriate measures of terror and violence. The geography of the violence in the nineteenth century was an indicator as to why terror would remain a permanent feature of the political life of the country.¹ The size and the spread of violence and terror in all forms throughout the century – assassination, internment, deportation, exile, physical torture, random death penalty, increasing monopolisation by the colonial state of the means of violence and murder (by which murder by an individual became an occasion for the state to decide who is guilty and confer death sentence), incarceration, artillery development, punitive taxation, collective punishment (as in the suppression of the Mutiny), race violence, forced labour employed by the army, and starving massive groups of people to death – meant that violence had a deep impact on the political forms of action in the society; that the political action was to be marked by an awareness that *sarkar* might be a *mai bap sarkar*, but this *sarkar* was of the *huzoor* who tolerated the scoundrel, at times showed affection, but would cane the beast regularly with a reserved and the unchallenged right to rule. In this uniquely ubiquitous violent society, terror was the birthmark of politics.

¹ On an unconventional history of empire making, see Linda Colley, *Captives: The Story of Britain's Pursuit of Empire and How Its Soldiers and Civilians Were Held Captive by the Dream of Global Supremacy, 1600-1850* (New York: Pantheon Books, 2002)

One of the early terrorists, Khudiram Bose said these words among others recorded by the Special Branch, before he was hanged to death,

I was naughty in my childhood... (But after I entered the Midnapore Collegiate School), a change overtook me. Physical culture absorbed all my attention instead of study, and one thought always was uppermost in my mind – how to be strongest amongst my classmates. But in the meantime an idea struck me, “I must do something proven for my motherland”. We discussed the subject, I and two friends... Just at this time we heard that famine was raging in the country. Subscriptions were being raised in the classes. But it would often happen that he who raised the subscription usurped half the amount instead of spending the whole for whom it was intended. My mind grew disturbed and I thought that the Government was indifferent to the matter. Since then I began to detest the Government. Not only this, there were other causes which substantiated my hatred towards the Government. Then when I gathered the real state of affairs from books and histories, the landing of the English in India and its subsequent conquest by them, there arose an uncommon hatred in my mind.

We, myself and the said two friends pledged to put an end to our lives by some patriotic deeds. At that time the partition of Bengal was declared. Then we realised that we would not be able to redeem our pledge by remaining within the confines of our domestic life...I became restless...I realised nothing could be achieved in this way. At this time I met a genuine patriot. He began advising me as to how my efforts would be of proper use...At the instance of my Guru I went to Anandapur with a friend to learn the art of weaving...At this time the Jugantar (the revolutionary publication – R.S.) came out in Calcutta. Reading it we realised that weaving would not lead to freedom. An article deeply impressed upon me. It is as follows. “By (after? – R.S.) handing over the country to the foreigners, you are invoking Swadeshi; it is like guarding the streets after allowing thieves inside the house.” Weaving lost its lure after I read these lines...During this time there was an exhibition in Midnapore. I became a volunteer. I got some pamphlets on the merits and demerits of the English. I began to carefully distribute them, but got arrested. By using physical strength I somehow got off...I was arrested (again), and then bailed off. I was committed to the Sessions and was again put to *hajjat*

(jail custody) for a day...and on the second day I heard that the Government had withdrawn the charges against me. I was then 15 years old.²

The sheer physical dimension of the only form of anti-colonial political activity that was possible in that age ensured that with terror modern politics would make its appearance in the colonial land. It also ensured the centrality of the body in such politics, in other words the central significance of the physicality of terrorist opposition to colonial rule. What Khudiram was describing in his last testimony was also clear from the way the early terrorists were being nurtured and brought up through innumerable organisations devoted to martial culture and inculcation of physical discipline – indeed the two most well known militant anti-colo-

² There have been several Bengali prints over the years of the short testament that Khudiram gave on himself in jail in front of the Intelligence officials. The original was in Bengali. One of the most read accounts of his last days is Upendra Nath Sen, *Khudiram*, first published in 1354 (B.S.) in the journal *Shanibarer Chithi*, Aswin (reprint, Calcutta, Sakkharata Prakashan, 1979); I am using here the English translation prepared by the Special Branch, Bengal, 1908, now reproduced in Amiya Kumar Samanta (ed.), *Terrorism in Bengal – A Collection of Documents* (hereafter TIB, 6 volumes all published in the same year), Volume 4 (Calcutta: Government of West Bengal, 1995), pp. 1388-1389. Upendra Nath Sen describes, how the head of Prafulla Chaki was cut off by the police and was taken to few places including Khudiram in jail for identification, after Chaki shot himself dead. Chaki denied the police the pleasure of arresting him; in turn he was denied the last rites.

nial organisations, *Anushilan* and *Jugantar*, grew out of such efforts. Hatred was first of all a physical reality and called for physical response.

III

No one was more aware of the developing reality of permanent exceptions within a constitutional rule than the two adversaries – the colonial state and the militant nationalist, known as the terrorist. Upendra Nath Bandopadhyay in his reminiscences of his stay at the Andaman Islands Cellular Prison tells us of an exchange of words with Reginald Craddock, the well-known colonial administrator and the Home Member at that time, when he had gone to inspect the Island Prison in 1913. Upendra and other prisoners had asked Reginald Craddock the reason as to why they were being denied the facilities under the jail manual. Reginald's reply was that they were terrorists, they had "done conspiracy" against the State. Again on being asked why their trial had not been public, Reginald had answered that, "These things did not call for or require evidence", and that the State should have killed them in the first instance. To this, the prisoners asked, "If so, why were then the entire ceremony of law and court, and the unnecessary spending of public money? The work could have been finished briefly." Reginald remained silent, only cryptically adding that discipline had to be maintained

whatever might be the merits of the demands.³ After he left, torture of the prisoners resumed with frenzy. Ullaskar became insane, the Ghaddar prisoner Prithwi Singh died after spending six continuous months in a cell, two others died after merciless beating and then dysentery; three died in hunger-strike, Chatta Singh was caged and put in sun and darkness for days, and died in cage. Amar Singh was caged similarly. And Jyotish Chandra Pal, the accused in the Balasore Conspiracy Case went mad in his cell, and died in Baharampur Asylum in Bengal after he was sent back to mainland.⁴ We must therefore come to the issue of law, law that follows conquest. It is here where we shall find the story of permanent exceptions.

Permanent exception, the administrative-legal strategy to tackle resistance, was invented by the colonial rule as a mix of terror and the principle of responsible government. Indeed, the two discourses of exceptions and responsibility had emerged in colonial rule roughly at the same time. The invention of the wheels of responsible government did not come much later to 1818. We have already noted that terror, necessitated by conquest, was a physical fact. Yet, this was not enough. The task was to combine terror with law, suppression with responsibility, conquest with constitutionalism – a juxtaposition that I have called elsewhere as "colonial

³ *Nirbashiater Atmakatha*, pp. 102-03.

⁴ *Ibid.* pp. 104-09. See also, Madan Mohan Bhaumik, *Andamaneey Dosh Batsar*, reprint (Calcutta, Lekhak Samabaye Samiti, 1985), pp. 55-80.

constitutionalism”.⁵ Built on the physicality of the fact of rule was a discursive strategy of the colonial power to name the opposition to its rule, particularly subaltern opposition, as terror-driven and to counter-pose its norms of “responsible governance” to the “terrorist” methods of the opponents. These two techniques combined effectively in devising permanent exceptions, thereby making colonial rule a success. With colonialism thus began the paradox; we can in fact say that almost from the beginning of liberal jurisprudence, the world of juridical-political knowledge had taken a somersault. The distinctions between terror and terrorism, colonial rule and constitutionalism, control and freedom, security and democracy, individual guilt and collective punishment, and information and intelligence, vanished as a result of this acrobatic feat. In this upturned world of juridical knowledge, the operation of law making had one important aim among several, namely legally defining terror, that is to say, how to include some acts as acts of terror and omit others from that definition. This was the founding moment, self-foundation or otherwise of law that has always held fascination for philosophers who have chosen to comment on law. Primarily a legal task, but never completely legal because defining terror always depended on gathering of intelligence about militant opposition, the founding moment of law, as the nineteenth century history of India showed, was

⁵ “Colonial Constitutionalism”, www.codesria.org/Links/Publications/icp/july_2002.htm and in *Identity, Culture and Politics*, 3 (1), July 2002

as much a mythological moment as a legal moment because each enactment depending on “external sources” was marked with fearful anticipation that this definition could soon prove inadequate calling for new necessities and new enactments in the wake of new attacks on the State. Regulation III of 1818 was to be thus succeeded with many measures in the first part of the twentieth century including the Defence of India Rules. Law making and terror-acts or terrorising thus went hand in hand in colonial times.

The development of the legal discourse in constructing a full-fledged theory of terrorism is evident in India. But then again, the beginnings had been earlier. Some can say, it has been always the same – in Roman times law led philosophy by hand, in the long age of natural law this was again the case when despotic power accompanied the invocation of natural law, and now in the age of positive law defining terror and legally running a regime have become the twin tasks of a State. However here too, colonial history has substantive lessons to offer, as we shall soon see, by proving two tasks of statecraft important – making terror a subject of law and making intelligence operation (an exercise fundamentally beyond law) a crucial instrument in this exercise of legality. The second I submit was more significant of the two. Intelligence gathering became critical because (a) intelligence was a grey area in state operation, little controlled by law and norms of accountability; (b)

terror had become “democratic”, with means of violence within reach of many, hate becoming widespread and opposition to rule deep – all these therefore requiring the State to gather greater and greater information about “irresponsible opposition”. With each and every development of military technology of the superior powers, the terrorists were also learning new modes or using old modes in new ways – an equally potent revolution in military affairs, half-noticed and half-understood. Thus new techniques of gun-making, bomb-making, clandestine voyage, radio transmission, new organisational techniques, financial laundering, printing fake currency notes, robbery, cryptography, train wrecking, improved graphics printing for forging papers and travel permits, combined with old forms like stabbing, beating, or tying rope to death - and we find intelligence files abound with all these pieces of information.⁶ Terror became cost-effective and democratic. Therefore intelligence gathering became crucial. As a result, spies and intelligence officers of the government became the most hated objects of the militant nationalists or the early terrorists (For

⁶ *TIR*, Volume 1, speaks of bomb making, train wrecking, and the proliferation of small arms, pp. 32-33, 45; it places the intelligence people make the administrators aware of the organisational structures of the secret societies (p. 221) – Home, GOI, 1937, Simla. The tragic-comic story of the early Bengal revolutionaries’ attempts at bomb making is documented in graphic details in Bhupendra Nath Datta, *Bharater Dwitiya Swadhinata Sangram*, reprint (Calcutta: Nababharat Publishers, 1983), pp.151-53. For details of the various techniques employed by the early terrorists, the best account is, Trailokya Nath Chakraborty, *Jeley Trish Bochor O Pak-Bharater Sangram* (Calcutta: Anushilan Bhavan Trust Board, 1981).

instance, in 1910 the DSP of the CID, Shamsul Huda was shot dead on the corridors of the Calcutta High Court; the same year CID Inspector Sarat Chandra Ghosh was attacked in Dhaka – the former was associated with the investigation of the Maniktola Bomb Conspiracy Case, the latter with Dhaka Conspiracy Case. In 1911 the Head Constable attached to the intelligence department Srish Chandra Chakraborty was killed. Then the CID Chief Denham was attacked. In 1914 it was Inspector Nripendra Nath Ghosh’s turn to die. In 1916 died DSP Basanta Kumar Chatterjee who had escaped earlier attempts on him). Consequently, before law could pronounce certain truths, it was important for the colonial rule to find out: who killed whom, when, where, and by what means – even now a key issue in military affairs relating to terrorism.

To understand the critical role that constitutional rule accorded to intelligence in the colonial time, we have to note the most important fact that this role became strategic. Before, intelligence was for the king, for the benefit of his counsel, for selected things and targets, and its role was tactical. Now intelligence became strategic, it called for analysis and recommendations on political goals.⁷ Thus, for instance, in report after report the intelligence agencies and officers inquired the impulse behind forming secret societies, their nature, organi-

⁷ Michael Shapiro calls the politics of surveillance as the “bio-politics” of our age, when following Michel Foucault he argues that surveillance and control of bodies have become crucial for the State to manage security. I

sation, membership, sustainability, and the reasons behind their periodic rise. The techniques of forming secret societies by the early terrorists became the object of study – techniques such as oath taking, raising money by robberies, rules of introducing new comrades, rules of secrecy, contacting, networking, reading in groups sacred texts, group study, or, “infiltrating legal societies and association”.⁸ Again, what was noticeable was the way the intelligence officials analysed the declarations that the early terrorists like Barindra Nath Ghosh made to the police on being arrested or before the court during trial, and turned these into confessions to be subsequently used as material for building up a conspiracy case. The Maniktala Bomb Conspiracy Case was one of the early instances of this technique. It also helped to bring in charges against a group and pave the way for group punishment. “Confession” or “declaration” was therefore one of the thorniest issues in the ranks of the revolutionaries, and if one of the early nationalist bomb-makers Hem Chandra Das Kanungo is to be believed, it sowed and encouraged suspicion.

The Intelligence Bureau published in colonial India two

am grateful to Shapiro for providing me access to his essay, “Bodies, Surveillance, and the State”.

⁸ Some of these are drawn and discussed in details by Hem Chandra Kanungo, *Banglaye Biplob Prachesta*, 1928 (reprint, Calcutta, Chirayata Prakashan, 1984), chapter 4, “Gupto Samitir Adorsho Byartha Holo Keno?”, pp. 27-49; Trailokya Nath Chakraborty, *Jeley Trish Bochor O Pak-Bharater Sangram*, pp. 23-92.

books that went beyond the simple goal of collecting piecemeal information on some individuals and activities, and presented strategic analysis on colonial security threatened by terrorist activities – the first, *Political Troubles in India: 1907-1917* by J.C. Kerr, Special Assistant to the Director of Criminal Intelligence from 1907 to 1913, and published in 1917 (to which we have made reference already), and the second compiled by H.W. Hale specially deputed to the Intelligence Bureau for this purpose, in 1937 to cover the period between 1917 and 1937. With pride, Ewart, the then Director of the Intelligence Bureau stated on the latter indicating at the same time the strategic role that intelligence was playing as a technology to buttress the colonial rule, “The book in final form represents an immense amount of research among the scattered and defused contemporary records”.⁹

Intelligence people become the backroom boys of the administration.¹⁰ The wisdom of the colonial administration enriched by the Irish, Indian, and similar experiences was a significant source of this development. Indeed Act XIV was enacted in India in 1908 at the advice of the intelligence officials. Likewise, in the promulgation of the Ordinance of 1924

⁹ *TIB*, Volume 5, introduction, p. ii

¹⁰ On the US experience one of the fascinating accounts is, Thomas Powers, *Intelligence Wars – American Secret History from Hitler to al-Qaeda* (New York: New York Review Books, 2002); also Christopher Andrew, *The Sword and the Shield – The Mitrokhin Archive and the Secret History of the KGB* (New York: Basic Books, 1999).

and the Defence of India Rules intelligence advice was crucial. While colonial political leadership was baffled at times at the strong mixing of the two currents, the intelligence report was busy in *analysing* the import of the intermingling of the two.¹¹ In 1932 R.E.A. Ray, Special Superintendent, IB. CID, prepared a “Brief Note on the Alliance of Congress with Terrorism in Bengal”, where he noted the progress made by the early terrorists in influencing mass non-violent movement with their ideas of militant nationalism. In 1921, he noted that terrorists had taken part in the Non-Cooperation Movement, after coming out of prisons following the Royal Proclamation of December 1919. They then managed representation in the Bengal Provincial Congress Committee in 1922. With 1930, the report continued, both civil disobedience movement and terrorist campaign began anew. “Jugantar Party” backed Subhas Bose. Ray’s report cited many names in this connection of persons who were denizens of the two worlds – underground and the over-ground. The key part of Ray’s report dealt with his analysis of “Terrorists’ views on their connection with the Congress”. It noted the popular nature of the issues related to civil liberty, ignored in the Gandhi-Irwin Pact of 1931. Prisoners were still in jail, hundreds were awaiting trial for years, many were not even charge-sheeted, there was large scale detention without trial, several persons were being deported or interned, many were being executed – the situation was in-

¹¹ *TIR*, Volume 1, pp. 20-21, p. 364.

flammable. There is no doubt that by now the hawk’s eyes were on strategic questions of politics.

In the same breath, intelligence officials as we know were *analysing* what political scientists call today the civil society organisations. Thus Ramakrishna Mission,¹² Tagore’s Santiniketan, Karṁi Sangha, and many other institutions came under scrutiny.¹³ The author of the intelligence report on the Mission “analysed” Vivekananda’s teachings and his impact on the militant nationalist movement in a manner that anticipates in many ways that of the modern social scientists. Therefore all social forms that supported militant nationalism were to be put under the scanner. More significant is the way in which the analytic community was pointing out one of the chief indices of the popularity of a cause – the decentralised organisational set up, the flexibility in the organisation of war, and the myriad ways in which the party of war and contest permeated existing organisations and institutions. Historians of civil society should better take note of these in sketching out their

¹² This is the infamous report of Charles A. Tegart, then the Special Superintendent of Police, Intelligence Branch, “A Note on the Ramakrishna Mission”, 1914, *TIB*, Volume 4, pp. 1134-1375.

¹³ Bhupendra Nath Datta, one of the early revolutionaries, mentions while discussing the interaction between Tagore (when he was writing his “Swadeshi Samaj” in order to elaborate his ideas of parallel government) and the early militant nationalists, how militant politics, civil thinking, and anti-colonial consciousness mixed with each other, albeit with some tension, but with admirable tolerance from each segment. See, *Bharater Dwitiya Swadhinata Sangram*, p. 157.

ideas on the problematic of the civil/political in anti-colonial political milieu where contrary to their ideas of a neat division, everything was civil and at the same time everything was political.

Denham's report on Benaras spoke of Tilak's visit to the city in 1900, and noted the congenial atmosphere that Benaras offered to the "Poona Party" "so closely connected with the murders of 1897", and guessed that it was the "Marhatta" connection that had led to the beginning of Bengali terrorist activities in the town. It mentioned various names and castes, and cited the instance of the founding of Anusilan Samiti in Benaras by Sachaindra Nath Sanyal and Deo Narain Mukherji. The report spent quite some lines on Basanta Kumar Biswas who had come to Benaras in 1910. Basanta is of course one of the illustrious names of the early terrorists of Bengal and the entire country. Basanta was a member of Jugantar, he was conspicuous for his organisational skills, and was an important intermediary between the Calcutta office of the Jugantar and the "co-conspirators" in Chandannagar. He was very young, started to work on his own in 1910, was sent to Puri and eventually to Benaras where he was said to have taken shelter in Ramakrishna Mission. In 1911, he came into contact with Rashbehari Bose who was in Dehra Dun and who himself had been in close contact with Benaras. Basanta along with others had organised money supply for the activities – something that

came to light later in the Benaras Insurance Fraud case. Sachindra Sanyal¹⁴ and Rashbehari Bose, the two veterans linked up the Bengali Diaspora in almost all major towns outside Bengal, principally Puri, Patna, Benaras, Dehra Dun, and Delhi, as the sustaining network for militant activities, and Basanta was one of the principal activists. Many other names occur in this strange story. Basanta's story comes to an end when he was finally apprehended and was subsequently hanged on conviction in the Delhi Conspiracy case in 1915. The police finally came to terms with the city by bringing in intelligence officers from Calcutta.

Denham's report on Benaras is a part of the systematic gaze that the colonial rulers cast on the landscape of violence in the country, and read in details tells us of the way in which the colonial state buttressed its law, order, and justice machinery by raising intelligence activity to the status of strategic necessity.¹⁵ Indeed, one can say, conspiracy cases, the main plank on which British counter-insurgency technology of justice depended, always relied on wholesale intelligence reports,

¹⁴ Indeed, Sachaindra Nath Sanyal's life is a great instance of a terrorist as an organised warrior. He along with Rashbihari Basu became legends in their lifetime for organising and leading a "terrorist" army. On Sachaindra Nath Sanyal, his association with Rashbehari, and their joint work, see Bhupendra Nath Datta, *Aprakashito Rajnitik Itihas*, reprint (Calcutta: Nababharat Publishers, 1390 B.S.), pp. 120-132.

¹⁵ To understand the role of Benaras along with towns like Kanpur, Allahabad, and Meerut in the development of early terrorism, one has to

true and fabricated, only which could build up the case – first the FIR, then the brief, and then the arguments, in which conspiracy against the State acted like a framework of punitive verdict. The great instance of such technique was the case of the Kakori train robbery, where on the basis of intelligence operations, the robbery case was given from the beginning the form of a conspiracy case to be tried by a Special Magistrate (1926). The Kakori Conspiracy Case resulted in the hanging of 4 nationalists, (Ramprasad Bismil, Asfaquallah, Roshan Singh, and Rajen Lahiri), life conviction in the Andaman Prisons for 5 nationalists, which included Sachindra Nath Sanyal, 10 years' imprisonment for 4 of the accused, 5 years' imprisonment for 4 accused, and 4 years' imprisonment for 2 of the accused. Plus, the government could break the structure of the Hindustan Republican Association that was evolving from an association for committing terror-acts into a more organised militant organisation. Indeed, the significance of the Kakori Case from the angle of intelligence operations was immense because Asfaquallah in fact admitted on the gallows that they were “not terrorists, and their organisation's aim was to dispel fear”.¹⁶ In this way, the government could cast its net wider, and all those not associated with a particular act could be tried

read Sachindra Nath Sanyal's memoir which he wrote in several phases and only haphazardly completed before his death in 1943, *Bandi Jeevan*, reprint, ed. Ajijul Haq (Calcutta: Nandanik, 2001); also Jogesh Chandra Chattopadhyay, *Swadhinatar Sandhaney* (Calcutta: Kishore Trust, 1977), pp. 147-191.

¹⁶ *Swadhinatar Sandhaney*, p. 307.

with same severity, and hanged or jailed for life.¹⁷ Again, we know for instance that Basanta was not given death penalty in the lower court on the ground of lack of sufficient evidence, but was hanged on appeal, where the ground lay on the strength of presenting a “conspiracy”. What is conspiracy? That, of course, law does not define. Also, we have no select indices of that. In what precise way does it connect to sedition? Again we have no answer. Was the last emperor of a free country, Mughal India, guilty of conspiracy and sedition, and could he be deported under Regulation III of 1818?¹⁸ Was he a subject of the British sovereign? To build up the factual-legal-mythological world of sovereignty, which could then form the basis of the entire law and jus-

¹⁷ The Kakori Conspiracy Case became subsequently a rallying point for militant left nationalists in Uttar Pradesh; and understandably Pandit Nehru was wary of the prisoners who were finally released in late thirties. For details see, *Swadhinatar Sandhaney*, pp. 244-341.

¹⁸ We can see in this connection the “Report of the Government of Eastern Bengal and Assam on Deportation”, Political Branch, File no 706 of 1909, *TIB*, Volume 4, pp. 1281-1331. The report dealt with deportations under Regulation III of 1818 of Aswini Kumar Datta, Satish Chandra Chatterji, Pulin Behari Das, and Bhupesh Chandra Nag. The report spoke of their activities, political profiles, and place in “terrorist activities”. It must be noted that the report nowhere spoke of their direct involvement, but always pointed towards their leadership roles in the districts of Bengal. In this connection one can see also Pulin Behari Das' own revealing account; he wrote of the strength of the Dhaka Anushilan Samity, the near autonomus functioning of similar Anushilan Samities in eastern Bengal, and the fragile nature of the unity of the terrorist groups that depended on the state of the collective movement and the spread of the feeling among the ranks of the militant nationalists at a particular time about the need to strike terror in the ranks of the rulers to rejuvenate the masses. See *Amar Jiban Kahini*, pp. 102-124.

tice machinery to work, intelligence machinery provided the framework. In that sense intelligence has been to rule of law what epistemology has been to philosophy. The problems have to do with ways of knowing, making a meaning out of knowing, the meaning of knowledge. Rule must be backed with knowledge about its ways, means, consequences, and impediments. Intelligence must be built around a core of solid body of knowledge about organisational style of the terrorists, the modus operandi of the activities such as political robbery, the decentralised functioning of the main groups, etc. Thus, a published government report titled, "Terrorist Conspiracy of Bengal, 1 April – 31 December"¹⁹ described in details several organisational networks of the terrorists, and had significant implications for legislation to control and suppress terrorism, something we shall come to discuss in a moment.

Thus, one of the crucial instruments of the colonial government in India, in this case the fortnightly summary of the situation based on reports of the zonal level police, intelligence officials and the administrators, and sent by the Chief Secretary of the Bengal and Assam to the Government of India, was concerned with the crux of intelligence – *knowing, analysing, deploying - what has developed today as counter-intelligence,*

¹⁹ Government of Bengal, *Terrorist Conspiracy in Bengal* (Calcutta: BG Press, 1926)

*information and misinformation*²⁰ - and finally strategising. Intelligence that included all these reports and activities aimed at physically controlling the rebellious bodies under the colonial rule. Every move the rebel was to make, as narrative after narrative of the fugitive terrorist tells us, was to be under surveillance. If it could be termed as "bio-politics", it was not in the sense in which Foucault deployed the word, which meant that the government was to concentrate on the usefulness of the bodies based on the calculation of their performance capabilities; it was much more brutal and close. It implied the politics of controlling the dangerous bodies, which constituted the real threats to the colonial state. The bodies under surveillance posed the identity question: Why were they dangerous? What were the dangerous acts these bodies were capable of performing? How did they move? In this way, intelligence gathering had unknowingly contributed to one more significant aspect of the reality of political terror in society. A terrorist is one who has an "identity" as a cause. This makes him apart from a democrat. A democrat fights for democracy, rights, and constitution. A terrorist fights for identity. In the build up of the intelligence reports, we are repeatedly presented with the question: Who is a terrorist? What are his marks?

²⁰ One of the early attempts was the story put by the Police during the trial of the Delhi Conspiracy Case was that Rash Behari was a spy.

IV

Each year the colonial administration produced history sheets of persons and organisations, detailed their caste identities or caste basis, behavioural proclivity, and the dress, the look, the handwriting style, the manner of speaking... So we have in the government files the photograph of a baboo, a coolie, a terrorist-baboo, a raider,²¹ and then in a move, as if the government wanted to resolve once for all its own sense of enigma as to who the terrorist could be, we find the government spending pages on the love of a terrorist for death. Thus for instance, the Government wanted to know, why Charu Chandra Bose, who was hanged in 1909 and had a lame hand, had joined the movement, why just few days before he enacted the fateful act of assassinating the public prosecutor in the Alipur Conspiracy Case had gone to a studio to photograph himself, why he wanted to meet his relatives before his death, why he, a meek and silent person, had done "this", and then possibly to solve the enigma of Charu's identity, "About mid-day today (16 February 1909) Superintendent Ellis accompanied by Mr. Percy visited the Alipore Jail, took three photos of the prisoner – one in his ordinary clothes, front – one in same, side and the third in his jail jangia (underclothes) bare body exposing his arms".²²

²¹ *TIB*, Volume 1, p. 353.

²² "Papers Relating to Charu Chandra Bose and His Photograph", *TIB*, Volume 4, pp. 1391-97

The Bengal Ordinance was important. The publication *Terrorist Conspiracy in Bengal* mentioned earlier refers to the need for continuing Regulation III as a special measure, and the need for other special measures.²³ The Bengal Criminal Law Amendment Act came in 1925 close on the heels of the 1924 Ordinance. The Government noted the appearance of what it termed as "New Violence Party". It prepared yet another "Memorandum on the History of Terrorism in Bengal". It spoke of "want of evidence" that justified the Revolutionary and Anarchist Crimes Act of 1919 preceded by the Indian Criminal Law Amendment Act XIV of 1908 because what was needed was speedy and one sided trial, "where the accused shall not be present during an enquiry, unless the magistrate directs, nor shall be represented by a pleader during any such enquiry". Several associations, the Samities in Bengal, were banned in January 1909 under this Section 15 (2 b), for instance the Suhrid Samity in Mymensingh, Anushilan in Dhaka, Swadesh Sadhana Samaj (Mymensingh), Bandhab (Barisal), and Brati Samiti (Faridpur). And as the gloss of the Royal Proclamation of Amnesty in 1919 wore thin, Section 121 A of the IPC started to be invoked again to defeat "waging war against the King" (Barisal Conspiracy Case); and two successive Bengal Criminal Law Amendment Acts came in 1925 and 1930. In all these matters of understanding as to who were the terrorists, and on the basis of that understanding recommending

²³ Government of Bengal, *Terrorist Conspiracy in Bengal*

strong punitive measures, the most unambiguous was the decisions of the Court of Commissioners constituted under the Defence of India Act, 1915, in the Lahore Conspiracy (that included the bomb attack on the Viceroy on 23 December 1912) Case, 1916. The Commissioners spoke of terror as of, "...dacoits, seduction of troops, villagers and students, manufacture and collection of arms and bombs, projected and accomplished attacks on railways, bridges, arsenals, and general communications, and finally projected as general uprising, which was to be the culminating act of war"; and then the Commissioners declared, "We regard acts done up to July-August as acts of conspiracy to wage war; acts thereafter, when once the war had started as acts in furtherance of that war, and in abetment of such war".²⁴ The Commissioners were severe – in the first case of the 82 accused, 78 faced trial, and of them 24 were sentenced to death and 26 were sentenced to transportation. Only 5 were acquitted. One was sentenced to death and promptly hanged in a separate case and had no opportunity to face the trial. In the second trial, 17 were tried, of them one approver was pardoned, 6 were hanged, and 5 were transported for life. The colonial law identified terrorism and terrorists as the vital link between three phases of the militant anti-colonial upsurge in colonial India – (a) the attack on the Viceroy and the network of activities in Calcutta, Benaras, Dehra Dun, Delhi, and Lahore; and the Ghadar Movement, (b) then the

²⁴ *TIB*, Volume 5, p. V.

renewed phase of organisation, and (c) finally the Hindusthan Socialist Republican Army (HSRA), and Bhagat Singh. By the third phase, use of terror had become highly selective, the links with mass movements were stronger, and the aim was to create a series of revolutionary movements to drive the British out of India, and the bombs were meant specifically "to instil fear in the minds of the British official classes". This was as the HSRA said, "the philosophy of the bomb". And, "philosophy of the bomb" (the phrase used particularly by Chandrasekhar Azad) we know was the rejoinder to Gandhi's remark on the militant nationalists, "the cult of the bomb". It was an extension of the rejoinder, which militant nationalism had posed in response to Gandhi's critique of violence by the nationalists, the poser being in brief - "Why press for the acceptance of Truth by soul force alone; why not add physical force to it?"²⁵ Philosophy of the bomb was a sign of the brute physicality of the colonial world. By physically shaking the colonial world, as the Sedition Committee admitted the strength of some of the bombs that the police apprehended before they could be used, the bomb in British India was to galvanise and mobilise the nation. Bomb was one thing that combined technique, science, raw courage, secrecy, and individual's dedication to the cause, attack, violence, death, suddenness, capacity to spread the "news", and martyrdom.²⁶

²⁵ Cited in *Terrorism in India*, p. 200.

²⁶ Sachindra Nath Sanyal recollected many of these qualities of the "bomb" in *Bandi Jeevan*, pp. 48 and 90.

But the “philosophy of the bomb” had another import too – this time from the rulers’ point of view. As William Vincent, Chairman of the Komagata Maru Committee of Enquiry, raised and remarked on the “question of firearms” being used in the Budge Budge incident, that Sikhs had used firearms, they had been armed and violent, and had refused to proceed to Punjab, that soldiers and police did not fire indiscriminately, and that the evil influence of seditious literature was the root of trouble. On the basis of all these, in the background of their Sikh identity, the report went into details of each mutineer’s identity, village, and the circumstances of his joining the revolt in Calcutta – Gurdit Singh, Daljit Singh, Narain Das, Jawahir Mull, Inder Singh, Sunder Singh, Kehar Singh, Suren Singh, Harnam Singh...the roll call goes on in that report.²⁷ The issue was, and still remains, access to arms. Clearly terrorists were those who challenged the colonial state’s monopoly of the means of violence. Everything else could be ignored by the colonial state, tolerated, or postponed, but the fact that they were armed, they wanted access to arms, and were taking any step necessary to acquire arms, was singularly grave.²⁸ Hence, above all the colonial discourse stressed the fact that the terrorist was an armed man, and all legal and penal provisions were directed at disarming him - beginning with finding out and choking the routes of supply of arms to tracing the factors

²⁷ *Ibid.* pp. 1055-1101.

²⁸ On the background of this mad search for arms and weapons, see *Bandi Jeevan*, pp. 27-32.

behind the widening of the skill in manufacture of arms and drying it out, to stopping the mixing of armed men with unarmed population, to finally killing the armed man. It was nothing short of war. The attrition between the terrorists and the colonial state reflected this war at the most basic level.

Even though it may surprise us as to how little of this physical world was reflected in the legal history of the colonial rule, yet these laws were like the hardened crust of earth and foam that enormous convulsions leave from time to time. It began with Regulation III of 1818 for detention of suspects. The Act I of 1900, known as the Press Act, was passed to regulate publication of newspapers and other printed material and to contain sedition and seditious literature. The Defence of India (Consolidation) Rules of 1915 conferred wide powers on the Government to detain people on the ground of anti-government activities. The infamous Rowlatt Act found its new form in the Indian Penal Code (Amendment) Act No XVI of 1921; it amended Sections 121 and 122 of the Code. The Criminal Law Amendment Act of 1925 strengthened the ordinary criminal laws; close on the heels came the Bengal Suppression of Terrorist Outrage Act of 1932. Police circulars became more detailed. For instance, one such circular suggested that police evidence alone was enough at times for a *prima facie case*; reports were to be exact, meaning it was enough if they were streamlined in terms of the format. Explosives Substances Act

and Arms Act were pointed out as provisions under which culprits could be booked.

Can we say that this was just a pure process of repetition? At one level, more laws, more powers, more incidents – but repetition of the moves was essentially the name of the game. At another level, this was also producing difference. Each incident was new, each new legalised power was to contain a new phenomenon, each new militant act was a variation, and each new action was producing a new effect – the difference was affirming the validity of terror in politics. The power of this affirmation at the heart of repetition and difference resembled a classic Deleuzean scene, where resistance was taking a micro-character, and while law held sway, order remained intact, yet with myriad of terrorist acts (at an individual level, micro level), mutiny had become a virtual reality.²⁹

V

We have to go back to the issue of law therefore once again. As I indicated earlier, the colonial legal strategy in order to exclude some from the rule of law depended on making *responsibility* the cornerstone of legislating exercise. To talk of law is thus to talk of responsible government. Responsibility

²⁹ Gilles Deleuze, *Difference and Repetition*, trans. Paul Patton (London: Continuum, 1997).

ity was the principle that was being defined at different levels and purposes.

What makes the Indian colonial experience particular is that the principle of responsibility was laced with three elements of a constitutional design that worked as both inclusive and exclusive strategies: parliamentary system, federal structure, and the basic civil and criminal laws providing the backbone of the administrative system. It all began with the exercise of “regulating acts” by the Home Government on the basis of which local governments and subordinate governments were set up. That remained the essential design, which meant that, while the basic structure was provided from above, local participation at the bottom was allowed gradually. Rule of law also demanded that de-linked from commercial interests as well as direct imperial interest, a form of government be found that would look like one of Indians, albeit with the help of some Englishmen, ruling India, or who were being trained to rule India.

We can see how the multi-layered politics of responsibility was building up: the Crown was responsible for good governance; the Company was responsible to the Home Government; the Government was responsible for initiating Indians into self-governance and good governance, and the Indians were responsible for their self-education. Terrorism and

mutiny were the evils that aimed to destroy this scheme; hence they had to be suppressed without mercy. Rule of law demanded the suppression and the destruction of the evils of violence. Rule of law also demanded that the regulations be transformed into law. The Bengal Regulations had been extended with some variations to North-Western Provinces. These Regulations were clumsy and intricate where administration was not detailed and was rickety. In the Non-Regulation provinces and districts also a mass of executive orders were turned into law. Executive legislation, the usual way in which extra-ordinary measures begin has thus ancient beginning.

The thrust was towards codification, which meant the consolidation of rule. The Regulation of 1781 (Impey's Civil Code) satisfied in anticipation principle of "cognoscibility of law", that is that law should be capable of being known by persons whose rights and duties it determined – a principle that Bentham was to stress later. A Code of Regulations needed the Courts of Justice who could provide redress against infringement of the Regulations. By the Act of 1797 the Parliament sanctioned legislation and codification by the Governor General-in-Council. *The Code of Gentoo Laws and Ordinations of the Pundits* (1775) was the beginning; *Judicial Regulations* (1772-1806) followed it. Then came John Herbert Harington's three volumes of *An Elementary Analysis of the Laws and Regulations* (1805-17). Princep's *Abstract of the Civil Judicial Regu-*

lations was published in 1829. And thinkers like Bentham and the Mills who were powerless or unwilling to change the lot of their own country concentrated their energy on constitutional experiments in the colony. Indeed Bentham wrote an essay, *On the Influence of Time and Place in Matters of Legislation*³⁰ with the object of considering what modifications were required in transplanting his system of law codes to a colony. No wonder, all these thinkers honed their skill in liberal reforms during their stint at the India House.

The power of making laws and amending was vested in the Governor General-in-Council, and the task of ascertaining "all laws and customs having the force of law" was entrusted to a Law Commission. Thus the First Law Commission came into existence. It was required by Section 53 of the Act of 1833 to streamline laws and provisions regarding administration of justice and police establishments, all forms of judicial procedure, nature of operation of all laws – civil and criminal, and suggest necessary alterations in the interest of rule of law. The work on the Penal Code started around the same time, 1837. The Second Law Commission formed in 1853 assigned priority to a "simple system of pleading and practice uniform as far as possible throughout the whole jurisdiction...which is also capable of being applied to the

³⁰ See on this, Eric Stokes, *The English Utilitarians and India* (Delhi: Oxford University Press, 1982), p. 51.

administration of justice in the inferior courts of India". The work of the Commission was transferred from Calcutta to London. On the basis of its recommendations forwarded by the "Home Government" the Legislative Council passed in 1859 the Code of Civil Procedure, in 1860 the Penal Code, and in 1861 the Code of Criminal Procedure. The High Courts Act came in 1861. The same year the Third Law Commission was appointed "to prepare for India a body of substantive law, in preparing which the law of England should be used as a basis"; and as if this was not enough, the Fourth Law Commission recommended in 1879, "English law should be made the basis in a great measure of our future Codes, but", as a concession to the colonised it said, "its material should be recast rather than adopted without modifications...in recasting those materials due regard should be had to Native habits and modes of thoughts".³¹ And what was that English law? That was to say the least developing in response to factors such as the situation in the colonies and wars of annexation that required repeated raising of money and men, recurrent famines in the Isles, internal religious quarrels and conflicts, the Irish situation, the challenge of the Chartists, in past encounters with republicans and present encounters with poverty, vagabondage, destitution, and industrial unrest, so much so that "the number of offences in Britain commanding death penalty by the end of the eighteenth century amounted to more than 200 (with) little wonder

³¹ *Ibid.* pp. 302-316.

that the criminal statutes were known collectively as "The Bloody Code".³²

When large-scale mutiny after 1857 became impossible for close to another three quarters of a century and the populations had been completely disarmed, also with the relentless institution through legal means, described in brief above, of an armed-to-the-teeth colonial administration, terror in the incipient nationalist politics became the signature of the milieu; indeed, terror was the only way to become national in politics in opposition to the responsible politics of graded constitutionalism that colonialism was ushering in. The structure of administration initiated by Lord Ellenborough was in place by 1843 with separate "Home" and Military departments besides Foreign and Finance. District administration was strengthened. Regulations were issued to set up a body of Commissioners to take up municipal and police functions, as in Calcutta. The judicial administration was bolstered at the bottom by the union of the magistrate and the collector. The colonial administration was embarrassed at this, but it served them well. As we know, the union of judicial and police functions continued for long even after India became free. Equally important was the creation of the Civil Service.

³² Karen Farrington, *History of Punishment and Torture* (London: Chancellor Press, 1996), p. 6.

The impregnable administrative massif that the nationalist warrior would face was partly a result of the transfer of power from the Company to the Crown – in many ways as significant as the much better known transfer of power about a century later. It meant direct control of the colonial power, a ruthless transplantation of modes of politics prevalent in the “Home” country – for example with a cabinet mode of governing which had little to do with parliament, but more to do with a centralised executive mode led by the Governor General (in-Council). Thus Lytton kept secret his Afghan War and annexation of Upper Burma; similarly under Kitchener the most prodigious centralisation of all armed forces in 1909 took place; and Canning candidly admitted, it should mean “paramount authority of the head of the government”.³³ Princes became practically feudatories. The transfer of power further meant that the Anglo-Saxon legal system was founded here, resulting in as mentioned earlier Law Commissions, plus the Penal, Criminal, and other Codes and Acts. By the same token with the Indian Councils Act of 1870 all regulations for “peace and good government” became part of basic laws. The transfer of power brought centralisation in the administrative and social sphere. The result could be seen when the first signs of organised terrorism against colonial rule were evident. Lord Minto, the co-author of the “liberal” Morley-Minto proposals initiated repressive laws and quartered the military and the puni-

³³ Cited in *CHI*, Volume II, p. 62.

tive police in an unprecedented manner in the service of what he termed as “Law and Order”. The legislative councils, particularly the Imperial Legislative Council, in their composition were to be rid of the “influence of the professional classes” – the breeding ground of protest politics and terrorism. It was only in this way that in 1915 the Defence of India Act with its provision of Special Tribunals was rushed through the Council in a single sitting. This was in the footsteps of the Defence of the Realm Act passed in England. The Special Tribunals became notorious. Immediately, at Lahore 24 persons were sentenced to death, although six had been found guilty of murder.

The other significant transfer of power came in form of shift of capital from Calcutta to Delhi. With the institution of Lieutenant Governorships and Chief Commissionerships provinces were strengthened, and though Bengal Partition was annulled, the country had been reorganised at one stroke. With the reorganised administrative structure of British India, honing of an electoral policy and game along communal lines, centralisation of laws and codification, and the successful organisation of a stable military force, the colonial rule now was ready to face the militant nationalist threat. It could now take its time and say, as Curzon as a member of Lloyd George’s coalition cabinet had indeed said, that its goal was “to ensure progressive realisation of responsible government in India as

part of the British Empire” and the British Dominion.³⁴ The Rowlatt Committee’s Report was only one evidence, though the best known, of this strategy.

The several extra-ordinary measures enacted and implemented by the colonial rule such as the Defence of India Act of 1939 have to be seen in this light. By Article 2 the Defence of India Act of 1939 conferred on the government almost unlimited emergency powers to prevent among others “any attempt to tamper with the loyalty of the persons in, or to dissuade from entering the services of His Majesty”, “acquisition or possession without lawful authority or excuse and publication of information likely to assist the enemy”, and to prohibit besides meetings and rallies “the possession, use or disposal of explosives, inflammable substances, arms and ammunitions of war...transmission of ciphers and other secret means of communicating information...”, and prevent “disclosure of official secrets”, etc. The Indian Official Secrets Act was reinforced in Article 6 of this Act. Similarly was reinforced the Indian Press (Emergency Powers) Act of 1931 and the Indian Aircraft Act and the Indian Navy Discipline Act – both of 1934. Chapter 3 of the Act reinforced the policy of setting up Special Tribunals for summary trial. In many ways it was the predecessor of the Defence and Internal Security of India, passed by

³⁴ Simon Commission later admitted the fact of limitless centralisation that the one century of legal reforms had brought about. See. *Report of the Simon Commission*, Volume 1, paragraphs 138, 139.

independent India’s government in 1971. In the same way the Armed Forces (Special Powers) Act followed the Armed Forces (Special Powers) Ordinance, 1942.

Though terror has been seen mostly as individual, scattered, and demonstrative acts of hatred, revenge, sacrifice, redemption, and various millenarian ideas, yet in the light of the history of terror in colonial India we need to look at some of the less noticed dimensions of the issue we are discussing here. Briefly, these dimensions relate to the nature of collective action and collective violence; these dimensions also reflect on the way in which colonial state and the law perceived collective actions. For instance if we do not link phases of terrorist violence with patterns of collective violence, and phases of collective violence with patterns of collective action, it will be difficult to imagine the turbulence of terrorist politics, for instance: (a) From the beginning of the twentieth century to the gun battle on the shores of the Buribalam river/sea as part of the attempt to organise a mutiny over an incredibly vast area - from Lahore to Singapore - is one phase, that had its high point in the form of an attack on the emperor; (b) After its defeat calmness descended but only for few years and ended with the upsurge of collective politics after the war; (c) Again it subsided, to reappear only in even more turbulent manner with formation of Bengal Volunteers, the Chittagong Armoury Raid, killing of Sanders, bomb explosion in the Parliament, the at-

tack on the Writers' Building in 1931, killing of Magistrate Peddie in Midnapore, firing in Hizli Prison, killing of Comilla Magistrate Stevens, attempt to kill Bengal Governor Jackson, and the killing of next magistrate of Midnapore Berge. In three years, 1930-1933, the number of revolutionary killings was 131, dacoity 76, and terrorist acts in the country 210. Kalicharan Ghosh wrote of this time that the record was one of "the most widespread activity" to have occurred in India's political history. Women joined ranks of the militant nationalists; in place of God the terrorists started inculcating the anti-God, in lieu of shoring up Hindu identity they began speaking of the nation first, and in place of worshipping in the temple regularly or meditating they began discussing in jails critical threads of politics. From forming groups they graduated into forming parties and armies. Law as we have seen earlier was the response of the rulers to this seismic change. In one year alone - 1930 - the colonial rulers enacted four suppressive measures: Bengal Criminal Law Amendment Act, Unlawful Association Ordinance, Indian Press Ordinance (to turn into a law in October 1931), and the Unlawful Instigation Ordinance.³⁵

The problem is squarely therefore one of a failure to see the relation between collective action and an act of terror, and looking at it as purely an individual act. But the history

³⁵ On this metamorphosis, Bhupendra Kumar Dutta, *Biplaber Padachinha*, first edition 1953 (Calcutta: Orient Longman, 1973)

that I have sketched above shows the following:

- What we consider loosely as "terrorism" are less individual acts, but more continuing acts of violence around persistent boundaries such as between the colonisers and the colonised, or any other persistent deep differences.
- Equally continuing is the mixture, or, at least striking conjunction of large scale public displays of force such as revolt, attack, mutiny, non-cooperation and insubordination, and small scale sudden attacks on persons and property.
- Recurrence of violent encounters in various and changing forms.
- Organised networks supporting and building terror acts.
- Repeated fragmentation of organised forces.
- Variety of weapons and forms of attack.
- Finally, in lieu of an all-encompassing political identity to back up collective violence, plurality of political identities, social settings, and forms of interaction providing compelling avenues to sustain violence.³⁶

³⁶ Charles Tilly shows through some focused case studies, that acts of individual violence do give us an idea of the collective processes that may become the backbone of such acts. See Tilly, *The Politics of Collective Violence* (Cambridge: Cambridge University Press, 2003), particularly chapter 5, "Coordinated Destruction", pp. 102-129.

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The Indian Council of Social Science Research and the Government of Assam are the sponsors of the Omeo Kumar Das Institute of Social Change and Development

Printed at: Everywhere, Dispur, Guwahati