The Rule of Sanctuary: Security, Nature, and Norms in the Protected Forests of Kerala, South India

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ABSTRACT

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The aim of this dissertation is to understand how worries over nature's degradation, ensuing securitization practices, and emergent norms intersect in environmental protected areas. It concerns the Nilgiri Biosphere in Kerala, South India, and how regimes of nature protection effect the lives of its human inhabitants, the Kurumba, a so-called primitive *adivasi* tribe. Combining ethnography with archival research, it asserts that the labors and logics of nature protection, present and past, participate in a distinctly liberal problematic of competing securities, manifest in the tension between sovereign discretions and the freedoms of legal rights and market interests. This study makes two overarching claims. First, that during the colonial era, nature's inessential character allowed for flexibilities in legal interpretation that furthered imperial ambitions. In the silence of the law, norms mediated by colonialist pejoratives operated to satisfy those ambitions, while supplementing the knowledge necessary for government. Second, analysis of recent environmental movements and ecological projects surrounding the Nilgiri Biosphere shows how norms derived from civil society are produced to intervene between security prerogatives and social freedoms. The upshot of these normative practices, I argue, is to depoliticize natures and agencies, while extending and intensifying security's command of unruly natures. While ensuring lives lived in accordance to it, this normativity endangers those who fall short of or otherwise elude it. To understand this endangerment, I provide an interpretation of adivasi resistances and rejections, in particular the Kurumba turn to illicit cultivation of ganja in the Biosphere's core area. I contextualize this turn within the history of forest-adivasi relations, recent adivasi actions elsewhere within the Nilgiri Biosphere, and the global discourses of indigenous peoples and the environment. I argue that by operating not through a putative politics of rights and interest, but through counter-conducts and illegalities, the Kurumba present a challenge to the political as such.

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Dedication

For
The Adivasis of Attappady and MMH
without whom this work would not be possible
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The victors—for the present—are we, the discontinuous. The swamp-forest, defeated is still around us; we have barely opened a passage with blows of our machete in the thicket of mangrove roots; finally a glimpse of free sky opens over our heads, we raise our eyes shielding them from the sun: above us stretches another roof, the hull of words we secrete constantly. As soon as we are out of the primordial matter, we are bound in a connective tissue that fills the hiatus between our discontinuities, between our deaths and births, a collection of signs, articulated sounds, ideograms, morphemes, numbers, punch cards, magnetic tapes, tattoos, a system of communication that includes social relations, kinship, institutions, merchandise, advertising posters, napalm bombs, namely everything that is language, in the broad sense. The danger still isn't over. We are in a state of alarm, in the forest losing its leaves. Like a duplicate of the Earth's crust, the cap is hardening over our heads: it will be a hostile envelope, a prison, if we don't find the right spot to break it, to prevent its perpetual self-repetition.

— Italo Calvino, "Death" in *Priscilla*

I wonder what to mean by *sanctuary*, if a real or
apprehended place
[…]
sanctuary, sanctuary, I say it over and over and the
word's sound is the one place to dwell: that's it, just
the sound, and the imagination of the sound—a place.

— A.R. Ammons, "Triphammer Bridge"

...nowhere in the universe can be
A final edge, and no escape be found
From the endless possibility of flight

— Lucretius, Book One, *On the Nature of the Universe*

Introduction

The Rule of Sanctuary

What originally inspired my dissertation was "sacred groves." Like so many before me, I had first encountered them in Frazer's *Golden Bough*. In the opening pages, Frazer recounts how his imagination was captured by the English Romantic J.M.W. Turner's phantasmagoric painting of the sanctuary of Diana, goddess of fertility, in Nemi, Italy. Next to the shrine, Frazer explains, was a "little woodland grove" called 'Diana's Mirror'. What Frazer discovered in that grove was a "scene of a strange and recurring tragedy." Skulking around the sacred tree was the grim priest, the "King of the Wood," who with drawn sword and his very life protected that manifestation of Diana. What the priest feared most was his own successor, who would someday murder him to claim his title and his beloved. Candidates to this succession were runaway slaves—men in flight from capture and execution—who by prevailing in the contest at Nemi could win refuge from the law. The priest-king enjoyed sanctuary for the time of his fearful and worried life. And with his death, he provided security and well-being. The murder of the priest-king was an act of sacrifice: in his dying and rising, he renewed the lives of each and all. This recurring tragedy of succession by the sword, and sacrifice of a life for the flourishing of all life, Frazer said, was "the rule of sanctuary."

When I went to Kerala looking for sacred groves (*kavu*), I also found a scene of a strange and recurring tragedy. Here, too, grim figures move about protected forests. They live worried lives and fear their eventual demise. But on their dying, there is neither renewal nor revival. These lives are not sacred and so cannot be sacrificed. They are merely disposable, for our well-being is no longer bound to theirs.

My aim in this dissertation is to understand how the contemporary Indian nation reconciles its desire for economic growth with its need for environmental security, and how that reconciliation benefits some by endangering others. My concern is the Nilgiri Biosphere in Kerala, South India, where

securitizing techniques protect biodiversity in the name of common futures, yet oblige and imperil the lives of the Kurumba, its tribal *adivasi* ('original people') inhabitants. "Sanctuary" is offered as a guiding thematic to capture a series of securitizing exclusions that materialize strategies of control, but also rueful tactics of escape. "Rule" invites us to think through the sovereignties, normativities, and limits that animate the will to secure, but also to survive. The "rule of sanctuary," then, concerns what we can live with and what we – or someone else – can suffer to preserve.

This dissertation combines archival research with multi-sited ethnography to understand the persistence of colonial forms within postcolonial imaginaries, knowledges, and strategies of governance. Archival research grounds a genealogy of the present that shows how the changing needs of the imperial state were met by projects that interpreted native cultural categories to produce contingent yet pliant concepts of person, place, and title. A central claim of this study is that these colonial-era innovations survive as sites of strategic re-occupation for the contemporary nation to nurture secure futures amid economic and environmental uncertainty.

Multi-sited fieldwork among the Kurumba, foresters, ecologists, and activists draws on genealogical insights to analyze the contemporary problematic of people-environment relations in the Nilgiri Biosphere. This analysis suggests we focus not on the state but look to popular, yet exclusionary, practices that operate not on the basis of law, but of norms. These norms derive from civil society and party politics and follow the withdrawal of state-led planning and welfare supports. Beyond the pale of legal dead letters, norms intervene between national prerogatives and private interests to permit the dispossession and accumulation of forests, and to expand the range of economic opportunity. Yet, with their liberal inflection, these norms also compel the preservation of outlying people and environments through selective entitlements, rehabilitative projects, and flexible arrangements with extra-state entities. This study shows that the upshot of these normative practices, whether permissive or preservative, is to depoliticize and alienate people and environments, while extending and intensifying

security's hold upon them. It claims that norms assure lives lived in their accord, but endanger those who fall short of or otherwise elude them.

To understand such endangerment, this study provides an interpretation of adivasi resistances and rejections, in particular the Kurumba entanglement with the non-tribal ganja mafia, who illicitly cultivate marijuana in the Biosphere's core area. It examines how this illegality is experienced and explained by the Kurumba—consenting or coerced, producing danger or freedom, and leading to survival or demise. This interpretation is contextualized through an analysis of the general field of Nilgiri adivasi-state history and conflicts. In particular, the study analyzes the conscription of adivasi worlds by accumulative processes, the suspension of adivasi rights by the expansion of environmentalist projects, attempts to substantialize adivasi-environment livelihoods, and state-sanctioned projects of rehabilitation. These findings invite us to acknowledge the contingencies of security, the vicissitudes of worried living, and the necessities of care.

A Place for Leeches

The Nilgiri biosphere was formed in 1986 in accord with the guidelines of UNESCO's "Man and Biosphere" program, the most ambitious project of ecological preservation of its day. The Reserve sprawls over the Western Ghats, linking numerous colonial-era "reserve forests" in the states of Kerala, Karnataka, and Tamil Nadu. My focus will be on the Kerala forests of Silent Valley, the strictly prohibited core of the biosphere, and more specifically its buffer zone, the adjacent Attappady (*atta*, 'leech' + *pada*, 'place') valley.

These valleys first came to the attention of the colonial Forest Department in 1887. Moved by its belief in the causal link between deforestation and climatic change, the Government dispatched the surveyor Mr. Porter to the catchment area of the Karimpuzha and Bhavani rivers. He described the valley as lush with coniferous growth and stands of water-regulating evergreens, and home only to

nomadic hill tribes. Based on Porter's findings, the Government resolved to notify the area as a reserve forest. The concept of the reserve forest required absolute state sovereignty over a territory. By the rule of law, notification could only occur on the basis of proprietary rights that could be unambiguously transferred to and held by the state *in toto*. However, the uncultivated forest "wastes" held only weak proprietary claims. Customary rights, which were for the British vague and troublesome, prevailed including shifting cultivation, gathering, fishing and hunting.

The process of notification gave rise to multiple competing ownership claims. But in the course of the complex and litigious reservation process, no mention had been made of the tribal "hillmen" who inhabited the forests of the would-be reserve. Since the 15th Century, three tribes of adivasis had settled in Attappady: the Kurumba, Muduga, and Irula. While the forests had been notionally ruled by the Kozhikode Zamorin or *Samoothri Raja*, these tribes had in practical terms enjoyed sovereign autonomy in the inaccessible and malarial forests. Nonetheless, the government determined that "due to the impermanence of their settlements and their transitory nature, the hill tribes summarily lacked proprietary rights"(Ayyar 1935). While they could be legally evicted, it was impractical to do so. The tribal presence had to be reconciled with the strategies and tactics of the reserve forest.

As it was historically conceptualized, the reserve forest is a strategy that combines techniques of environmental protection, such as the preservation of headwaters, with its primary aim of revenue production, in particular, the raising of timber for sale. This combination was maintained by an almost contradictory attention to strict discipline, on the one hand, and a permissive "letting things be" to run their course, on the other hand. Through notification, the reserve forest affected a binary code of public (that is, state) property and private property, inside and outside. Subsequent forest Working Plans parsed and organized the forest into multiple "circles." Each circle specified a degree and type of protection or commercial activity permitted, and the corresponding specific and appropriate forestry

practices. Whether oriented towards commerce or protection, forestry's consistent object was the processes of nature's maximal growth and normal health.

To ensure nature's processes, the reserve permitted only specific kinds of subjects. These subjects had to operate within the terms of its code and not beyond, but also had to positively effect that code. The primary subject was the forest guard, who was rigorously schooled and disciplined in the terms of the code (Hannam 2000). Forest guards constituted a para-military corps capable of braving the hinterlands and policing human and nonhuman alike. What kind of subject would, or rather could, the tribal be?

The Forest Department decided that the Kurumba, who dwelled in the interior forests and deemed most "primitive" of the tribes, would be permitted to remain. This was a *privilege* the Department accorded at its discretion and not a *right* that the Kurumba enjoyed. The rationale behind this inclusion was that the Kurumba would "continue their cultivation under the [Forest] department, in the interests of the department, which requires that the valley shall be inhabited by men who can collect the minor produce, and who, if looked after and prevented from destroying sholai growth, are useful in many ways" (Ayyar 1935).

Over the past hundred years, as forestry's guiding rationality shifted from revenue-producing to biodiversity-governing, the State has begun to question the privileges it had earlier bestowed. While forest working plans were organized along the lines of revenue, the Kurumba served the purposes of labor. However, as working plans progressively incorporate the aims of biodiversity conservation, the Kurumba's forest presence has become problematic. According to Kurumba informants, the Forest Department has been coercing them to leave the reserve. Labor opportunities are increasingly granted to non-tribal outsiders, rates for non-timber forest produce have diminished, welfare programs lag and shrink, and the scrutinizing of their practices has escalated. When I posed these claims to a senior forest officer, he flatly denied them. But, after a moment of silent thought, he admitted: for the good of

biodiversity 'it is unavoidable,' he said, 'that they will have to leave.' As a buffer zone to the biosphere's core of Silent Valley, he explained, the reserve forest must be restored to a state of climax vegetation, before the core can be expanded. And that restoration can only begin in the absence of anthropic pressure, that is, human habitation. So, what of Kurumba? 'Well, there are development programmes that will take care of them.'

As part of the post-Independence "Grow More Food" campaign, the previously malarial and feverish forests of Attappady were bombed with DDT and opened to cultivation. The encouragements of low-cost property enticed settlers from southern Kerala and Tamil Nadu. The influx of *vanthavasis* ("those who came") was accompanied by the gradual alienation of the traditional territory of the Irula and Muduga adivasis of Attappady valley. As the vanthavasis clear-cut and crowded the plains, the adivasis were driven upland to craggy and eroded soils. The promises of politicians and the promulgation of laws have neither halted these alienations nor provided promised restitution. While the reserve-forest-dwelling Kurumba had been spared these depredations, their reprieve has run out. Over the past ten years, ganja-cultivators have forced themselves on and hidden away in Kurumba villages. They are a spectral presence in the villages, suspiciously regarding visitors and keeping a watchful eye on their hosts. The Kurumba—plied with new money and threatened with violence—concede to harbor them and even join their racket. In the past ten years, ganja cultivation has become the primary income for many Kurumba and some have abandoned their traditional economies altogether. Sympathy for the Kurumba swings between the paternal and the tragic. 'They are like children and it is now for them to come up,' the Range Officer insisted. 'We have given them everything, a path, schools and development programs that teach them skills, to integrate with the whole modern society.' And if they don't? 'With people like the ganja mafia and the arrack [illegal liquor] peddlers, who is to know? But we must protect them, of course.'

That sentiment plays poorly among the Kurumba, especially young men. Ganja cultivation is considered a path to former independence and a defiance of a foreign power. This sense of difference between adivasi and vanthavasi, smarting from everyday reminders of a history of alienation and subordination, has led to a vocal and aggressive adivasi movement in Kerala. Arising from neighboring Wayanad district, organized re-occupations of public places from the gates of the Kerala Secretariat to the protected areas in Muthunga wildlife preserve aim to insist on a place for adivasis in the new Kerala.

However, the Kurumba pay a heavy price for their complicity. Drug and alcohol addiction are widespread and the glazy limp look of intoxication is common sight aroused by night's falling. Young girls are abducted and raped, and those who speak up disappear. As the ganja mafia push deeper into the forest, threatening Silent Valley, the Forest Department responds with raids, the burning of ganja fields, and the exhaustion of concern.

Outline

This dissertation is organized in two parts.

Part One provides a genealogy of contemporary environmental protection, focusing on formative moments of the colonial era, when the will to rule encounters Indian forests and customary forest practices. These formative moments are occasions of innovation, giving rise to new conceptions and techniques that will permit the incorporation of forests within the logics of imperialism. What this genealogy traces are specific forms that will be available for re-occupation by the postcolonial state and its projects.

The genealogy sets off, in chapter one, from the crisis of timber scarcity in late eighteenth century Britain. Britain would ultimately find its solution in its Indian possessions: the recently acquired teak forests of Malabar and the dockyards of Bombay. I trace the emergence of that fortuitous conjuncture of metropole and colony by interpreting scarcity's problematization in terms of the political,

economic and historical thinking within which it participates. Specifically, I show how scarcity was re-conceptualized through and subordinated to a novel speculative schema that enabled the contextualization of the nation and its scarcity within the enlarged frame of a world.

The second chapter, "Imperium" describes how in the midst of translating extant relations into colonial categories of private property, the Company struggled to produce a domain unencumbered by either. I trace this struggle through the discoveries and deliberations of the Malabar Commission, to analyze their ultimate resolution in the distinction of *dominium* and *imperium,* proprietary right and absolute rule. With this distinction, the Company claimed sovereign right to forests. I claim that the dominium-imperium distinction introduced ambiguous jurisdictions that allowed for a flexible notion of "forest" and the laws applicable to it.

Chapter three, "Jurisdiction" examines the first conservatorship in India, established in Malabar, through its formation and dissolution. At the center of this examination is the question of jurisdiction, that is, the coordination of rule with a territory, but also a people. The exercise of jurisdiction, I argue, was a crucial technology in the colonial practice of rule. But it was in the jurisdiction of forests (defined according to *imperium*) that this technology achieved its most developed form. The specificity of forests made jurisdiction a lively thing, capable of responding to the law, while exceeding it.

In the fourth chapter, "Privilege" I explore the tension between state prerogatives to ensure the public good, on the one hand, and the prescriptive rights of Indian customs, on the other hand as they emerge during the establishment of the Forest Department in the late nineteenth century. This tension is resolved, I claim, by the notion of privilege that, in the context of forest government, re-orients the legitimacies of state prerogatives as well as Indian customs: legitimation is no longer through the law, but through the norm, as derived from the natural order of the forest.

Part Two returns us to contemporary India and the problems faced by adivasi populations stranded inside and outside the nation's forests.

Chapter five, “Forest Village,” describes the historic relations between the Forest Department and the semi-nomadic Kurumba. My focus is on the historic event of sedentarization and its effects. Specifically, I rely on Kurumba memories and vocabularies to trace broader transformations of place and people. I follow the remaking of precolonial wilderness as an economized forest, and its recent reinvention according to biodiversity protection. The effect of these shifts is the refashioning of the Kurumba first as tribal, then as forest laborers, and finally, as disposable. I show how the processes of transformation of people and place intersect. What dictates these transformations, I argue, is a shift not only in nation’s conception of forests, but also a shift in its approach to its population, as indexed by its most marginalized citizens.

Chapter six, “Bhoomikannan, or the earth-gazers” returns to the forests of Attappady to analyze the conscription of the Kurumba in the illicit schemes of the ganja mafia. I interpret their illegal activities through questions of consent and coercion. These questions are posed in the context of Kurumba senses of possibility and horizons of expectation. My aim in this chapter is to acknowledge and interpret violences, structural and intimate, but also self-inflicted, that harrow Kurumba everydays.

Part I

Chapter One

Crisis

Black Ships

By the May days of 1796 the Black Ships were arriving. A national crisis was bringing them—for the first time—home. But on seeing their gold-hued sailcloth, yellow-varnished hull planking, gilt moldings, bamboo booms and coir riggings, it was evident to the onlookers that these ships were not home-built. Taylor recalls: "[Their] arrival in the Port of London…created a sensation which could never have been exceeded if a hostile fleet had appeared in the Thames" (1842: 216).

They were the first Indian-built teak-wood ships to enter home waters. Since 1712, the Navigation Acts had been protecting British traders and fostering the nation's commercial preeminence by disallowing foreign bottoms from directly sailing to and unburdening themselves at British ports. But the Acts had been temporarily relaxed by a motion passed by Parliament in June of 1795.[1] What turned Parliament about-face to permit these ships, Indian-built, to enter home waters was the fear of scarcity.

In their holds: rice. Grown in the paddies of Bengal, it came as relief to a hungry nation. In 1791 Britain had experienced a dire dearth of wheat, realizing the first year in its history that the nation could not feed itself (Wells 1988: 35). A succession of poor harvests followed, as alarm arose and spread. To limit the spreading bread riots, Parliament imposed prohibitions on consumption and enacted repressive governmental measures on public speech and assembly. In 1794 the worried and desperate Prime Minister Pitt came before Henry Dundas, the Chairman of the East India Company's Court of Directors. At Parliament's behest, the Company would call on the Ports of Calcutta and Bombay to send

[1] The Navigation Acts protected British traders and fostered the nation's commercial preeminence by disallowing foreign bottoms from directly sailing to and unburdening themselves at British ports. The necessity of those acts convinced even Adam Smith, who in the *Wealth of Nations* made exception for those Laws in the national interest and despite their inconsistency with freedom of trade. As Smith understood, state power alone could ensure free and private trade beyond national borders.

ships with as much grain and provisions as they could hold. Twenty-seven Black Ships would bring rice to England over the next ten years.

But by all accounts the Company's mission of aid was a failure and a loss. As the Black Ships arrived, domestic corn was returning to moderate costs. The imported rice was left to rot in the docked ships until it was sold, well under cost, or re-exported to Europe.[2] Yet, the loss was not necessarily absolute. The Black Ships offered a solution to a different problem that threatened the nation: the scarcity of ship-building timber.

Throughout Britain's long eighteenth century, the forests had been disappearing, grubbed up to make room for a growing population, cornfields, and industry. As war with Revolutionary France turned from likely to inevitable, the apparent scarcity of timber posed a real threat to the Navy. In 1787, a commission had been appointed to enquire into the present and future supply. By 1792, they were sure: suspicions of timber shortage were very real, there was no relief in sight, and the Navy would in the near future find itself lacking. What the Naval Board saw when the Black Ships arrived was their Malabar teak, which might solve the scarcity of oak timber facing a nation on the brink of war.

While the Company was busied arranging shipments of rice, Alexander Mackonochie, an engineer and private contractor with the East India Company in Bombay, et sail from Bombay to London. Mackonochie arrived to present a proposal to Henry Dundas: to build a saw mill at the port of Beypore, to cut and deliver teak from the Company's recently acquired forests in Malabar to its dockyards in Bombay. In 1792, following his defeat in the Third Anglo-Mysore War, Tipu Sultan had surrendered Malabar along with his *jamabandi*, the annual settlement of revenues, to Governor-General Cornwallis. A commission had been immediately assigned to survey the newly captured territory,

[2] From 1795 to 1801, the average mean price of a quarter of domestic wheat was 87s. Of the 7,000 quarters of rice brought to London only 2,100 quarters could be sold among the millers as a trial at the average price of 50s. per quarter. In 1796, between three and four hundred quarters were sold at an average price of 45 s. and in 1797 about 1,400 quarters were sold at 28s. per quarter, of which 1,200 quarters were re-exported to Europe. The remaining rice was not brought to market. The total loss to the Company was £160,000.

establish the company's authority, and determine the truth or falsity of the *jamabandi*. Alongside the expected trade in pepper, cardamoms, and tobacco that the *jamabandi* recorded, the commissioners noticed an annual revenue in teak. The commissioner William Farmer was convinced that the timber revenue expressed a Royalty; that Tipu Sultan had maintained sovereign right to timber; and that right was now vested in the Company. Farmer was appointed supervisor of Malabar and with his unwavering belief in the Company's sovereign right over the forests, contrived a plan which his business partner, Mackonochie, placed before Dundas. As the first Black Ships began to arrive, Mackonochie was on his way back to Malabar with Dundas' approval, mechanical parts for a sawmill, and a hefty advance.

The Necessity of Contingency

What I wish to understand in this chapter is how the teak forests of Malabar became an obvious response to the problematization of timber scarcity in Britain. By problematization I refer to what Michel Foucault in his late work describes as a momentous emergence of an object before thought, posing difficulties and instigating solutions. This emergence can occur only under specific conditions: "for a domain of action, a behavior, to enter the field of thought, it is necessary for a certain number of factors to have made it uncertain, to have made it lose its familiarity, or to have provoked a certain number of difficulties around it" (Foucault 1994: 117). Scarcity, whether of corn or timber, had always been unsettling and the state met events of dearth with repressive measures. But, I will argue, in late eighteenth century Britain a combination of certain factors in the economy, domestic and international politics, history and culture coincided with scarcity being understood in a novel way: as something not to be blocked or eliminated, but rather encouraged and permitted. In this way, problematization designates a space of practical problems and solutions, but also an interval for thought's reflection on its very thinking of problems.

This chapter proceeds in the manner of detection, allowing talk of scarcity to operate immanently, as both a guide to and the object of investigation. I am led by the Royal Commission of

Woods, Forests, and Land Revenues, organized in 1787 and charged with determining the nature and extent of the apprehended timber shortage. By following the commission, we are able to attend to the past not only its archival form as a repository of events, but in its very unfolding as an act of governance. As Laura Ann Stoler explains, commissions do much more than accumulate evidence. They are a crucial technology of the modern state that determined not only the known, but the knowable. The discovery of evidential facts was also a crafting new realities and narratives, including very often the re-production of the state itself. Commissions, Stoler writes,

> reorganized knowledge, devising new ways of knowing while setting aside others. One implicit task was to reconstruct historical narratives, decreeing what past event were pertinent and how they should be framed. Sometimes commissions were responses to catastrophic events and extended periods of crisis. As responses they generated increased anxiety, substantiating the reality of "crisis," the wisdom of pre-emptive response, foreshadowing that new directives were demanded, as were the often coercive measures taken to ensure their effect. By the time most commissions had run their course, political signposts were set in place: "turning points" were identified, precedents established, causalities certified, arrows directed with vectors of blame—if not action—sharply aimed (2010: 29).

By following the commission as they follow scarcity, we are able "to move away from treating the archives as an extractive exercise to an ethnographic one" (47). Our contracted view to 'mine' commission reports for 'content' is expanded to provide a wider view of the peculiar 'form or context' of their activities. Where mining carries with it the promise of secrets secreted, the ethnographic approach seeks to engage specific knowledge practices and realities in the intimacy of their encounters and in their accretion as effective truths.

Between 1787 and 1792 and through seventeen reports, the Commission would examine the timber scarcity problem in the context of British history, economy, society and politics. What they would discover is that scarcity is a *specter*, tending to reappear and only nominally real. In lieu of the apotropaic techniques of the past, which sought to avert, banish, and protect life from scarcity, the Commissioners were convinced that scarcity was a necessary evil and it must be allowed to reappear. What allows scarcity to emerge as spectral and necessary, we will see, is the general abstraction and enframement of life in terms of liberalism, capitalism, and imperialism. Within this frame, scarcity is

but the darker aspect of vitality: Britain's industrial growth, commercial prosperity, and liberal freedoms. But this very vitality puts the state at risk. The problematization of timber scarcity is, thus, inextricable from the questions of liberty and security, market and state. While timber scarcity is accepted as a necessary lever to growth, that scarcity also exposes the nation to its contingency. It is contingency that rouses the turn to Malabar teak.

How does *scarcity* contrive a conjuncture of metropole and colony? How does something that is defined by contingency provoke a *necessity* amid difference?[3] And by what rationale is this conjunction *held together* to animate the imperial appropriation of resources? These questions animate my efforts in the present chapter. Contingency, from the Latin *contigere*, signifies a 'touching' or 'befalling'; it is an event that happens to someone (or something), interrupting the predicted and predictable. The "contingent" is indeterminate, it may or may not exist, but if it seems to exist, it is on the basis of some necessary other. Necessity, in turn, is a characteristic of beliefs, statements or practices that are persistently true under any conditions. What is deemed necessary cannot fail to be the case. (A third proposition of this sort would be impossible).

We should recall that a *problēma* signifies at once a projection and a protection. Derrida's gloss on this etymology is that problems are "that which one poses or throws in front of oneself, either as the projection of a project, of a task to accomplish, or as the protection created by a substitute, a prosthesis that we put forth in order to represent, replace, shelter, or dissimulate ourselves, or so as to hide something unavowable—like a shield (*problēma* also means shield, clothing as barrier or guard-barrier) behind which one guards oneself *in secret* or *in shelter* in case of danger"(Derrida 1993: 11-12). Thinking about problems involves a double movement (in Polanyi's sense) between liberty and security. It also involves a movement between speculation and construction. The nation's liberty permitted its

[3] For a comprehensive treatment of the ancient problem, see Vuillemin (1996). For a contemporary treatment of the problem, see Meillassoux (2008).

dependent contingency on the colonial resource to ensure its security. But for the colony to shield the metropole, it had to first be relegated to a position of dependency on the metropole. This retroductive subjugation was made possible, I will show, by a mode of representation introduced by Scottish Enlightenment thought that linked historiography and political economy through the operations of speculation. These speculations, occurring amid difference and through the encounter of colony and metropole, enabled the specific construction "colony-metropole" along an ascending line of rank, recognition, and reliance.

The relationship of colony and metropole is a complex conjuncture that cannot be thought ahistorically or reductively, as in the centripetal, unilinear, and pre-determined flow of either resources from periphery to center or ideas from center to periphery. Nor can it be neutralized into a network (Lester 2006). "Colonialism," Nicholas Dirks tells us, "was less a process that began in the European metropole and expanded outward than it was a moment when new encounters in the world facilitated the formation of categories of metropole and colony in the first place" (1992a: 6). "Colony," "metropole," as well as "colony-metropole," are emergent forms that mark not so much a space of difference, as a site of dependent co-origination. It is necessary to interpret those forms from the perspective of their historical formation and, as Cooper and Stoler recommend, within a single field (1997: 4). That field is an effect of the colonial encounter, as well as an interval of translation and transformation. Imperialism ceaselessly revisits that field to adapt and perpetuate the inexorable appearance, that is, the necessity, of a desired conjuncture. So, it will be important to keep in mind and I will endeavor to bring out in my analysis "that 'conjuncture' means 'conjunction', that is, an aleatory encounter of elements – in part, existing elements, but also unforeseeable elements. Every conjuncture is a singular case, as are all historical individualities, as is everything that exists" (Althusser 2006: 264).

The Scarcity Scourge

What is meant by "scarcity"?[4] To understand its significance, we must begin with "dearth," which was almost always spoken with statements of scarcity. Dearth is derived from the Old English verb *dere,* meaning "to hurt"—making mischief or causing injury.[5] Hurt, when it occurred on a large scale and befell many, was dearth. It was characterized by barrenness, and whatever was spared was made *dear*, precious, costly, and coveted. Dearth was a not infrequent occurrence that materialized as rarity and increased prices. But such inflation was usually only a temporary condition, as quick to pass as it arose. It was when dearth persisted, when after a number of seasons no relief was in sight, that talk of scarcity began. The English "scarcity," which appears in the Middle Ages, may be traced to the Old Norman *escarceté.* In this original usage scarcity denoted an insufficiency of supply. A rise in price, a dearth, was a statement of nominal insufficiency that might on further analysis index real lack—scarcity. Dearth was, thus, a particular mode of scarcity: a way in which scarcity acted, but also something that could be seen, known, and possibly prevented.

Scarcity was thought to issue from one of two sources. First, it could be the result of misfortune, that is, "Acts of God" outside of human control, including that usual culprit, unfavorable weather. In this assessment, clergy, lords, and kings were aided by the "doctrine of judgments" that interpreted misfortune in terms of God's "three arrows" of "plague, famine, and sword," which were, in turn, divine punishments for man's wickedness. But explanations resting on stark and capricious contingency did not fill empty bellies – a fact not lost on Francis Bacon, who listed dearth among the causes and motives of sedition. Evil deeds such as hoarding and speculation, the second source of scarcity, had been long condemned by the Church. The medieval Scholastics saw a heavenly fate that was prepared for and determined by earthly conduct. The betterment of man thus led Aquinas to

[4] This section is informed by: R.B. Outhwaite (1991); John Walter and Keith Wrightson (1976); and Adam Smith (2000 [1776]), see especially Ch. V, "Of Bounties".
[5] See "dearth" in *Oxford English Dictionary* (1971) and Xenos (1989).

develop Aristotle's division of *oikonomika* (art of household management) and *chrematistike* (art of acquisition) into legal doctrine, praising the ethical stewardship in the former and condemning the immoral profiteering of the latter (Aquinas 2003; Aristotle 2005: §1253b-1255b). This, in turn, inspired a body of common law legislation in England that sought to govern the market through the moral notion of the "just price" (Blackstone 1841: 118; Hollander 1965; Thompson 1971). According to this notion, if goods – in times fair or foul – simply reached the market, a just and common market price would arise from the mutual needs of seller and buyer. What threatened to upset this balance was man's egoism, his greed and selfishness. To ensure the "just price," government punished those wicked and profit-oriented practices of forestalling, regrating, and engrossing.[6]

Dearth stood as a *possible* index of scarcity, such that the former could exist without the latter. Experience of high prices *could* become talk of famine; rumor of increased poverty and morality *could* lead to popular unrest. By the seventeenth century, corresponding to mercantile capitalism, a transformation of government's relationship to the problem of dearth and scarcity was underway. While the essential relation between these two experiences and the moral and juridical techniques all remained intact, what changed was the object of government. Rather than merely target the egoistic individual and stop his wicked practices, government began to see dearth as a complex economic phenomenon. Its aim was not the remedial distribution of justice, but the policing and prevention of problems *in advance*. The focus of government was the control of trade and prices to block and arrest dearth should it arise, so that it did not become scarcity.

In his 1977-1978 lectures at the Collége de France, entitled *Security, Territory, Population*, Foucault describes such a government as an "anti-scarcity system" that is "focused on a possible event, an event that could take place, and which one tries to prevent before it becomes reality." The anti-

[6] *Forestalling* is the buying up or blocking of goods prior to the market, *regrating* is the reselling of goods in another market, and *engrossing* is the buying up of all or large quantities of goods in market with the intent to resell.

scarcity system sought to *offset* scarcity by targeting its effects, legible in statements of dearth and traced through the indexical sign of price. Its strategy was disciplinary and its primary techniques were the tariff and the regulation. In England, a significant first step in this transformation was the introduction of the Corn Laws in 1689, which permitted the free export of grain, designed to set periods of plenty to work, generating profits while regulating price in domestic markets. The regulation of price further required restrictions on import in the form of taxes. It was a complex system that sought to control prices, by prohibiting hoarding (to further ensure price) and limiting exports. It also employed coercions to ensure people continued to plant in spite of foul conditions. Additionally, it limited the amount of land under cultivation, so that the market was not naturally engrossed, lowering prices such that cultivators would not break even. The objective of these techniques was to prevent "the thing that is most feared": by limiting the phenomenon of scarcity, government could limit "prices racing out of control in the towns and people in revolt" (Foucault, 2007: 33).

While the anti-scarcity system sought to restrict scarcity to ensure peace, that system reaches its threshold at two points. First, there is the internal threshold of the self-interested individual. He is no longer the wicked person of Christian moral censure, but is Hobbes' liberated and selfish subject of unlimited desires and limited means. Though domestic "Warre" is not a practical concern, interests may not extend beyond that of any particular self's immediate desires to matters of justice or public utility. It will be up to the state to discipline and direct its subject's interests and enforce her obligations. Second, there is the external threshold of the competition and war of nations, and all that that requires. It is not enough that the state maintains peace among its subjects and protects the market—it must also draw in wealth and reduce its expenditure, increase exports and decrease imports. Mercantilism imagines a zero-sum game for goods, markets, and colonies. In this game, regulative mechanisms such as the Navigation Acts were the rule; through price controls nations managed the flow of goods to gain an advantage over others, forcing their own goods and blocking those of others. This game constantly

risked the rules being stretched so far or outright broken that war erupted. So, the nation must maintain a strong military in spite of and nonetheless for the sake of its disinterested and selfish citizens.

The foregoing description of the anti-scarcity system and its thresholds represents in general terms the British fiscal-military state amid its problems at the end of the eighteenth century. This state, as analyzed by John Brewer, was Janus-faced (Brewer 1990; Stone 2013; Storrs 2009). On one side, it maintained only a limited and decentralized administrative structure with no standing military. Such a system encouraged and supported personal and private liberty, while also taxing heavily, spent greatly on poverty relief but employed military impressment. On the other side, it employed an aggressive "blue-water strategy" that waged commercial and maritime war by controlling sea routes, dominating ocean-borne trade, and maintaining economic and military pressure on its trading partners, colonies, and rivals (Baugh 1987; Baugh 2009). What joined the two faces of the state was common commercial interest. Landed private interests, motivated by profit, ensured 'improvement' and the regularity of commercial operations. Meanwhile, customs duties sought to maintain a 'favorable balance of trade' by discouraging imports and encouraging exports. Duties, in turn, contributed to the funding of naval fleets, which formed the "wooden walls" that guarded the Narrow Seas. The success of such a state depended on its ability to balance its two sides, its foundational commitment to liberty and its ongoing command of security. Yet, the liberties of society could imperil the security of the state. Growing debt repeatedly brought the state to the brink of bankruptcy. Its limit and breaking point (where liberalism will enter, critique, and surpass it) was formed by the peculiar constellation of its objectives: a fixation on territoriality, the confusion of wealth and treasure, the belief in the zero-sum game, and the fear of scarcity.

The Timber-Scarcity Problem

From the mid-seventeenth century, the British fiscal-military state had been entangled in an almost constant state of naval war. Its success and often its survival depended on the strength of its

maritime fleet—its "Wooden Walls"—which suffered a perpetual sense of timber shortage. That England's woods were diminishing and that for a fatal want of timber the nation might perish was a constant refrain. Scarcity was a consequence of the increasing demands of commercial and naval shipbuilding, as well as a necessary effect of improvements, which converted forests to corn fields, homes, and charcoal to sustain a growing population and industrializing economy. The interests of the nation were in this way split and drawn in the opposed directions of national defense and domestic growth.

The reality of scarcity

In 1787 with the American timber resources lost and war with revolutionary France inevitable, Parliament appointed the Commissioners of Land Revenue to enquire into the state of the forests of the Crown. The aim of the Commission was to produce a comprehensive view of the timber-scarcity problem. Over the course of seventeen reports, based on past records and extensive surveys, they considered that problem from multiple angles: the history and present state of the forests and woods, the various systems of management, the chain of supply from woods to docks, and the qualitative experience of scarcity in different regions.

The Commissioners began by observing that the crisis of timber scarcity that they faced was not a unique event. Rather, it was only the latest in a series of reassertions of an abiding problematic: "We are aware that there have been similar complaints, and apprehensions of a want of naval timber, in every age, from very early times"(Commissioners of His Majesty's Woods 1788: 4-5). How to account for this constant dread and worry? The answer lay in part in the past systems of management.

From Norman to Civil War England, the principle of territorial sovereignty guided both the understanding of scarcity and its government. Forests were synonymous with wealth, whether symbolic or material, and that wealth was fixed and total. When signs of dearth appeared, those signs

threatened wealth by portending scarcity. According to this rationale, scarcity, should it actually arise, would be absolute and final. As a consequence, the sovereign employed controls to prevent others, be they lords or peasants, from hindering, damaging, or destroying what was a finite resource. However, "these regulations have proved altogether ineffectual," failing to exorcise the specter of scarcity. Rather, dearth did reappear and the regulations merely conjured forth peoples' enmity toward government and their transgression of the law: "the interference of government, farther than the protection of property, is always submitted to with reluctance, often evaded, and seldom productive of any benefit to the public"(1792: 5-6).

The contrast between Tudor and Stuart repression and post-Restoration encouragements can be productively read through the contrast of Thomas Hobbes and John Locke. Tudor government was grounded in and operated through a condition of fear, be it the sovereign's fear of the finitude of nature or the peasant's fear of sovereign might. Following the Civil War, Hobbes, the self-described "child born of fear" (Martinich 1999: 2), would transform this strategy, but maintain its foundations of absolute scarcity. The object of fear was no longer the sovereign, but would be one's fellow persons. In an attempt to reconcile the boundless desires of men and finite means of nature, the covenant of the Leviathan enjoined jealous individuals to live peaceably within barriers, blinding their eyes to desire's full scope, but shielding them from scarcity. If Hobbes constructs barriers against scarcity, John Locke takes flight from it (Locke 1993 [1689]: §42). Locke's thought is one with that of his peer and colleague at the Royal Society, John Evelyn. In his *Sylva,* he stirred aristocratic virtue up into patriotic fervor to persuade a generation to improve on wastes for the national interest (Evelyn 1729 [1664]). As improvement of property was the great virtue of the age, Evelyn's words hit home. Like Hobbes, Locke and Evelyn target land as the means of desire's fulfilment. They agree with Hobbes that nature presents itself in a limited way; but that, they say, is not its permanent state. What lay on the other side of Hobbes' necessities, fears, and barriers is abundance. Nature is a passive substance; desire should

subjugate and tame that substance though labor, growth, and expansion. Rejecting the violent coercions of government, they prefer passions; nature is not a limit, but opens itself to opportunity.

The Commissioners wonder: since the protection of private property and individual liberty are government's foundational responsibility, shouldn't the Navy turn to its fellow citizens at this time of need and duty? The Admiralty had done just that before, when Eveyln's *Sylva* sparked a patriotic fervor for oak planting. "As it is almost universally allowed that oak trees, to grow to a size fit for the navy, require from 80 to 150 years, according to the quality of the soil, it is probable that the vast quantities of great timber consumed by our navy, during the present reign, were chiefly the produce of the plantations, made between the Restoration and the end of the last century, on private property in almost every part of England, as well as in the royal forests." The patriotism that prevailed following the Restoration depended on the forests' continuing symbolic power, a power strategically appropriated by the ascendant landed gentry. While the post-Restoration gentry identified their wealth with property in land, they were willing to invest present riches for the sake of future gain. It was because of the planting of that time that scarcity had been forestalled, but "when that source shall be exhausted, the quantity required for the supply of our Navy will not easily be found in this country." Why? Because "the spirit and attention which then prevailed did not last beyond those times" (1792: 11-2). Patriotism had not disappeared, but attached itself to cornfields rather than trees, to commercial improvement rather than Whiggish conservativism (Daniels 1988).

Perhaps the problem lay not in systems of management, but in the very idea of timber scarcity. The Navy's talk of dearth arose when the scantiness of their stored stock coincided with timber prices rising in the market; when the former had become too low and the latter too high, threatening to leave the Navy lacking, it indicated a likely scarcity of trees. Based on these signs, the government employed oppressive coercions or persuasive inducements to limit the destruction or encourage the production of timber. Neither limitation nor encouragement permanently halted dearth, but they each seemed to

induce a reversal, if only for a time. But, considering dearth was apprehended time and again without scarcity arising, "it may therefore be supposed*, that the danger is not more real now than it has formerly been*"(1788: 5, emphasis added). Since every danger had passed and the nation remained, perhaps scarcity was not something real, but only relatively so. Perhaps scarcity is a specter.

To imagine scarcity as a specter is to shift the mode of its significance. Dearth operated as an index: alarming, pointing out danger, and suggesting to government a tangible *where* and *when* of scarcity.[7] Government followed these signs back to their presumed material source, and proceeded to control reality and prevent scarcity by halting "the bad" and encouraging "the good." With its singular recourse from sign to referent, the anti-scarcity system insisted on dearth as symptom and its relationship to scarcity as causal. But dearth only offers a contiguity with scarcity, a resemblance or association at the level of the sign. Beyond that simple resemblance, several relations could hold: relationships of contiguity alone, or of contiguity and causality together. And in combinations of the two, either could be presumed or actual. If scarcity is a specter, the signs appearing to government are not necessarily an effect of some referent. Scarcity could index a number of practical possibilities, none of which was mutually exclusive or necessarily enduring: a rarity at the source, an absence of labor, a constriction in transport, a greater or lesser demand relative to other goods, the general disinterest of the market, or the obsolescence of a commodity.

Invoking Adam Smith's *Wealth of Nations*, the Commissioners "know it is not an uncommon Opinion, nor unsupported by Writers of Great Authority, that a Decrease of the Quantity of Timber, in Proportion to the Demand for it, supporting it were proved, is an Evil which must produce its own Cure; and that, as the Quantity lessens, the Price must rise, and give Encouragement to new, and more extensive Plantation, which must again supply the Demand" (1792: 11). Considered as a matter of

[7] The exploration of scarcity in terms of the semiotic index is informed by Charles Sanders Peirce and guided by C.W. Spinks (1991: 64-8).

relative scarcity, there would not be a dearth of timber, but only an apparent deficiency. If the Navy should find itself deficient, it merely means that their demand outstrips the present supply. But, by raising the price of a commodity, that excessive demand would stimulate in any number of people a desire for profit and encourage its production and supply. Where the desires of timber merchants would ensure supply, the competition among them would produce the lowest price. But, the Commissioners say, demand for timber was not always met, nor could be. Why?

> The reason is obvious: An oak must grow an hundred years, or more, before it comes to maturity; but the profits arising from tillage or pasture are more certain and immediate, and perhaps as great: It cannot, therefore, be expected that many private Individuals will lay out money on the expectation of advantages which they themselves can have no chance to enjoy: Commerce and industry seek for, and are supported by, speedy return of gain, however small; and the more generally the commercial spirit shall prevail in this country, the less probability is there that planting of Woods, for the advantage of posterity, will be preferred to the immediate profits of agriculture (5).

The formula of supply and demand holds that the complementary desires of seller and buyer drive balanced decisions and optimal outcomes, that 'every evil must produce its own cure.' This formula imagines a natural and equilibrious synchronicity and a 'greater good' that arises from complementary wants. What this closed-loop logic fails to consider is the multiplicity of wants, the competition and contradiction between them, and the animations of self-interest in selecting among them. In place of a loop that is perpetuated by self-interest (yet restricted and directed to the good by the mutual attractions of seller and buyer), we find desire's seductions.

What had enabled this momentous shift from absolute to relative scarcity was a new orientation that was imaginative and future-oriented, rather than material and conservative. The eighteenth century fiscal-military state was consistent with a cultural and economic revolution in credit, public debt, and speculation. The wealth and authority of the nation no longer resided in heritable property, but in the abstract property of futures. "Property—the material foundation of both personality and government," J.G.A. Pocock writes,

> has ceased to be real and has become not merely mobile but imaginary…. When the stability of government in the present became linked to the self-perpetuation of speculation concerning a

> future, something happened which forms an important part of the history of ideas concerning unlimited acquisition and accumulation. Government and politics seemed to have been placed at the mercy of passion, fantasy and appetite, and these forces were known to feed on themselves and to be without moral limit (1979: 151).

If one could imagine gratification (or in contemporary market terms, return on investment) to be equal in degree and kind among a set of objects, desire would naturally (and properly) gravitate toward either that which will deliver personal gratification most quickly or that which promises the greatest future profit to the individual. Alas, timber met neither of these expectations and this, the Commissioners lamented, characterized the "Commercial Spirit" of the age.

A hypothecation of needs

The Commissioners found themselves in a practical enactment of the "Adam Smith Problem."[8] The "Problem" seeks the resolution of commercial self-interest and civic duty, or, to put it differently, liberty and security. For Smith (stated simply) the theoretical resolution is to be found in the imagination, which gives rise to natural sympathies, the desire for recognition, and resultant mimetic behavior. The desire for recognition drives individuals toward greater and greater opulence, but also to sympathetic fellow-feeling. Though the individual only views her actions in terms of self-interest, those interests converge ("led by an invisible hand") to ensure the general welfare (Smith 1976 [1759]: §IV:1.10). The problem faced by the Commissioners is the general inability to imagine an eventual scarcity of timber or to sympathize with the Navy's predicament. It was neither advisable to impose restrictions on the public as the Tudors had, nor possible that the public would plant out of patriotic sympathy as in the time of Evelyn, nor likely that the market would meet the needs of the Navy through its own mechanisms.

With no other practicable options and in spite of its ineffectiveness in the present shortage, the

[8] Among scholars, the "Adam Smith Problem" is a philological problem of authorial consistency. It asks how one can reconcile the apparent contradiction of Smith's *Theory of Moral Sentiments* and *The Wealth of Nations* (Dickey 1986; Force 2003; Mehta 2006).

Commissioners proposed an old-fashioned experiment of enclosing the underwood of royal and public forests, planting acorns, and waiting the required hundred years of growth to forestall, at least, a future problem. As part of their survey, the Commissioners elicited evaluations of their proposed forest experiment. Among the many responses received the Commissioners considered that of Dr. Thomas Preston exemplary, expressing best the prevailing opinion. Preston's answer to the Commissioners' query is "Certainly": underwood that blanketed the hedge-rowed commons is the best situation for growing timber, but to plant oak in such soils would be "a dead loss and nuisance in a well cultivated country" (1792: 118).[9]

Preston goes on to provide his observations on the source of the so-called problem, its inexorable necessity, and his thoughts on how government ought to respond to the problem. To begin, there are the reasons for the great transformation of Britain's landscape: "England possessed in the past age a great plenty of oak. Why?" His answer is the nation's former, natural, simplicity: "Because cultivation was in a barbarous state." What has transpired since that former barbarousness, setting apart the present age from that of the past, is improvement. Forests and timber not only *happen* to disappear with improvement, they *must* disappear.

Preston explains: "[i]t is the improvement of the kingdom, a thousand times more valuable than any timber can ever be, that has wrought the very good and proper diminution of oak." To hamper or halt the diminution of oak would be an artificial imposition on the natural improvement of both nature and man. It becomes clearer why the proposed enclosure of hedgerows for the cultivation of oak appears to Preston as a "dead loss" and "nuisance". Government, Preston insists, must above all meet the material needs of the population. Oak cannot be an object for government amid popular signs of mortal distress. The proper task of enclosure and use of commons was the expansion of cornfields.

[9] In English tort law, nuisance was a part of land law, specifying acts that interfere with an owner's use and enjoyment of their property including hardship or injury.

Government ought to even turn the royal forests, now languishing waste, over to the plow, so that they may best benefit the nation. "[I]t is to be hoped," Preston says, "the diminution will continue, for if it does not, the improvement of our soil will not advance. While we are forced to feed our people with foreign wheat, and our horses with foreign oats, can raising oak be an object?" For a nation properly animated by improvement and advancement, a reliance on a foreign supply of grain would signal stagnation. But it is otherwise with timber: "The scarcity of timber ought never to be regretted, for it is a certain proof of national improvement; and for royal navies, countries yet barbarous are the right and only proper nurseries. Buy oak, as you buy fir to build your houses. There is oak enough within reach of the Adriatic for a million ships of a hundred guns each" (118-9).

The Commissioners are thus brought to the only possible conclusion of their investigations: to import timber from foreign sources. But, while the agrarian countries of the Baltics and North America could supply commercial Britain its needed softwoods, they could not solve the problem of great and compass timbers. "[I]t remains still an Object well deserving the Attention of Government," they write, "to discover some other Kind of Tree, which may be expected to answer instead of Oak….It appears to us, therefore, advisable, that the British Consuls and Governors should be instructed to procure Seeds of all Trees which fall within that Description, and of such as are used in the Construction of Ships in Foreign Countries" (34).

The limits of the possible

Preston's insistence on the necessity of deforestation follows the stadial or "conjectural" historiography of the Scottish *philosophes*.[10] In the absence of a theological *arche* and *telos*, conjectural history contrived to explain the diversity of customs, manners, and laws of ethnographic texts by

[10] The phrase "conjectural history" was coined by Dugald Stewart, Adam Smith's friend, biographer, and propagator (1982 [1811]: 292-6) and developed by David Hume, Adam Ferguson, and William Robertson (see also Höpfl 1978; Friedman 1983; Poovey 1998: 214-264; Garrett 2003).

locating a general civilizational motion in subsistence and the distribution of private property. In Smith's version, subsistence spurred the transformation of land and improvement of human existence to form the sequence hunting-shepherding-agriculture-commerce. The movement of history is, according to Smith, that of a "great, an immense machine, whose regular and harmonious movements produce a thousand agreeable effects" (Smith 1976 [1759]: 316). Crises of subsistence are not to be regretted, since hunger spurs technologies of greater efficiency and durability. But it is not material survival alone that animates societal development. The movement from stage to stage is also motivated by vanity, which "strike[s]the imagination… as grand and beautiful and noble….

> And it is well that nature imposes upon us in this manner. It is this deception which rouses and keeps in continual motion the industry of mankind. It is this which first prompted them to cultivate the ground, to build houses, to found cities and commonwealths, and to invent and improve all the sciences and arts, which ennoble and embellish human life; which have entirely changed the whole face of the globe, have turned rude forests of nature into agreeable and fertile plains (183).

According to stadial history, the Baltics and North America were agricultural societies, which had not yet attained to the needs or designs of commercial civilization. Their ability to dispose of timber, or more precisely, the necessity that burdened them to do so, was a natural consequence of the expansion of agriculture. It was also natural that commercial civilizations should need and find timber among those societies.

The innovation of stadial histories—what led Dugald Stewart to call them "conjectural"—is the free use of speculation for reconciling "deracinated" particulars and general theory, as well as reconciling cultural difference and universal history. As Stewart describes it: "the detached facts which travels and voyages afford us, may frequently serve as land-marks to our speculations; and sometimes our conclusions a priori, may tend to confirm the credibility of facts, which, on a superficial view, appeared to be doubtful or incredible"(1982 [1811]: 293). The space of conjecture is so marked, on the one side by "detached facts" and, on the other, by "conclusions a priori". It is a space of absence, since

the conjecturalist believes that the one experiencing facts—the native of ethnographic knowledge—is by his or her embedded position unable to view that position from the point of view of universal history. Meanwhile, the conjecturalist is the "last man," who from his advanced position can take stock of prior stages, but cannot experience the particulars of past stages. Speculation fills this absence by abducting a tendency or habit among facts to produce a unity and uniformity among them that accords to a presupposed theory.

Speculation was a permanent feature of such histories, not just to fill the *lacunae* of ethnographic evidence, but because history in the conjectural mode was always a moral enquiry. As Mary Poovey points out, Stewart called these histories "conjectural" not simply to draw out their reliance on hypotheses, but "because he believed the philosopher should be a visionary who contributed to a new social arrangement rather than simply describing the present or the past" (1998: 273). Poovey focuses her discussion on a close reading of David Hume, who provides a prototypical account of conjectural history. What is evident in Hume, but obscured in later conjectural writings, is the productive *a-priori* of belief that the conjecturalist holds tenaciously, in spite of the fact. That *a-priori* makes its point by displacing and de-legitimating particulars:

> the lack of an evidentiary chain exemplifies the problem of induction, for the breaks that sever the chain require a version of the extrapolation by which one assumes that unobserved phenomena will resemble what one has already seen. Without this extrapolation, which Hume identifies as the *belief in the system*, general knowledge would be impossible. Thus he contends that induction works not by moving stepwise from observed particulars to ever greater levels of generalization but *by immediately effacing the specificity of the particular in favor of what one believes about the system*. In so doing, induction both acts like metaphor (it insists on likeness, not difference) and imposes metaphors (the tropes of system, law, design) (229-30).

Through its insistence on itself and in its overcoming of particulars for the sake of generals, conjectural history appears to prefigure Hegelian dialectic. Where it will differ from, or, perhaps, what it will expose in the dialectic is the willful work of speculation behind all the abstracting, negating, and ordering of the Idea. In the place of the striving Hegelian *Aufhebung*, that negates but captures and carries forth the particular, we find displacement and substitution. In the place of the particular, speculation writes in its

own beliefs and desires to make ends meet. Speculation will not face the finitude of desires or of means.

Conjectural history would provide a logical precondition and sustaining rationale for liberalism's encounter with the non-European world. On this point, Uday Singh Mehta has argued that the unraveling of worldly particulars through abstraction, on being recombined according to the speculative schema, would be "braided with the urge to dominate the world, because the language of those comparisons is not neutral and cannot avoid notions of superiority and inferiority, backward and progressive, and higher and lower" (1999: 20-1). While this imperialistic "urge" may or may not be heeded by this or that liberal individual, Mehta insists that the urge to dominate is hard-wired and "internal" to liberalism. It seems to me unnecessary to supplement the abstractions of conjectural history with the assertion of some urge or desire. Rather, I suggest that what in the final analysis enables abstraction to turn imperialistic is the naturalization of that abstraction through the effacement of authorship. What enables this naturalization is the mistaking of value for fact. In the hands of the Scottish philosophers, conjectural history was experimental and morally-motivated, allowing the theoretical extension of familiar habits into an unfamiliar world, which one could not directly experience. Conjectural histories were multiple, as were conjecturalists. But, when read from the perspective of political economy, these histories were taken as facts, a practical means to speculate about and navigate an actual world. Unlike liberalism, capitalism must be imperialistic.

The movement of the timber-scarcity problem beyond Britain to "lands yet barbarous," as Preston insisted, occurs through two conjectures that reflect modernity's beliefs and provide the narrative for its capitalist-imperial adventures. First, the notion of relative scarcity accomplishes the effacement of nature. In the place of the insuperable limits of nature, relative scarcity asserts multiple declensions of dearth that put any one particular cause in doubt. By this substitution, it frees thought by doing away with the violent coercions and the conservative productivities of the past. Second, it

thinks the world through universal history, decomposing cultural particulars to re-orchestrate them in an ordered and progressive medley. From this perspective, it becomes not only possible, but morally legitimate and necessary, to enter into, decipher, and guide less-progressed others. "Capital," Marx writes,

> is the endless and limitless drive to go beyond its limiting barrier. Every boundary [*Grenze*] is and has to be a barrier [*Schranke*] for it. Else it would cease to be capital—money as self-reproductive. If ever it perceived a certain boundary not as a barrier, but became comfortable with it as a boundary, it would itself have declined from exchange value to use value, from the general [abstract] form of wealth to a specific, substantial mode of the same. Capital as such creates a specific surplus value because it cannot create an infinite one all at once; but it is the constant movement to create more of the same. The quantitative boundary of the surplus value appears to it as a mere natural barrier, as a necessity which it constantly tries to violate and beyond which it constantly seeks to go (1993 [1939]: 334-5).

Conjecture accomplishes this transformation of an insuperable boundary into a permissive barrier. The necessary price to be paid is the squandering of nature and the pauperization of the colonies. But, like any particulars, those particulars will be effaced in the grand staging of universal history and capital that together supply the story that modernity tells itself to repress its memory of violent accumulation.

While conjectural history could convince itself of the relatively uncivilized state of the Americas or Baltics, India posed a problem. What had in the first place brought it to Europe's attention and stimulated its desires, supported India's advanced position, certainly above the Americas and, perhaps, alongside Europe. It had given birth to sciences and arts, it possessed sovereignty and entered into treaties, and remained an axis in global commerce. The answer lay in the mode of conjectural history itself. The prolific conjecturalist William Robertson would write that what distinguished Europe from other ostensibly 'great civilizations', such as India and China, was its "commercial genius,"

> which has given it a visible ascendant over the three other divisions of the earth, by discerning their respective wants and resources, and by rendering them reciprocally subservient to one another, has established a union among them, from which it has derived immense increase of opulence, of power, and of enjoyments (1791: 159).

That commercial genius could be witnessed in efficiency: the unique ability to grasp that world as a whole in terms of supply and demand, and—like Smith's 'invisible hand'—to direct it to the maximum "of opulence, of power, and of enjoyments." Commercial efficiency would provide Dugald Stewart's

student, James Mill, the key principal of difference and political rule for his stadial *History of British India.* By adjusting efficiency only slightly to become Bentham's political utility, Mill could see India as stagnant, relegating its civilization to a stage somewhere between the pastoral and agricultural, and legitimating the tempering of that civilization by "European honour and European intelligence" (1810: 156).

Kairos

Imperialism may have received a temporal schema (*chronos*) from universal history; but history could not accomplish the practical task in advance. It remained up to imperial ambitions to navigate the space of the other and to locate and seize upon timely and material opportunities (*kairos*). Where *chronos* is sequential, natural, and necessary, *kairos* is singular, unexpected, and aleatory. From the perspective of *chronos*, *kairos* is a momentary interruption and an arresting of the flow of things. *Kairos* is an event that dissolves or escapes the form of *chronos,* but it may be seized and exploited. The *kairotic* event may be revolutionary or heroic, an opportunity to recast forms and introduce new ones. As Machiavelli reminds us, *kairos* also occasions *fortuna,* should one have the skill to master her. It was through the cleavage of *kairos* that imperialism would convert speculation into fact, and accomplish the transfer of wealth and resources from colony to metropole, all the while under cover of universal history. In the imperial aftermath, such eventful moments would be repressed or subdued: stripped of the indeterminacy of chance and opportunity, yet cloaking the stark force of siege and seizure. The result is a grand history of paternalistic necessity and ingratiating complicity. Against this, what I wish to restore and retain is the aleatory character of these events. The aleatory encounter is the setting for the timely interplay of recognized opportunity and strategic maneuver. Successes and failures are dispersed into singular events; an apparent success may result in failure, or failure be turned into success. What matters is the event and its relationship to the form that arrives to enclose it.

It was so that the Company recognized a moment of opportunity in Malabar. The defeat and routing of Tipu Sultan would not lead to a restoration of former sovereignty, but to a caesura. By occupying that chance void of sovereignty, the Company could take hold of awaiting fortune: a practical monopoly on that precious and prized commodity, pepper; a strategic possession on the west coast against the French; and capital for the China trade, replacing the draining specie from Britain. To this treasure, the Company would add the forests of the Western Ghats.

Chapter Two

Imperium

This chapter provides a history of colonial forestry's foundational beginnings in Malabar in order to elicit from that history contingent moments of formation. The narrative I present moves between the consolidation of colonial government in Malabar and the establishment of the forest conservatorship. These two colonial projects intersect in the question of property. Only by settling ownership could the Company assess and collect land revenue on the basis of law. Yet, only in the absence of ownership could the Company legitimately appropriate timber for ship-building. The Company's strategies found clarity and legitimacy through the Roman concepts of *dominium* and *imperium*. *Dominium* would underwrite the Company's right to the spoils of conquest—the possession of territory and all it contained. While the European notion of *dominium* provided colonial government with a model for private property and the permanent settlement of revenues, the interpretation of forests as *imperium* permitted its monopoly of timber. By possessing *imperium*, the Company proclaimed itself as the supreme law with the authority to dispose of territory as it saw fit. Yet, it was *imperium* that would generate tensions of rule, leading ironically to the dissolution of the first conservatorship in 1823. This tension would carry on and forwards through the nineteenth century as an unsettling undercurrent within *imperium* and its practical expressions of eminent domain: the *ryotwari* systems' agricultural expansions and revenue improvements, the Crown Raj's massive public works in the second half of the century, as well as the establishment of the Forest Department, and its dispossessions and appropriations to create Reserves.

I approach the creation of private property and sovereign territory, *dominium* and *imperium*, through the moments of their formation. What I mean by moments of formation are those *historical instances* where a contingent material conjunction is captured by a particular schema, deciphered into a fixed form, and imbued with the force of necessity. Such a conjunction is the encounter between

colonial rationales and Indian cultural practices; such a schema is the Roman dyad of *dominium-imperium*; and their necessity underwrites the liberal state, such as it is.

This chapter follows the investigations of a Commission appointed to ascertain the ceded Malabar territory. Through these investigations, a failed quest for a pepper monopoly leads the Commissioners to a royalty in timber. This chapter, then, begins with the former. In their efforts to secure pepper, the Commissioners encounter the beguiling property scheme of Malabar. What they decipher is the idea of *dominium*, property in the soil. It is on the basis of this unquestioned *dominium* that the Commissioners are able to conjecture the Company's assumption of *imperium*. How *imperium* comes to underwrite the distinctions of sovereign and subject, royalty and property, is taken up in the remainder of this chapter.

"…that EUROPEAN IDEA"

The Third Anglo-Mysore War ended with Tipu Sultan's surrender at Seringapatnam.[11] Cornwallis had prevented Tipu Sultan from attacking the Company's ally in Travancore, and secured the safe return of the Malabar Rajahs, who had fled Mysore's oppression. More significantly, the war signaled a reversal of the Company's fortunes. Tipu Sultan, acting in alliance with the French but with ambitions to conquer south India, had effectively used the Company's mercantile strategies, tactics, and techniques of imperial expansion, monopoly, and embargo, against them. After suffering two losses at war (First and Second Mysore Wars, 1767-1796 and 1780-1784), Cornwallis had secured the national interest, dealt a 'cruel' and 'arbitrary' despot a crippling defeat, and not only ensured the Company's survival, but cleared the way for its domination of southern India.

[11] The war had been an object of great controversy in Britain. Declared a necessary and swift preemptive strike by Cornwallis, his exercise of prerogative went against the 1784 Act. Tipu Sultan, Cornwallis claimed, meant to attack Travancore. The opposition in Parliament strongly condemned the war, which was begun on false premises and conducted at great expense (£2 million). This intricate and troublesome controversy is to be found in *The Parliamentary Register* (Great Britain 1791: 98-165); see also Bowen (2005: 43-44).

Like the Portuguese and Dutch before them, the East India Company dreamed of a pepper monopoly. Dundas, president of the Company's Board, believed that pepper would finally bring trade revenues to Bombay, a debt-ridden establishment on the verge of financial collapse. By establishing a monopoly on that commodity, the Indian possession could subsist on Indian resources and halt the export of British specie. As the Treaty with Tipu Sultan was being signed, Cornwallis had written to Dundas to proclaim that "The Rajahs on that coast are not independent, but now become our subjects, and if we can put them in some degree on the footing of the Bengal Zemindars, and prevent their oppressing the people under them, the commerce of that country in pepper, spices, etc. may become extremely advantageous to the Company" (Nightingale 1970: 68-69). Adopting a cautious approach, the Company and Court of Directors had presumed the reinstatement of the Rajahs to their independence along with a modest tribute for the Company's protection. The change in strategy was a bold and surprising development that went against the expectations of the Company and, of course, the Rajahs.[12]

With the treaty concluded, Cornwallis immediately convened a commission to establish Company authority and administration in the Malabar territory. First, temporary agreements were to be made with the returned Rajahs to deliver one year's revenue to the Company. This was an interim step, since Cornwallis intended to introduce Permanent Settlement in Malabar as in Bengal. Second, the commission was to deliver their recommendation on how best to transfer of all judicial power to the Company. Third, was the market. As a key term of the treaty the Governor-General Cornwallis received the Mysorean *jamabandi,* the administrative revenue records of the Malabar territory. The commission was to assess "the accuracy or fallacy" of the revenue record as stated, and more generally discover how best to enforce the monopolies seemingly carried on by Tipu Sultan. Two servants of Bombay—William Farmer, a Senior Merchant, and Major Alexander Dow, the Military Commandant at Tellicherry—were

[12] Cornwallis' immediate aim was to make the failing Bombay Presidency accountable. Malabar was put under Bombay's jurisdiction and the monopolistic capture of the lucrative Malabar pepper trade would, it was expected, provide the necessary revenue for its profitability.

appointed by Bombay's Governor, General William Abercromby. Meanwhile, Cornwallis appointed the delegation from Bengal of Jonathan Duncan, William Page, and Charles Boddam. The Bengal commissioners would not arrive until 1793, so Farmer and Dow were instructed to immediately set off to the Malabar territory. Their primary objective was to establish Company authority, but while Malabar was in a fragile state, the commissioners were instructed to use a light hand of diplomacy and conciliation.

Farmer and Dow submitted their first report a few months later in April of 1792. Their findings gave them reason to doubt the success of Cornwallis' plan. The proposed establishment of Company administration seemed impossible. Tipu Sultan had not established any administrative apparatus that the Company could occupy and the jilted Rajahs were unlikely to be of help. Instead, what the commissioners saw was a country in disarray and fomenting hostilities. The flight of the Rajahs and the intervening demands of Mysore had enabled new configurations of social relations. In the absence of the Brahmin Rajahs, Tipu Sultan had made direct revenue agreements with the Rajahs' cultivators, generally Muslim Māppillas. Consequently, these cultivators had assumed the landlord status or *janmi* of the Rajahs. When the Rajahs returned with the assumption of resuming their authority, their former cultivators, who had grown accustomed to living "rent-free," resisted. Farmer reported: "they will not now be brought back to their former state of dependence on their ancient and despoiled jammkar without risk of a considerable degree of resistance, and exciting a spirit of rebellion or disaffection" ("Reports of a Joint Commission" 1792: 131). The problem of Malabar tenancy is a crucial one, to which I will return below. The commissioners recommended that the Company quit its administrative aspirations and leave Malabar to the Rajahs, resigned to whatever order they would maintain and content with the tribute the Company would receive. The plan of monopolizing pepper should likewise be abandoned. Though Malabar had been ceded to the Company and a monopoly seemed a possible right, the exercise of that right seemed unlikely. Trade was and would remain anyone's game. The

market was a fiercely competitive arena composed of local merchants, Rajahs, European "adventurers," and even their own employees, who were all able to offer prices in advance and were better positioned to engross the trade.[13]

By the summer of 1792, the commissioners had changed their minds and were advocating Cornwallis' plan. It is difficult to discern whether their reversal was a consequence of a clearer (or increasingly confused) knowledge of the country, a cunning move calculated for personal gain,[14] or anxiety before uncooperative Rajahs or assertive Māppillas. It should suffice to say that all of these factors constituted the conditions under which the commissioners labored. While they had earlier insisted on the powers of the Rajahs to maintain order, Farmer and Dow now recast them as unreasonable and cruel despots, oppressing the Māppillas. If left to their own devices these "two irreconcilable races of people" would bring about a civil war (Bayly 1994: 346). Not only would law and justice fall to perversion, and the security of the Malabar possession be put at risk, but neither a tribute nor a monopoly of pepper would be possible.

The Rajahs, who had been regarded as the victims of Tipu Sultan's despotism needing liberation, were now styled as despots. The Company's sovereignty would be asserted in the place of the Oriental despot, substituting the rule of law for the rule by fear. The notion of despotism was prepared by Montesquieu's *Spirit of the Laws*, adapted to India by the Orientalist Robert Orme, and popularized by the Company administrator Alexander Dow. In his 1772 "Dissertation" on despotism in India, Dow combined the climatic speculations of Montesquieu with the idea of the Indian's subservient mentality found in Orme to produce an organic theory of Indian government. The despotism prevailing in India

[13] The cunning of European adventurers and the ambiguity with which Company officials exercised their positions are illustrated in Pamela Nightingale's history of Murdock Brown, a private trader, the Company's chief rival at the Mahé market for pepper, frequent advisor, friend and business partner of William Farmer, deputy superintendent of the police in Mahé and surveyor of forests. Nightingale argues convincingly that Murdock Brown's influence weighed heavily on the ambitious Farmer, particularly in his critique of Cornwallis' plan. Her suggestion that a rift between Farmer and Brown led to the commissioners' reversal of opinion seems to overextend that relationship.
[14] This is Nightingale's claim (1970: 83-94).

was not natural, but only circumstantial: "Government derives its form from accident; its spirit and genius from the inherent manners of the people" (1803: lxvii). What was natural, true for all people everywhere, was the wish for equity and justice, which even in India could be discerned:

> The despotic form of government is not, however, so terrible in its nature, as men born in free countries are apt to imagine. Though no civil regulation can bind the prince, there is one great law, the ideas of mankind with regard to right or wrong, by which he is bound. When he becomes an assassin, he teaches others to use the dagger against himself; and wanton acts of injustice, often repeated, destroy by degrees that opinion which is the sole foundation of his power (lxxvii).

For Dow, in spite of the Indian's indolence before labor and passivity before evil, the natural law of morality still strives for the universal principles of justice. As Ranajit Guha has detailed (1982), these presuppositions would guide Dow's hand in drafting a recommendation that eventually became Cornwallis' permanent settlement. In the place of the despot's arbitrariness of rule, the oppression of the people, and the country's indolence, the system would be an efficient clearing-house of rule of law, property, authority, security, and growth.[15]

Resolved to settle the question of ownership and ensure peace, the Commissioners issued a regulation stating the terms of administration. Following Cornwallis' designs, the revenue scheme resembled the Permanent Settlement in Bengal. The commissioners ordered the various parties and relations that they discovered into a single coherent hierarchy: the *janmi*, the absolute proprietor of the soil; the *kannakaran*, who are the mortgagees of and supervisors for the *janmi;* and, finally, the *verumpattakkaran,* those holding a simple lease on the land as cultivating tenants (or *kudiyan*).

In actual practice, *janmi, kannakaran,* and *verumpattakkaran* each participated in and had a share of the overall authority or *pattam*. The substantive participation in the *pattam* bound them in intimate and political relations of mutual obligation, dependency, and reciprocity. In addition to receiving an equal share of the produce, each provided ceremonial gifts or services to the other,

[15] For the relation of despotism to colonial law see Cohn (1996: 57-105) and Hussain (2003: 44-55).

expressing fealty and interdependence. The *janmi* in many ways resembled (and would share the fate of) the "little kings" described by Nicholas Dirks, who "ruled by making gifts… [which] were the fundamental signs of sovereignty" (1992b: 180). The gifts given by the *janmi* to the *kanakkaran* and *kudiyan* were ceremonial, practical and symbolic, and included clothes, oil, rice, cash, tools, etc. The *janmi*'s sovereignty was further devolved to the *kanakkaran*, who would also give gifts to the cultivating *kudiyan*. In turn, the *kudiyan* would on the occasion of festivals (i.e. Onam), present the *kannakaran* and the *janmi* marks of the bounty of the annual harvest. The *kannakaran*'s relationship with the *janmi* could be of various sorts and his gifts reflected his circumstances. If the *kannakaran* was an agriculturalist, he would reciprocate with cash payments, festival dues, etc.; if a merchant, he might otherwise provide market goods; or if a Nayar chief, he would provide military service to the *janmi*.

In the place of the *pattam* milieu of substantial being-belonging, Cornwallis and his Commissioners introduced private ownership. Gifts were banned; and the equality of *pattam* shares was replaced by a quantified distribution based on the graduated relation of owner-lessee-renter, from which revenue could be easily extracted. William Logan summarizes it well: "in place of viewing the *janmam* right over land in its true aspect as a mere right to exercise *authority over the persons* of those who resided thereon, the Commissioners accepted the view that *janmam* right was *a right to the soil*, the *plenum dominium* of Latin jurists, and as such they proceeded shortly thereafterwards… to set forth, and to direct the Courts to act upon, *that* EUROPEAN IDEA" (2000 [1887]: 494).[16]

With this settlement of proprietary rights, the Company imagined it could begin receiving a steady revenue, while quieting the conflict between the Rajahs and the Māppillas**.** The Company had settled rights in favor of the returned *Rajahs*, who were appointed and clearly defined as landlords, vested with political authority, and accountable for revenues. Whether *janmi* or *zamindar*, they were

[16] In addition to Logan's *Malabar Manual*, my understanding of *pattam* relations is informed by Radhakrishnan (1989), Panikkar (1989), and Kurup (1988).

rendered analogous to the landed gentry of the British countryside. Like their European counterparts, the *janmi* would be sources of political stability and economic improvement. But from the perspective of the *kudiyan* Māppillas, when the *janmis* fled they had rescinded their participation in and share of the *pattam*. In their absence, the Māppilla cultivators had taken up that extra share and the responsibilities that came with it. The settlement re-established the Rajah as *janmi.* But it also vested him with the function and powers of landlord according to the notion of private property "in the soil." The *kanakkaran* and *kudiyan* were consequently reduced to leaseholders and tenants. Through this reconfiguration, the British severed the intimate and political ties of *pattam* relations. In the place of those relations, the *janmi* was placed at the head of a contract, granted hitherto unknown independence, and armed with the novel powers of alienation and eviction. But there were unexpected outcomes: without the relations of reciprocity and obligation the *janmi* became indifferent, strategic, and oppressive. The *Rajah* was made a despot.

Though the revenue settlement had fixed revenues and responsibilities in theory, its success rested on the ability to enforce it. This was especially problematic in the forested hinterlands. The Western Ghats were the site of a severe and deadly conflict between Nayars and Māppillas. Prior to the Mysorean rule, the Nayars had been the *kanakkaran* under the Zamorin of Calicut (or *Kozhikode Samoothiri Raja*). They did not pay revenue, but provided military service to the Zamorin, otherwise living "rent free." With their departure, the Māppilla proprietors had absorbed their duties and shares, refusing to submit to the now-returned Nayars. The Māppillas not only rejected the authority of the Nayar, but challenged the authority of the ostensible *janmi*, the Zamorin, who in a letter to the Commissioners explained that "when my people ask for revenue [the Māppillas] shake their swords at them." While the Nayars labored to gather revenue from the Māppilla, they themselves refused to pay any revenue, as it was against their customary relation of military service. The Zamorin recounts that

> [t[hey think my government is returned, and they hope to be relieved of the oppressions of Tippu. To this I am obliged to reply that the country is with the Company, whose armies must

> protect it; that, unless they willingly contribute to the expense of maintaining them according to what is just, the country may go back to Tippu, and instead of living in peace under the shadow of the Company, all our troubles and vexations may return and we may be driven back to the Travancore country….This I tell them; but after all, you know they are not like the people of other countries, who live collected in cities where the hands of government can reach them and the tax-gatherer has an easy task. *They live in woods and in hills, with every house separate, and that house defensible*" ("Report": 82-3).

The settlement of revenues did not quell, but exacerbated the discontent that attended the Rajahs' return. That discontent intersected with new problems arising from the terms of the settlement, fomenting general revolt and rebellion.[17] The impenetrable hinterland was the source and refuge of these rebellions. Until the Company could subdue the hinterland, revenue would not be forthcoming. Nor could the forests be laid open to the Company's shipbuilding plans. Having defeated and removed Malabar's foreign aggressor, the Company would begin a seemingly interminable war to establish a domestic peace. For the next decade, as it battled for the hinterlands, the Company would also seek knowledge of the forests, the language to command its appropriation, and the technical means to control it.

From status to locus

In his *Malabar Manual*, Logan records a deed of sale that grants to the purchaser:

1. Good stones,
2. bad stones,
3. stumps of *Strychnos nux comica*
4. thorns
5. roots
6. stupid, bad, wicked snakes
7. holes
8. mounds or foundations
9. treasure
10. wells
11. skies

[17] First, the settlement introduced a revenue assessment on Nayars, who had formerly only provided military service to the *janmi*. Second, according to the territorial character of *janmi*, the Company had to frequently decide among and give preference to one Rajah over another. Third, this preference was not necessarily accepted by the people, whether strategically (for one Rajah could be experienced as more oppressive than another) or out of loyalty.

12. lower world
13. water-courses
14. boundaries
15. field ridges
16. canals
17. washing places
18. footpaths
19. streams
20. deer forests
21. shady places where bees make honey
22. *Désam*
23. Authority in *Désam*
24. *Amsam*
25. Rank
26. Battle wager
27. Import, export and transport customs
28. Everything else

What to make of such a list, so specific yet so totalizing? At first sight, Logan writes, it seems to express the completeness of the owner's title, sunk in the very firmament of the earth and inclusive of any and all, significant and superfluous (2000 [1887]: 602-4). However, the inclusion of "authority in *Désam,*" "Battle wager," "rank," and "customs" indicate duties that are beyond the strict *European* sense of *dominium*. Rather, they point to relations of authority, appurtenant not to a place, but to the granted title.

"The European looks to *the soil*, and nothing but the soil," Logan tells us, "[t]he Malayali on the contrary looks chiefly to *the people* located on the soil" (607). With this formulation, Logan seeks to describe what the *janmi* became—the *dominus* having the complete right to a property—and what he, in fact, was—one in a relation of graduated authorities and reciprocal obligations. The replacement of people-in-relation with private property not only marked a misrecognition, Logan shows, but also signaled a fundamental shift in culture. However, by focusing on the problem of "people" versus "soil" Logan misses what was pivotal in this shift. In the space of cultural difference, what brings these two conceptions together, making translation and transmutation possible, is *the soil*. Whether we think of the European or the Malayali, the question is not of soil versus people, but of how people relate to one

another on the basis of soil—that is, how the soil *locates* those relations. To approach it otherwise, to think of people apart from soil, is to repeat the abstraction of property and occlude the Company's means and ends.

"The actual geographical possession of land," Edward Said reminds us, "is what empire in the final analysis is all about":

> To think about distant places, to colonize them, to populate or depopulate them: all of this occurs on, about, or because of land…. At the moment when a coincidence occurs between real control and power, the idea of what a given place was (could be, might become), and an actual place—at that moment the struggle for empire is launched.

What Said draws our attention to and what needs to be thought, is the coincidence of control and power, on the one hand, and the productive difference of possible and actual places, on the other. What Said refers to as land is the geographical *not yet* of the sovereign territory, the economic *dominium*, the revenue district, and even the inhabitations of the *socius*. Land is the condition of possibility of these forms. Land is also what gives these forms a place: it is the material *hic et nunc* of their occurrence and their accomplishment as fact. What distinguishes imperial culture is that it begins not with land, but with an *aporia* on the basis of which it imagines and seizes land. As a geographical *not yet,* land compels the imagination to find declarative certainty—'what it was,' 'could be,' 'might become'. And it is on the basis of land that imagination materializes in "real control and power." "The geographical sense," Said continues, "makes projections—imaginative, cartographic, military, economic, historical, or in a general sense cultural. It also makes possible the construction of various kinds of knowledge, all of them in one way or another dependent upon the perceived character and destiny of a particular geography" (1993: 78).[18] What "empire…is all about" is detecting a land's subjunctive possibilities and narrowing those possibilities to eventually declare and inscribe all that it can be.

[18] Michel Foucault makes a nearly identical point during his interview by the geographers of *Hérodete.* Behind his "spatial obsession," Foucault says, was a search for "the relations that are possible between power and knowledge. Once knowledge can be analysed in terms of region [a fiscal, administrative, military notion], domain

Amid empire's speculative projections of the "character and destiny" of a place, forms of knowledge and power fill the distance between projection and reality. The assertion of the *janmi* as *dominus*, a proprietor 'in the soil', is such a form, delivered by the commissioners and set into law, thorough which revenue can be collected and order maintained. The "forest" will be another form, possessing its own truth and having its own functions within the Company's general economy of power-knowledge. The question will be how to reconcile these forms to legitimate and ensure the larger form of the colonial state.

"**Forest**"

In Farmer's view, the Company had by writ of Tipu Sultan's treaty become the *de facto* if not *de jure* sovereigns of Malabar; they only had to exercise the sovereign right to monopoly. For a year, the Company pursued Dundas' project of a pepper monopoly, outmatched and outwitted by vigorous trade, private and illicit, before they abandoned it. But all was not lost. The Company's royal right to timber was there for the company to assume; the Bombay dockyards could be put to good and profitable use; and the Company could serve the national interest at a time of war.

Fortune was glimpsed between the lines of the surrendered Malabar revenue record; it only had to be seized. A single line item—'timber duties … … 30,000 pagodas'—together with the supposition that Tipu Sultan had established a monopoly on certain goods in Malabar, led the commissioner William Farmer to extrapolate Tipu Sultan's sovereign right to forests. With full confidence in that view, Farmer

[a juridico-political notion], implantation, displacement [what displaces itself is an army, a squadron, a population], transposition, one is able to capture the process by which knowledge functions as a form of power and disseminates the effects of power. There is an administration of knowledge, a politics of knowledge, relations of power which pass via knowledge and which, if one tries to transcribe them, lead one to consider forms of domination designated by such notions of field, region, and territory. And the politico-strategic term is an indication of how the military and the administration actually comes to inscribe themselves both on a material soil and within forms of discourse" (1980: 68-69).

and his partner, Alexander Mackonochie, pursued the Company's Board of Directors and received an advance to build a saw-mill on the Beypore River.

The commissioners were unanimous in noting that prior to Tipu Sultan's rule agricultural land was private property. But what about the forests? Prior to the Mysorean conquest, Farmer explained, forests were held just as all other land in Malabar: as private property. At this time, if anyone wanted to cut timber, he was obliged to pay a customary "stump fee" or *kuttikanam* to the *janmi* (261-2). Because Tipu Sultan collected this *kuttikanam*, Farmer inferred his supervening ownership of forests. Based on this collection of fees and the hefty sum of 30,000 pagodas recorded in the *jamabandi*, there was, Farmer held, sufficient reason to assume a sovereign right to timber.

But Dow had presented evidence to the contrary of Farmer's claim, leaving the other commissioners unsure. In 1792, he had been deputed to the forested interiors of Valluvanad and Ernaad (present day Malappuram and Palakkad districts) to negotiate a peace between the Nayars and the Māppillas. Based on his dialogues with the Māppillas, Dow came to understand that the jungles "appertain not to Government, but are the private property of sundry Nayr Chiefs." Dow confirmed the prevalence of the custom of *kuttikanam*. But it was up to the intermediary chiefs [*kannakaran*], not the Rajah [*janmi*], to levy and collect the fee. Even Tipu Sultan, when desiring timber on his own account, paid an allowance to the Māppillas (who had absorbed the duties and functions of *kannakaran,* as well as *janmi*) based on the quantity of trees he cut. The line of inquiry begun by Dow was, the Commissioners admitted, not followed through (260).

There was no practical need to resolve the issue of proprietorship while Mackonochie was in Britain and the rebellious hinterland beyond the Company's authority. In addition, Mackonochie's would-be partner, William Farmer, had, after serving a year as the Superintendent of Malabar, moved on to the chieftanship at the Surat Factory. When Mackonochie arrived in 1796, he was eager to put the saw-mill project in motion. He was appraised of the ambiguities of forest proprietorship and the

Government's desire to proceed cautiously in light of the rebellion. It was in this context that Mackonochie attempted to resolve the forest proprietorship question by asserting a distinction of public versus private property: "Forests and Jungles properly so called, and those *Groves* and *Plantations*."[19] The former were the proper object of the Company's unquestionable "right of royalty," while the latter, which included trees on individual estates or temple lands, stood outside that right. Mackonochie's distinction was a complete fabulation backed by logic, but without evidence and contrary to experience. Mackonochie explained that if the *jamabandi* was sufficient proof of the existence of Tipu Sultan's right, then the Company surely assumed it. Furthermore, it went against common sense that the violence and depredations taking place in the forests could be committed by the owners of those forests.

The Court of Directors found Mackonochie's distinction of forest-jungle and grove-plantation reasonable, tidy, and sufficient. Mackonochie's contrivance, it seems, not only provided a convenient and familiar taxonomy, but complemented the revenue relations that the commissioners had set down. As discussed above, private property was settled in the *janmi*, who was equated with the Roman *dominus*, the "lord of the soil." The state contained and transcended any *dominium.* Public property and, indeed, territory *tout court* could be vested in the Company as *imperium*.[20] Mackonochie's

[19]Hobson-Jobson tells us that "jungle" (Skt. *jaṇgala*) was to be found chiefly in medical texts, and "means in strictness only waste, uncultivated ground"; only with its adoption into English did it came to signify forests, that is, any wild growth, thickets, or wilderness, regardless of cultivation (Yule and Burnell 2010 [1903]: 470). The significance of *jaṇgala* is further complicated by Francis Zimmerman's fascinating text, *The Jungle and the Aroma of Meats* (1999). By returning the word to its Ayurvedic usage, Zimmerman seeks to recovers its prior -- and completely opposite -- meaning of "dry lands," which is structurally defined against "marshy lands" (*ānūpa*). From this perspective, forests in the English sense of the word would be considered *ānūpa*. Yet another complication is provided by Paul Greenough, who notes the "neglected fauna and the vegetal bias" of jungle/forest from colonial forestry to postcolonial environmentalism (2001: 141).

[20] The distinction is a central feature of Roman law, but its modern usage can be traced to the Dutch jurist Hugo Grotius. A founder of what would become international law, Grotius distinguished supreme sovereign power and control of a jurisdiction*, imperium*, from absolute individual ownership of something*, dominium*, to recognize the possibility of acquiring sovereignty over something that one does not own. The complicating a-priori for this distinction was that something does not already belong to someone—more precisely, to someone not possessing reason. With the subsequent appropriation and occupation, in the words of Seneca, "[t]o kings belongs the power over all things [*imperium*]; to individuals, proprietorship [*dominium*]" (2012 [1625], 106). It is important to note that Grotius' aim was to determine the legal jurisdiction of the seas, while legitimating the forceful seizure of a

distinction provided a domain for the exercise of the Company's sovereign right, but also a principle of moderation. By not infringing on the *janmi*, the Company could avoid lending further cause and fury to the ongoing rebellions.

As a result of the Nayars' revenue demands and the violent means by which they assured collection, the Jungle Māppillas had flocked to the side of the notorious bandit Unni Mutta Moopan. As the violence between them persisted and escalated, Nayar and Māppilla alike had become obstacle to the Company's revenue and the forest resource. The Company made repeated efforts to broker a peace by appeasing Unni Mutta, who cunningly extracted a pension and property from them, while escalating his criminal activities. But with the final defeat of Tipu Sultan in 1799, the Company's conciliatory attitude towards strife, criminality, and evasion was dropped. At the same time, Unni Mutta allied himself with the Pazhassi Raja. The Pazhassi Raja of Kottayam had been jilted by the Company, who had settled his rightful hereditary *janmi* with his uncle. In 1793 he revolted against the settlement and over the next ten years he gained the support of cultivators throughout Malabar, turning revolt into rebellion. With the fall of Tipu Sultan, the Company redeployed its military might into the hinterland, which brought an end to Pazhassi Raja and his rebellion. To collect revenue, they sent Captain Watson of the Bombay police and his Kolkar Batallion, a paramilitary regiment of 500 Malayali Nayars that he had organized and commanded. In 1802 they laid siege to Unni Mutta's compound, shot and killed him (Logan 2000 [1887]: 489-531).[21] The capable Watson would soon be named as the first conservator of forests.

With the hinterland finally settled, the Court of Directors directed Bombay to organize a survey to properly ascertain and fix boundaries according to Mackonochie's distinction of Forest and Jungle. In

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Portuguese merchant ship and its cargo by the Dutch. The *imperium-dominium* distinction was a constant feature in the legitimation of British imperialism, as traced by Armitage (2000).

[21] I only touch on the numerous and complex rebellions in Malabar between 1793 and 1805. For the vast majority of these rebellions, the cause was the revenue settlement and the hinterland was the site of conflict and place of refuge. The rebellion of Pazhassi Raja has inspired a number of analyses (Kurup 1988, Bayly 1994, Frenz 2003).

the meantime, Bombay was instructed to issue a proclamation, notifying the public "that the Company consider the right of cutting timber in the Forests as vested in them, both by cession and conquest, and that they will enact Laws and Regulations for the preservation of that right, the breach of which will be punished in the most exemplary manner" (28 August 1800).

In 1804 Mackonochie and Major William Atkins were appointed to the Committee of Survey. They were charged with ascertaining in whom proprietary rights of the forest were invested, and with determining the quantity, location, and availability of teak. To answer the question of proprietary rights the Committee submitted a list of questions to Thomas Warden, the Collector of Malabar. These questions reveal the knowledge possessed by the Committee and provide an insightful view of their rationale. The Committee acknowledged that "a certain usufructuary grant" had by custom been conferred by the Rajahs on private individuals "for certain valuable considerations." These "grants" and "considerations" were the basis of the claims of individuals to property in forest lands. But what did these customs convey and what was their basis? Mackonochie and Atkins asked Warden to explain the Rajah's "interest" in forest lands: was it "a personal one, or is it an Estate intail [held by heredity] or in fee [held for the term of his life alone]?" They acknowledged that these are English tenures and may not rightly apply to Malabar, that they are "essentially different." Respective of that difference, they sought "to discover his power to alienate them and [whatever] be the term or word by which any tenure is known." With a knowledge of this power to alienate, they explained, it would be possible to scrutinize the Rajahs' relationships and discern "any grants [which] the granters [the Rajahs] had not the power of making" ("Letter from Committee of Survey to Warden, Collector of Malabar," 31 May 1805).

The aim of the Survey was to discover practical ways of expressing the Company's claim of sovereignty and right to royalty. Mackonochie's distinction of forest-jungle and grove-plantation were not transparent descriptions of land, but, as with the analogous *dominium/imperium* distinction on which it stood, specific forms through which land *in its relations* could be understood, transcribed, and

administered. With the knowledge of "interests," "grants," and "considerations," a specific understanding of customs could be rendered as true. Conversely, other behaviors or relations would be false—deviations, misunderstandings, or manipulations of custom. The space of possible deviation supplied the law sufficient cause to scrutinize existing relations; the knowledge to discern real grants from false one; and the authority to de-legitimate and "alienate" what was decidedly neither a Rajah's to give nor a possessors' to have or keep. Moreover, that there was something *not* a Rajah's right to give implied a limit on any individual owner's rights, beyond which the Company's supervening sovereign right could be asserted and take hold. A "forest" would in this way be a lively and shifting thing, not a place but a plastic form through which knowledge and power passed.

The plasticity of "forest" enabled its expansions, but also introduced its abiding problem: jurisdiction. Private property, vested in the *janmi* and subject to the collector, coincided with the jurisdiction of the courts. Meanwhile, from the perspective of the courts, forests existed only in the negative, designating a type of land not burdened by private property. When the law defined the forest, it simultaneously put the forest beyond its reach. This problem would be compounded and aggravated by, first, the re-routing of authority over Malabar forests from the Madras Presidency to that of Bombay, and, second, the establishment of the Conservator, who alone would express and ensure the sovereign's right to the forest, but, like the forest, stand beyond the law.

Chapter Three

Jurisdiction

It is one thing to speculate and quite another to make good on it. When Company bookkeepers later measured Mackonochie's endeavor against what was proposed, it was a decided failure and a financial loss. The saw mill was ill-conceived and the timber too distant. Though the saw mill was a failure, the speculations from which it arose and the struggles to see it through took Malabar well beyond the scope of intentions and expectations. Twenty-five years later, William Thackeray would reflect: "[I]t was completely a wild speculation, but it led to the appointment of the Conservatory; to the voluminous correspondence which has taken place on the subject and to the penal enactments…to support the Company's Monopoly of Timber" ("Minute," 16 November 1822, F/4/777). In recounting the succession of events that established the original forest Conservatorship in Malabar, Thackeray charts a space between speculation and consequences—chancy beginnings and enduring ends. This space was a field of indeterminacy, but also an interval of opportunity through which the ambitions and expectations of imperialism would enter and take hold. It was by making the indeterminate certain according to design that imperialism could recognize an opportunity and ensure its success. Such design was the work of *jurisdiction*.

What is meant by jurisdiction? It has become natural to conceive of jurisdiction in contrasting territorial terms: United States versus Mexico, New York versus New Jersey, FBI versus CIA. In these cases, what jurisdiction specifies is recognized authority, the spatial domain of that authority, and the target of its rule. But jurisdiction is also a matter of effects. Simultaneous with its making a territory out of land, it also informs people, obliging particular behaviors, identities, and understandings. The relationship of these two general positivities—territory and people—is the key to jurisdiction.

As an exemplary case, we can consider "forest" itself. Entering into English with the conquering

Normans, forest was neither a translation of the Saxon "Walds" nor a designation of any geographical or botanical entity. Rather, forest or *foresta* specified a legal technique and procedure. The Domesday Book speaks of Walds being placed *in foresta* or *in forests regis*. Derived from the Latin *foris*, meaning 'out of,' 'outside,' or 'beyond,' *foresta* removed areas so designated from the general economy of Saxon custom to resituate them with the jurisdiction of Norman law (Maine 1878: 58-63). [22] Not all Walds were forests and not all forests were Walds. What afforestation targeted were not the trees of the Walds, but the game animals—particularly deer—within them. The jurisdiction of *foresta* was neither more nor less than the perceived territory of game: where they may roam plus the *vert* and *verdure* that was their surrounding and sustaining environment. This positive assertion of Norman law was simultaneously a deduction from Anglo-Saxon common law. Wild animals, which were unowned and free, became property by sovereign pronouncement. It was considered theft to kill any game in a forest, and any deer anywhere they might wander. Further, commoning was rendered illegal and punishable in the forests, as it might interfere with the health and well-being of precious game. Writing in 1087, the Anglo-Saxon chronicler says of the Conqueror: "The king was so very stark… he made great protection for the game and imposed laws for the same, that who so slew hart or hind should be made blind. He preserved the harts and boars and loved the stags as if he were their father…. Powerful men complained of it and poor men lamented it, but so fierce was he that he cared not for the rancor of them all…" (Whitelock 1979: 163). Simply put, *foresta* (or *afforestation*, as it would come to be called) specified the simultaneous de-territorialization of the Saxon common Walds and common law, and their

[22] Charles Sumner Maine's derivation follows that of E.A. Freeman (1871). An alternative derivation is from *fera statio*, the first appearance of which seems to be a text written by Henry II's treasurer Richard FitzNeal in 1177. The author explains "The King's forest is a safe abode for wild animals, not all of them but only the woodland ones, and not everywhere, but in particular places suitable for the purpose. That is why it is called 'forest' (*foresta*), as though the *e* of *feresta* (i.e. a haunt of wild animals, *ferarum statio*) were changed into *o*" (quoted in Jurasinski 2004). The popularity of this derivation down to the present seems to be due to Manwood's oft-quoted *Treatise of the Laws of the Forest*. But attention to the Norman-era texts including the Domesday Book show the precedence of the legal derivation from *foris*, which was then naturalized – in both literal and rhetorical senses –, resulting in the derivation from *fera*.

re-territorialization as Royal Forests. "Forest" specifies the word and deed of appropriation.

"In every case, land-appropriation," writes Schmitt, "is the primary legal title that underlies all subsequent law." Land-appropriation should be understood not as an intellectual construct, he says, but as a "legal fact," a "great historical event" recorded by Vico, the *Magna Charta*, Locke, and Kant. It is a foundational act from the point of view of those who invade and those who defend, those that appropriate and those who are dispossessed. "We must remember that," Schmitt says,

> both externally and internally, this fundamental process of land-appropriation preceded the distinction between public and private law, public authority and private property, *imperium* and *dominium*. Land appropriation thus is the archetype of a constitutive legal process externally (vis-à-vis other peoples) and internally (for the ordering of land and property within a country). It creates the most radical title, in the full and comprehensive sense of the term *radical title* (2003: 46-47).

What is radical about this title is that law is sunk and rooted in the terrestrial fundament itself. Through the violent act, a land is subdued and made pliable. Through the appropriative act, law is inscribed in land. With this primary inscription, law marks a territory and an authority. Thereafter and on that basis, land is described through law, in its idiom and through its voice. This is jurisdiction—law's (*juris-)* speaking (-*dictio*). "Jurisdiction," Peter Rush tells us, "is not so much a discourse, not so much a statement of the law, but a site or space of enunciation. It refers us first and foremost to the power and authority to speak in the name of law and only subsequently to the fact that the law is stated—and stated to be something or someone" (1997: 150).

When it speaks, jurisdiction recalls and re-enacts the original event of appropriation, its *mise-en-forme*. Law describes land through a hierarchy of authority and acquiescence, and the epistemological categories of inclusion/exclusion. But, for it to be effective, it must heard, recognized, and heeded, whether out of agreement or fear. The effect of the law being heeded is its reproduction through society: the prescription and modulation of structures, behaviors, and identities. Yet, it is not enough that the law speak and be heeded. For law to take hold and to keep hold, it is not enough that people comply. Rather, people must enter and take up the intersection of law and society as a site of meaning

(*mise-en-sens*), and an object of representation and reflection (*mise-en-scène*), providing an affective self-understanding of their social-legal being (Lefort 1988: 216-19). But this is precisely what colonialism would in advance prevent or defer.

So long as the mutual recognition of ruler and ruled, law and society, was evaded or prevented, the formations of meaning and self-representation could only be guided and mediated by jurisdiction. For law to not only take hold of society, but to keep hold of it, required law to be vigilantly inventive. To ensure its rule, colonialism combined jurisdiction's policing of forms with the veridictive determinations of true and false forms through ethnographic and administrative techniques including the survey, census, committee, and trial.[23] "[R]ule was always dependent upon knowledge," Dirks argues, "even as it performed that rule through the gathering and application of knowledge" (2001: 123). This combination began by delivering forms of property and authority, and by the latter half of the nineteenth century would focus on the very identities and behaviors of people in relation to administrative forms. Throughout this process, as we will see through the problems of the conservatorship, what was essential was the coordination of interpreted reality with administrative forms. But between determinations of truth and wished-for forms were those inevitable misprisions of reading, abductive inferences, or outright assertions that made ends meet to allow jurisdiction's authoritative extensions.

In the ambiguous forest, imagined before and outside the law, the question of jurisdiction, of individual rights and those of the conservator, *dominium* and *imperium*, would not be settled in advance by the rule of law. Rather, law would be generated in an ongoing way through the courts' confrontation with the case. Jurisdiction was thus a shifting line authorized, on the one side, by the conservator's ongoing and strategic appropriations, and legitimated, on the other side, by the courts' passing

[23] On the relationship of 'jurisdiction' and 'veridiction' see Michel Foucault (1991 [1980]). My notion of jurisdiction is somewhat different than Foucault's, though not incompatible with it.

judgments on the relative social effects of those appropriations. Those effects were deemed negligible, if they did not appear to threaten property's forms and functions. And those effects alone, like the resistant earth of Schmitt's original appropriation or Machiavellian *fortuna*, would, in the absence of law, define the conservator's jurisdiction.

The Conservator

Between 1805 and 1807 the Madras and Bombay Government executed a set of measures that put the new timber regime into effect. First, the forests of Malabar and Canara were transferred from the administrative authority of Madras to that of Bombay. Second, as timber was no longer an object of private trade, Madras removed duties on timber. Third, Bombay created the office of the Conservator, who would prevent any felling of trees, oversee forest surveys, and ensure Bombay's timber supply. With the encouragement of Philip Dundas, President of the Bombay Marine Board and nephew of Henry Dundas, Bombay nominated Captain Joseph Dacre Watson of the Bombay police, who had distinguished himself during the Malabar rebellions. Based on his prior experiences and the future demands of the office, Watson was seen as an ideal choice: "from his accurate knowledge of the Malabar Language & Inhabitants, as well as from his having the Command of the Kolkars or Police Peons of the Court most admirably fitted for the situation; the more so as the Corps he commands is composed of Men from all the different parts of the Province, whose local knowledge cannot fail of being highly useful, by affording him correct information respecting the Forests, as well as preventing persons from cutting Small Timber, &c. & c." ("Minute of Mr. Thomas Lechmere before the Marine Board," 10 November 1806, F/4/221)

Following his appointment, Captain Watson implored the Madras government to draft a regulation arming him with clear authority. Madras balked at the proposal, replying that it was unwilling to imbue his office with "powers which might infringe on the positive right of the inhabitants." Rather than a regulation stating the Conservator's authority, as Watson and the Bombay Marine Board desired,

Madras wanted a regulation to clearly define and limit his powers. Unable to reach a compromise or conclusion, the question of a Regulation was shelved. Madras could only satisfy itself that "rights [of private property] were ascertained by evidence to exist, [and] would constitute the limit of his power" ("Consultations of Fort St. George," 24 December 1806, F/4/524). This would be a decision of lasting consequence.

Having established the forest's regime's territory, object, and agent, Madras issued a public proclamation (27 April 1807, F/4/777) declaring that the Company had assumed sovereignty of the forests:

> The Honourable Court of Directors having resolved to assume the sovereignty of the forests in the province of Malabar and Canara…has deemed it expedient to appoint an officer to the special charge of the forests, with the title of Conservator, whose particular duty it will be seen that no injury is done to the forests, and that no timber is cut in them without special authority of government. All persons are accordingly hereby prohibited from cutting and destroying teak forests…or from taking away the young plants on pain of being proceeded against as plunderers of public property.

The proclamation sums up the preceding orders, and establishes what would stand as the only statement of the Conservator's powers. "Sovereignty" had not been defined nor had "forests." Left ambiguous by the government and exercised inventively by the Conservator, these new regulations "immediately excited alarm and discontent," Thackeray recalled ("Minute," 16 November 1822, F/4/777). Merchants, suddenly subject to restrictions and prohibitions, became a constant presence in the courts of Malabar, filing petition after petition against the unjust blockages and seizures of their property, until the Conservatorship was abolished nearly twenty years later.

The first case was submitted by Mr. McDoughlas, a Company servant who also carried on a private timber trade. McDoughlas claimed that for lack of a permit the Conservator had detained the transit of his timber. Watson insisted on his right to detain timber and also that the fulfilment of his duties made "infringing on the rights and interests of individuals" necessary. The Government concurred with Watson, writing that "[t]he office of the Conservator would be a mere useless expense

were the Officer appointed to it restrained from the exercise of a discretionary power for ascertaining the quantity of timber annually consumed" ("Court of Directors to Fort St. George," 26 March 1812, F/4/777). The Magistrate was sufficiently assured and rejected the suit. The approval of the Conservator's "discretionary power" restated the Company's assumption of "Tippoo Sultaun's... right of felling timber as a branch of his Royal Prerogative." How that prerogative could be rightfully exercised remained obscure and undetermined, its only limits drawn by the satisfaction of the Court.

Another exemplary case involved a petition filed in 1808 at the Zillah Court in Tellicherry by Choocara Moosa, the principle merchant in Malabar. His first claim was that the new regulations deprived merchants of their ancient and customary rights in the forest. The Judge endeavored to persuade him of the Company's proclamation of sovereignty, noting "that the trees and all uninhabited waste were the prerogative of the ruling power." But Moosa would not conceded the legitimacy of either the law or the interpretation on which it stood. Where the Judge asserted a substantive difference, Moosa insisted on singularity: "[the owners] have attained their rights to the forests of Malabar precisely in the same way and hold them by the same tenures as they do every description of landed property, and that therefore if the Government annihilate the one, their property in the other becomes exceedingly precarious." The Judge, unmoved, dismissed Moosa's sense of things: "There is no doubt but that large tracts of these forests have [been] escheated to the Government." To prove his point, he cited the Company's recent acquisition of 50 poon spars for a tenth of the price "without a murmur of objection being stated by the inhabitants." Second, Moosa complained of the duplicity in its execution. The Conservator had pressured him to provide timber at a severely under-market price, to which he "consented out of loyalty, because…it was for the Navy." But the Conservator then sold that timber to Arabian Merchants at the market price, making a surplus profit of 100 percent. The Judge referred the petition to Conservator Watson and to the Bombay Court.

Watson responded that Moosa and other coastal timber merchants "had all along complained of the Monopoly, and with good reasons." In 1806, before the Conservator's office was put in place, Moosa had been contracted by the Company to deliver a regular quantity of timber at a rate fixed by the Company plus capital for the purchase and upkeep of elephants, which were required to transport the timber from forest to coast. But that proposal was effectively nullified by the Company's public proclamation of sovereign right and the establishment of the Conservator. Moosa found himself at a loss. In addition, the Conservator intervened in the longstanding relationship between the merchants, woodcutters, and proprietors. Watson admitted that the merchants, now dependent on and subject to the Conservator, suffered some reduction in profit. However, those policies had gained the general satisfaction of the proprietors of forests and the inland merchants, who cut and transported the timber. Rather than impose the government's right and dispossess the "so-called" proprietors of the forests, Watson had purchased the proprietary rights from them, so that the Company would, by title and without ambiguity, possess the sole property in the soil and the trees. Watson, in fact, paid the inland traders a greater *kuttikanam* than before. In his defense, Watson quoted a report from William Thackeray, then of the Madras Board of Revenue, made in the prior year during a visit to Calicut:

> The Forests are claimed by Nairs who pretend to the proprietary right in the soil or trees, and have actually exercised this right by selling and mortgaging the trees to Mapillah Merchants….The Native Merchants at Calicut complain of the Monopoly because they are likely to lose the profit of the trade, but it appears to me that they could have no right to complain, if the Company were to buy up all the proprietary rights…. The Forests produce but little revenue to the persons who now claim the property in them, because their poverty and ignorance keep them from making the most of the Timber ("William Thackeray to the Board of Revenue, Fort St. George," 8 September 1807, F/4/777).

Moosa's claims had no grounds, from the point of view of law or fact. Far from being oppressive, the Conservator's establishment represented an improvement on the timber industry. When the Conservator purchased forest rights, he had erased any doubts. Watson firmly established the Company as not only the *de facto* possessors of sovereign right to monopoly, but also the *de jure* owners of the forests.

These certainties had to be established, and could not be assumed. On receiving a copy of the petition and before reading Watson's response, the Bombay Government conceded that the petitioners had grounds to prosecute the Conservator. Fortunately for Watson, the Zillah Court dismissed the case. Nevertheless, Madras remained concerned, since the Conservator's operations invited further petitions. They wrote to Bombay, insisting that Watson ought to restrict his operations to those forests that were clearly not private property to prevent some future prosecution. This restriction, Madras recalled, was the original intention of the Court of Directors' orders. They had never approved or condoned the infringement of private rights.

In 1809, Watson retired and was succeeded by John Fell, a commercial agent in Malabar. Where Watson was content to incrementally extend the territorial scope of the Conservator, Fell introduced exponential transformations. Through the ambiguities of "forest" and "sovereignty," Fell reinterpreted the Company's rights. He extended forest sovereignty beyond Mackonochie's "jungles and wastes" to include any teak whatsoever, even if it grew on "private property." In the absence of a regulation that defined the Conservator's jurisdiction in a positive manner, the government had resigned itself to use the courts to gradually and practically decide the limits of his powers. Simply put, limits would be determined through their effects, and the judgment of those effects as economic or excessive. Since Conservator Fell's extension of right over private timber "was not properly resisted" by the owners, it went unnoticed and unaddressed by the government.

Besides assuming a royalty on private timbers, Fell introduced two further extensions. First, he placed a restriction on the use of timber for private shipbuilding, claiming the need to obstruct pirates and the French from getting ahold of it. Second, aiming to generate land revenue from the forests, he prohibited the cutting of timber deemed unfit for naval purposes. When trees were found to have been "fraudulently felled," Fell instituted civil actions against the transgressors, which the Magistrate in Malabar and the Madras Government accepted ("Board of Revenue to Mr. Baber, Magistrate in

Malabar," 17 November 1812, F/4/777). Though the Conservator's legal persona lay in ambiguity and beyond the reach of those who he may have injured, he had sufficient presence before the courts to prosecute others.

The Madras Government took notice that the restriction on shipbuilding had a great impact on the revenues of Malabar. In 1812, since the French Naval power was no longer a threat, Madras suggested that the Conservator could remove the restriction. The Supreme Government in Bengal agreed and ordered the Bombay Government to remove it ("Fort St. George to Bengal," 27 November 1812, F/4/777). But Bombay hemmed and awaited directions from London. The Court of Directors, on considering the issue, understood that Bombay had spent a great deal of money to build and maintain the docks, where the merchants' ships were kept and repaired. So, on the one hand, it was then "desirable and fair, that every proper expedient should be resolved as with a view of reimbursing the Company the heavy expense so incurred". On the other hand, the Court of Directors found the restrictions on timber transit unnecessary. "[N]evertheless, as no objection thereto appears to have been made by the Merchants we shall not at present withhold our sanction from it ("Court of Directors to Government of Bombay," 9 March 1815, F/4/777). Again, the Courts would provide only a negative limit on the Conservator's powers.

The exercise of this supposed right to seizure did, however, meet with a great deal of objection. A series of petitions were filed at the Zillah Court of South Malabar between 1814 and 1816, all of which were stopped short by the Conservator's ambiguous legal persona. But these cases did force the government to face the problem of the Conservator's jurisdiction, largely due to the efforts of John Pearson, the recently appointed Judge and Magistrate. In 1814, Conservator Fell had seized the property of W.S. Ibbetson, a British trader, who had imported timber from Cochin to Malabar. Since timber came from outside the Company's territory, Ibbetson wished to prosecute the Conservator the price of his timber. But Pearson saw this was impossible due to"[t]he Conservator being an Officer of

the Bombay Government, whose duties are undefined, and the extent of his powers unascertained." In the absence of definition, Pearson could only imagine prosecuting the case according to civil law with Fell as a private British subject:

> I am desirous of being informed whether it would not be my duty to file and proceed in the trial of such Civil Suits as may be preferred against him for loss an damage sustained by individuals in consequence of their Timber being detained for payment of apparently unauthorized duties, and such as they must have already paid to the Collector of the Sea Customs under the existing regulations; and therefore request you will be pleased to lay the accompanying papers before His Excell. The Gov in Council for his Orders ("Letter from J.H. Pearson to the Secretary of Government, Judicial Department, Fort St. George," 27 June 1815, F/4/524).

While awaiting directions from Madras, another case of a similar nature came before Pearson. The Conservator had seized the timber of Royatbittil Duara Kutty while he was preparing to float it to the Company's depot in Beypoor. Kutty petitioned to receive the value of the timber, since the Conservator had, in effect, took delivery without payment. Pearson again wrote to Madras, saying that given "[t]he assumption of the Sovereignty of the Forests by Government and the restrictions consequently laid upon the trade in Timber, it is natural to suppose was severely felt by the Merchants of this Coast and particularly those of Calicut." The merchants accepted the restrictions and regulations of the Conservator, laid down by Watson and followed by his successor. But, the Judge writes, "it is evident to me that irregularities & frauds of various kinds are very likely to occur in the Forest Departments, and that the merchants employed in the trade must be subject to occasional vexation of possibly extortion." Suspecting that such "irregularities" or "frauds" were to blame, Pearson thought the plaintiff ought to prosecute—but he questioned the court's ability to hear this or any future case involving the Conservator. Future complaints were certainly inevitable and possibly justified, but "such complaints could not be in the usual manner [prosecuted] in the Zillah of Provincial Courts." Again, Pearson states the problem of definition and jurisdiction: "The Office of the Conservator not being recognized by any Regulation of the Government of Fort St. George, I am in doubt whether the suit in question is cognizable by me unless it be under the Provisions enacted by Section CVII of the new Charter" ("Letter

from J.H. Pearson to the Secretary of Government, Judicial Department, Fort St. George," 26 April 1815, F/4/524).

Madras was itself uncertain of what could be done without a Regulation. Its hands were tied by Bombay, who alone had authority over the Conservator. The Madras Government appealed to them, explaining Pearson's ongoing troubles at the Zillah Court. As before, Madras was eager to limit the Conservator's powers and framed the problem so. "The Governor in Council therefore apprehends that he could not in his official capacity be allowed to appear in any of the Courts of Justice, and that, though that difficulty were removed many of the ordinary acts which he is required to perform aught under the existing Regulations be deemed illegal and dealt with accordingly." As the government of Madras held private property and trade as the key source of revenue and administration, the guiding principle of the regulation should be the "the interests and rights of individuals and the community at large" ("Letter from D.Hill, Secretary at Madras, to Francis Warden, Chief Secretary at Bombay," 16 July 1814, F/4/524). Bombay finally complied, preparing a draft of a regulation and circulating it. Over the next three years, it would shuttle, from office to office, and, along the way, the intentions of sovereign right, the definition of the forest, and the powers of the conservator would be interpretively tugged to and fro. But in 1817 it came to a stop, "mislaid and no notice taken of it, and no more done about the Regulation" ("Minute of William Thackeray," 16 November 1822). Talk of the regulation would not resurface until 1821, but then only to covey the Conservatorship to its dissolution in 1823.

"a double-divided foreign management"

In 1882, William Thackeray came before Thomas Munro, the Governor of Madras, to present his Minute on the Conservatorship. The Minute was a thorough critique of that institution and Thackeray struck at the heart of Company's forest monopoly. Thackeray's critique must be understood in terms of a general wave of liberal reform. On the one hand, in the metropole, the Napoleonic Wars had come to

an end, and repressed liberalism emerged to dismantle the British fiscal-military state. Primarily articulated through philosophical radicalism, laissez-faire ideology, and utilitarian ideas, the aim was to end authoritarian policies, shrink government spending, and expand the domain of free trade (Harling and Mandler 1993). Such aims characterized the East India Company Charter of 1813, which ended the Company's monopoly of trade with India (Webster 1990). On the other hand, in the colony, Thackeray's Minute sought to make a case for the introduction of Munro's *ryotwari* system into Malabar. The *ryotwari* system had been 'discovered' by Munro during his tenure as collector of the Bramahal districts, ceded to Madras by Tipu Sultan. Munro studied this Mysorean system of revenue—formerly a symbol of Oriental Despotism, much like the forest royalties—, refined it through Ricardo's Theory of Rent, and, as Governor General of Madras, would spread it throughout south India. From Munro's presentation of *ryotwari* in 1809 to the House of Commons' *Fifth Report* in 1812, it would compete with Cornwallis' Permanent Settlement for the Home Government's affections. With the 1812 Report, *ryotwari* was recognized for its greater liberality, progressiveness and profitability, leaving Permanent Settlement seeming conservative and old-fashioned, much like the British landed gentry on which it was modeled. The *ryotwari* system, like the Mysorean system on which it was modeled, proposed direct settlement with the cultivator rather than the landlord, and count on their aspirational enterprises for increasing revenues. *Ryotwari's* commanding principle was not fixed revenues, monopoly, or the regulation of trade, but ever increasing revenues through a reduction of taxes and agriculture's extension. Government would not sit idly, awaiting revenues, but was an interested landlord encouraged by its share of the produce. Forests and wastes would not sit in guarded reserve, but be thrown open to incentivized improvement. The only imaginable limit was the soil's fertility (Stein 1990).

With the aims of liberal reform and *ryotwari* in mind, Thackeray's critique struck at the gaps of Bombay's government and the arbitrariness, deviation, and injustice they permitted. In the course of this critique, we can see that Thackeray uncovers problems of colonial rule itself. The problem of the

conservatorship and colonial rule, alike, was jurisdiction. What made jurisdiction problematic was the contingent relation of authority, the land, and the people. The division of *dominium* and *imperium*, and the assertion of authoritarian rule in each, split sovereignty between the British sovereign and the Indian landlord. In each case, ambiguity allowed for the alienation and usurpation of land at the expense of the true engine of progress: the cultivator. Thackeray's aim, then, was to clarify jurisdiction through the consolidation of authority and ownership in the hands of the empire, the paternalistic security of the cultivators, and the elimination of monopolistic barriers to the forests.

The first and fundamental problem was the disjuncture of rule caused by the transfer of Malabar's forested regions from the Madras Government to that of Bombay. On the one side, Madras was to maintain the law and order of society, the collection of revenues, and the administration of justice through the courts. On the other side, Bombay possessed authority over forests so-defined and the office of the Conservator. This juxtaposition of two authorities over a single territory was a delicate construction. What ought to have defined and maintained these jurisdictions—the difference of "public forests" and "private property"—was, however, left ambiguous. Through this ambiguity, Bombay's authority encroached into the domain of Madras, gradually rendering justice ambiguous, too:

> the public forests have never been ascertained, nor the proper distinction made between public and private forests. This government has been deprived of the means of information and authority for the protection of its subjects with respect to this property. The system which was intended at first merely to secure the teak grown in the public forests for the navy, has been, by gradual encroachments, made to include all wood; even at one time it would seem firewood, grown on private estates as well as in the public forests; neither the Court of Directors, nor this Government, nor the Bombay Government could have been sufficiently aware of the measures the Conservator was pursuing, and this circumstance alone shews such a double-divided foreign management must be impolitic ("Minute of William Thackeray," 16 November 1822).[24]

The people stood outside of Bombay's theoretic jurisdiction, and justice was consequently not its concern. What the disjuncture of rule created was not just the frictions of two jurisdictions, but the alienation of ruler and ruled. "[T]he Bombay Government at a distance without responsibility for, or

[24] All further references to Thackeray's critique of the conservatorship are based on this source.

interest in the prosperity of Malabar and Canara, have been placed in a situation in which it was almost impossible for them to have avoided committing injustice." Not only was Bombay blind to the people of Malabar, it could not even take cognizance of its own agent, the Conservator. Colonial rule, already alien and alienating, was in this way multiplied and magnified, resulting in "a double-divided foreign management [which] must be impolitic."

Thackeray's second point was that this "foreign and double management…allows of deviation, from what was originally intended, out of encroachment and exactions never intended by the authorities here or at Home." In the absence of knowledge (what the forests were) and in the blind spot of authority (the distance of Bombay, as well as London), the Conservator had assumed "arbitrary powers…. He had confiscated private property and levied duties on timber as he pleased, without regard to Custom, Justice, or even law." The distant and divided relation of metropolitan authority and its colonial administration had always been an uneasy one, spurring inquiries and acts that built on one another in a constant bid to finally settle that relation. On the one hand, empire coded its anxieties in terms of scandals (such as Burke's excoriation of Warren Hastings' Bengal administration) that threatened metropolitan authority with an administration out of control. On the other hand was the abiding problem of sovereignty, the legality of what the Company had assumed from the Mughal crown and the location of that assumed sovereignty (Dirks 2006; Sen 2002). The success of colonial rule in many ways depended on the productive intersection of these two problems, as well as the deviations that that intersection enabled. It is perhaps for this reason that in spite of the Conservator's injustices, imperial authorities in Britain, Bombay, and even Madras, had for so long permitted the Conservator's appropriations. "The Marine board and even the Government at Bombay, take only a limited and professional view of the subject," Thackeray says, "and like most zealous men in the same situation, are led in their endeavors to promote what they consider a national object, to overlook the rights and interests of men they are not bound to protect."

Third, Thackeray argues that the rationale of shipbuilding in Bombay and the system that was created in its support was ill-conceived, illiberal, and inefficient. "[W]e ought hardly to sanction injustice even though the state were in danger… Taking the property of our Indian subjects is but a pityful and very insufficient way of supplying the Navy, three or four large Ships may have been built at Bombay, but what are these among the British Navy?" Even if the infringements, oppressions, and inefficiencies of the system were to be accepted as necessary at a time of war, the system was continued though that crisis had passed. "Long after every Navy in Europe except our own was annihilated, and even after Bonaparte was overthrown [in 1815], the Marine Board urged the great national object of the Navy, as if the Malabar Coast was the only place in the world from which it could be supplied." But "no national object can now be pretended" while the Navy in England watched its ships rot for lack of employment, and the English Government "in order to save the property of the Rayets in England have reduced the British Navy so much, that we are no longer to have an Admiral, only a Commodore, in all the Indian Seas." It was a system based on the difference of the Indian and British subjects, and an indifference towards ensuring justice for the former: "What would be said in Parliament if such restrictions were proposed even in time of war to supply the Navy? What would the Country Gentlemen say if their old Oaks were now appropriated by a Conservator?"

"It is a mockery to talk of the protection of property under our Government," wrote Munro, "when we maintain a conservator's establishment, whose chief business it is to invade every man's property; to harass him in his own fields – in his barn – in his house, and in his temple" (Munro 1881 [1822]: 186). Thus, the first conservatorship in India, which was founded in 1806, was abolished in 1823. Yet the Company's claim to *imperium* would remain. Rather than separate and counter-pose *dominium* and *imperium*, *imperium* would be a medium through which society and state alike would be governed: "The waste," Thackeray claimed, "is the grand means of improving the people,—turning the peon into a husbandman" (Quoted in "The Fifth Report," 1866 [1812]: 913). In the name of improvement, British

government would authorize and encourage Indian society to appropriate the forest. A hopeful Munro would proclaim:

> In many places, what is now forest, and covered with teak and other trees, was formerly a cultivated country, and will again be cleared and have villages, if not prevented by the conservator. The system we are following, and not seeking to legalize by regulation, is worth only of the times of the Norman forest laws. It is a systems for preserving and augmenting the waste, or, in other words, for discouraging agriculture, and laying waste the country. The only remedy for such evil is its entire abolition (1881 [1822]: 187).

The progressive transformation of waste into property would essentially reverse what the Conservatory had set in motion. With this reversal, however, colonialism would make an uncanny return to the point where it had first set off for the forest: the scarcity of timber, but now in India. It is at this point, as well, that the problems of the Conservator—injustice, theft of property, and deviance—would also live a second life. This time, those problems would, like scarcity, be native to India. And the proposed solution to both would be another Conservatorship.

Chapter Four

Privilege

Following Munro's summary dissolution of the Malabar Conservatorship in 1822, the forests were thrown open to private commerce and custom. Munro's hope was that a *laissez-faire* policy would deliver timber to the market at the best rates, while furthering cultivation into the needless wastes. Identical policies were adopted throughout the colony, committed to the belief in improving native lands and people. But in the years that followed the fear and alarm of timber scarcity that moved Britain a few decades prior, began to be heard at the Bombay shipyards, along railway lines, and in the reports of botanists. This last source would prove pivotal in the establishment of a new conservatorship.

In his work *Green Imperialism,* Richard H. Grove narrates how the ideas of a small but influential cadre of Company surgeons founded a radical new program of state conservationism. This program would begin in India in the 1850s and in essence extend to the postcolonial present. What motivated these surgeons was a sustained belief in the causal link between deforestation and climatic change. These beliefs, Grove argues, more than revenue demands or authoritarian control of resources, would form the heart of imperial forestry. Grove presents a compelling portrait of the bold surgeon-botanists and their innovative theories. His argument, though compelling, is not entirely persuasive. The surgeons were, indeed, correct when they intuited the link between deforestation and climatic effects. It was also at their urging that the institution of conservatorship was renewed. But Grove downplays two key developments that followed. First, even among foresters the thesis of climatic effects remained a theory only and forests were rationalized along sustainable revenue-generating logics. Second, the colonial government would locate the source of deforestation not in economic policies or public works projects. Rather, blame would be squarely reserved for native customs, above all the practice of shifting cultivation (commonly referred to as *kumri* or *jhum*).

A claim I make in this chapter is that deforestation provided an *alibi* for empire, legitimating the protection of forests in the name of the public interest. I borrow the notion of "alibi" from Karuna Mantena, who introduces the term "to mark the ways in which late imperial ideology worked through [a] definitive form of displacement, in which the sources of imperial legitimacy, power, and authority are refracted *elsewhere*—in this case from metropole to colony." Mantena explains that the 1857 Rebellion exposed the hollowness of the reform policies that guided the first half of the century. In the aftermath of rebellion, the empire faced a severe crisis of legitimacy. What could possibly justify the continued presence of Britain in India if not paternalistic modernization? Mantena argues that the crisis of legitimacy led the British imperialists to anchor their necessity in the security of native society. Time-bound and total, native traditions were the foundation of society and of rule. At the same time, their antiquity was a source of decay and corruption. The first duty of government would be to protect society from dangers that were endemic to it—proclivities to internecine conflict and irrational and harmful customs like hookswinging, sati, infanticide, and so on. For a society so bound up by custom and tradition, modernization was a grave danger and should be delivered only by and by (or else face upheavals such as the Rebellion). "Native society," Mantena writes, "functioned as both a pretext and solution, as an *alibi* for the fait accompli of empire" (2010: 11-12).

Re-styled as protector, empire re-introduced practices of intervention, now operating in the idiom of security, rather than of improvement. Based on this new role and duty, the colonial state re-legitimated its continued presence, while at the same time extending its reach. Hitherto unknown powers and innovative techniques were gathered up to create a colonial government focused on culture. Through ethnographic knowledge, police, and surveillance the colonial state would know and rule Indian society, using culture itself to separate customs and behaviors along lines of proper and improper, legal and illegal (Bayly 2000; Cohn 1987; Dirks 2001). With these techniques Britain would preserve Indian society as it wished to remain, while at the same time preventing another rebellion, so

empire, too, could stay where it was. Meanwhile, technologies of cartography, geology, geography, and botany would make the landscape legible (Scott 1998) to "centers of calculation" (Latour 1987) that through public works would foster and order the good circulation of people and things, while blocking the bad. The security of society was in this manner enfolded with the colonial state's responsibility for its well-being: its material advancement, administered in the name of the "public interest."

This chapter explores the relationship of security and well-being as it gives shape to and is shaped by the Imperial Forest Department. Specifically, I investigate the encounter of security prerogatives with Indian customs in order to understand the character of rule in late colonial India. My argument is that the rule particular to the colonial state, at least as it concerns forest conservation, operates through a logic of *privilege*. What I mean by *privilege* is a privation of law (*privi-legium*) that at once obliges and frees ruler and ruled alike in relation to the public interest. On the one hand, privilege signifies the exemption of the forests from the order of common state space and foresters from the usual obligations of public rule. On the other hand, privilege strips the customs of forest dwellers of their status as rights, and normalizes those customs in accord with the rule of state forest space. I begin by examining the doctrine of public interest that underwrites colonial operations to maintain the security of Indian society. I then develop the concept of privilege that I argue is a strategic apparatus in the colonial program of ruling through custom. Finally, I examine how privilege enters and circulates in the doctrines of the emerging forest conservation regime of imperial India.

The Public Interest

The Great Rebellion of 1857 exposed a flaw in imperial assumptions of common interest. The reformist zeal that had characterized much of the first half of nineteenth century had been sustained by the belief that natives wished to be modern. Britain answered this wish with anglicizing education and modern institutions, which would craft "a class of persons Indian in blood and colour, but English in taste, opinions, in words, and in intellect"(Macauley 2003 [1835]: 237). But 1857 made a folly of such

'noble' undertakings and insulted paternalism as pretention, turning British opinion about face. The Indian subject did not hold customs he would shed, for custom held the native in its thrall. The gift of improvement, the British imperialists decided, could only be received with ingratitude, for the inscrutable native was finally deciphered as incorrigible.

Over the next year, as the British military quashed native revolt, the fact of conquest had been made a plain fact. But what shape would the relationship of Britain and India now assume? As Parliament discussed the terms of this new convention, what was never questioned was that rule would and ought to continue. Why the Empire wanted to retain India was clear enough. Britain's industrial economy thrived on the cheap imports of Indian raw goods and their re-exportation to the rest of the world, and India provided a ready sink for Britain's exported goods and over-accumulated capital. What had to be presumed was that – in spite of events – India still needed Britain. And Britain, the Minister John Bright told the House of Commons, owed it to India to fulfill that need:

> The people of India do not like us, but they scarcely know where to turn if we left them. They are sheep literally without a shepherd. They are people whom you have subdued, and who have the highest and strongest claims upon you—claims which you cannot forget—claims which, if you do not act upon, you may rely upon it that, if there be a judgment for nation—as I believe there is—as for individuals, our children in no distant generation must pay the penalty which we have purchased by neglecting our duty to the population of India (1921 [1858]: 174).

The duty that binds Britain and India together is not improvement, as had been assumed. Nor must India be maintained as a captive to British whims and Indian fancies. Rather, Bright says, the obligation that binds Britain to India is to rule for mutual benefit. Direct rule under a single Crown would be a new convention capable of restoring lost trust between the metropole and colony. There was no shared vision of British India that required intervention, but only an indefinite peace to maintain by representation.

By the act of extending a single crown to encompass Britain and India, Bernard Cohn explains, the British who began as 'outsiders' became 'insiders'. This transformation was, however, largely limited to symbolism, since a common crown could represent authority even where common interest

and kinship was wanting. It is this sense of difference that allows us to view Victoria's proclamation as, in Cohn's words, a "cultural statement." On the one hand, Queen Victoria pledged the common obligations, enjoyed by all her subject, to provide "equal and impartial protection of the law," the stimulations of "peaceful industry," "works of public utility and improvement," and "social advancement which can only be secured by internal peace and good government." On the other hand, these common obligations would be met only insofar as they did not offend or intrude on "the ancient rights, usages and customs of India." In this manner, the Proclamation "encompasses two divergent or even contradictory theories of rule: one which sought to maintain India as a feudal order, and the other looking towards changes which would inevitably lead to the destruction of this feudal order" (1983: 165-6).

In late colonial India the contradiction of feudal-modern would be an aporia around which much of rule would turn. However, strict attention to this contradiction obscures the assertion of 'common interests' that maintained rule as desirable. The single crown not only represented the obligations of Britain to India, but also linked India to Britain and, through Britain, to the larger network of empire. Manu Goswami, in her superb historical geography, *Producing India* (2004), explains how the mid-nineteenth century project of public works—railways, telegraphs, and irrigation—produced a distinctly imperial political economy. These public works, initiated under Lord Dalhousie prior to the Rebellion, only accelerated and multiplied after 1857. Railways and irrigation supported the circulation of goods while the telegraph enabled the rapid communication of variable market prices. The coordination of price signals with mobile resources fostered a vibrant political economy that was not hampered by the inefficiencies, costly speculations and interventions of regional economies. These linkages cultivated speed and overcame distance, establishing a colonial political economy that was not limited by territory.

Public works provided the critical infrastructure for an industrious laissez-faire economy, but did little to safeguard the well-being of the population. For reasons economic and political, the great fear

of government was scarcity, whether of timber or of rice. Such fear also inspired the research of a cadre of Scottish surgeons and botanists, who would claim a link between deforestation and climatic effects. Preliminary research conducted by Edward Balfour first recorded a possible causal link. But it was a landmark paper delivered by Hugh Cleghorn before the British Association that would incite a shift in imperial perceptions. Cleghorn argued that forests should be regarded not only as a timber resource, but as a vital regulator of a number of natural processes. Though exact experimental data was lacking, the observations of learned agents and administrators all testified that very soon British India would not only face a loss of timber, but climatic changes of far greater consequence. A number of "evils" threatened the woods in India—commerce, the railways, population growth—, but the severity of destruction was above all due to the mischief of "coomri" [kumri] cultivation: the primitive native custom of setting fire to the woods to create a natural fertilizer. This native practice destroyed the "primeval forest" that would not be restored by time, but rather give way to an inferior and dangerous growth: "a thick jungle of rank vegetation, still more unhealthy than the forest." With such ongoing despoliations, what was threatened was not just forest, but the whole of the natural world. Cleghorn's research linked deforestation with the unsteadying of the monsoon, the desiccation of soil, and the diminishment of rivers (Cleghorn, et al. 1860: 78-82). "Coomri" was figured as a deviant custom, threatening 'proper' native practices by destroying 'primeval' forests. For native society and imperial commerce to survive and thrive, coomri would have to be extinguished.

Conservatorships were re-established in the Presidencies of Madras (under Cleghorn) and Bombay (under Balfour), as well as the Pegu forests of Burma (under Dietrich Brandis, the future Chief Conservator) for forest conservation and teak extraction. But the idea of an all-India forest department capable of meeting the objectives of climatic health was met with administrative resistance. Given the enthusiasm for public works and the production of imperial state space, such resistance seems out of place. What concerned the imperial council, the departments of revenue and public works was that,

even as it provided the empire with needed timber, the ideology of forest conservation was at odds with the unbridled expansion of commerce and production of wealth. The problem was that forest conservation and public works did not share the same understanding of the "public interest" or "common good". As opposed as the forest department was to native *kumri*, it was also opposed to *laissez-faire* policies of unrestricted use.

It was not until the devastating 1865-1867 famine in Orissa that opinions would shift. All along the eastern coast, from Calcutta to Madras, monsoon rains had failed and crops had withered. The Bengal government watched as market regulations of prices moved what little crops survived from the hands of the hungry poor to more profitable quarters of the empire. Over the course of the famine two-thirds of the rice crops were lost and nearly a million people starved to death. But no government relief replaced the quickening of movable goods. The Bengal Government believed that reports of distress were exaggerated. District administrators, who were well aware of the situation, did not import food for fear of artificially manipulating market prices. T.E. Ravenshaw, the Commissioner of Orissa, submitted a report on the dire situation to the Bengal Government, noting: "There is, no doubt, plenty of grain in the country, and I am confident that sooner or later it will find its way into the market. I have impressed on all who have applied to me the necessity of patience and entire non-interference with the natural course of trade, as the demand will certainly regulate the supply eventually…." (Quoted in Samal 1990: 11). Such confidence before disaster and death was justified by the Government's unwavering faith in the prudence of the "invisible hand". The self-regulating market listened to demand not needs.

Non-interference was not only inhumane, it was suicidal for rule. To prevent a destructive divergence at the center of rule it was not enough to protect custom while cultivating prosperity. With the memory of the Rebellion in mind and the threat of ongoing famines bearing down, the Imperial Council was convinced by the necessity of intervening in forest areas (Barton 2002: 64-5). The ideology of climatic change would provide empire with an alibi not just for the extension of rule into the forests,

but also for drought and famine. The Indian Famine Commissioners a few years later acknowledged that "before us there is great evidence from all parts of India that the destruction of forests is believed to have acted injuriously by allowing the rain waters to run off too rapidly." Destruction was owed to the "improvident denudation [that] has arisen as a consequence of a mistaken policy of trusting [preservation of timber] to the self-interest of private proprietors" who act "with a license recklessly destructive of private property." The only remedy to such improvidence and destruction was a system of conservancy, capable of acting decisively and totally, since "so far as any immediate advantage is to be sought from the extension of forest in respect to protection against drought, it will, in our opinion, be mainly in the direction of judicious enclosure and protection of tracts" ("Report of the Indian Famine Commission" 1880: 177-9). What Cleghorn's hypothesis and the fact of famine convincingly showed was that imperial state space had to be entrusted to an authority that stood outside of the imperial order of political economy, capable of restraining custom and progress, alike.

Privilege

From the beginnings of European aspirations to empire, law has served to legitimize conquest and colonialism. From Vitoria to Vattel, Blackstone to Maine, law has been crucial in determining the civilized and the savage, and the sovereign and the stateless. The primary and fundamental division, has been the legal and the customary. This division not only grounds the law itself, but underwrote the "moral legitimacy" of colonialism. Government by an objective rule of law was an obligation according to the ultimate rules of justice, fairness, and humanity. James Fitzjames Stephens, a legal philosopher in the Viceroy's Council from 1869-72, proclaimed:

> The establishment of a system of law which regulates the most important parts of the daily life of the people constitutes in itself a moral conquest more striking, more durable, and far more solid, than the physical conquest which rendered it possible. It exercises an influence over the minds of the people in many ways comparable to that of a new religion…. Our law is in fact the sum and substance of what we have to teach them. It is to speak, a compulsory gospel which admits of no dissent and no disobedience (Quoted in Hussain 2003: 4).

Law was, in this manner, an essential component of the civilizing mission. It contradicted the "personal discretion" of native despotism, and offered regularity as against capricious customs. In a more practical register, law provided the authoritative means to rule the colony, while signifying the accountability so desired by the metropole (Fitzpatrick 2001).

Law in the colony was, however, a project of protracted making. In spite of British commitments to the rule of law, it was argued, native tendencies to despotism and attachments to "the sway of custom," as J.S. Mill put it, would not be overcome easily or without defiance. "Custom is there," he observed, "in all things, the final appeal; justice and right mean conformity to custom; the argument of custom no one, unless some tyrant intoxicated with power, thinks of resisting" (1989: 70). Difference—of civilization, maturity, character, etc.—was an abiding assumption of colonial rule. Victoria's Proclamation exalted such difference as the principle and guarantee of rule. How could Britain rule a people bound to custom, while Britain was obligated by law? "[C]oncurrent with an emphasis on the rule of law and legal protections," Nasser Hussain explains,

> there was a strong insistence on the needs of a regime of conquest, particularly the discretionary authority of the central executive. The claimants of such an executive power, whether they argued for it in terms of monarchical prerogative, as they did till the end of the eighteenth century, or in terms of the supremacy of the legislature (itself part of the executive in the colonies), refused to concede that such power abrogated the rule of law. Even the most seemingly arbitrary acts were to ensure the safety and stability of the colonial regime and were thus part of the legal sovereignty of the state itself (2003: 5).

A crucial technique of colonial rule, as Hussain shows, is that discretionary power was legitimated on the basis of custom. While law provided "moral legitimacy" to colonialism, the *custom of conquest* underwrote the discrete operations of government. Discretionary or executive powers were, thus, *privileges,* a reprieve (*privi-*) from the general accountability to law (*legium*).

More than any other juridical phenomenon, *privileges* presented legal theorists with the possibility of a norm rendered valid solely by the will of the ruler, without reference to an objective standard or long-standing tradition. Justin Steinberg (2013) traces *privilegium* to its novel appearance in

medieval Italian legal circles. It is at this time that two definitions take shape, with one supplanting the other to reach our times. What differentiates these definitions is the root of the prefix *priv*-. The first definition is positive, locating *priv*- in *privus* (synonymous with *singulus* and opposed to *communis*) and specifying some benefit afforded to an individual recipient. A second, negative, definition emerged with the shift in the prefix from *privus* to *privare* (to deprive or release). Interpreting its usage by Dante, Steinberg says this *privilegium* is:

> a writ of safe passage, valid until he reaches his ultimate destination (which coincides with the granting authority). As a corollary, he is released from the normal obligations and burdens imposed by the local jurisdiction he traverses. The collective rule that punishes the souls he encounters and restrains their movement does not apply to him (90).

By exempting the recipient from what touched all, a privilege released its holder from the community, the *com-munus*—from the duties, burdens, and obligations that bind others. Following Adam Sitze, we may acknowledge that in relation to community privilege is an immunity (*im-munus*):

> a name for a nonreciprocal relation of power: it designates the privilege to receive without giving and to give without receiving. To call this nonreciprocal relation a 'privilege' is to emphasize that the immune is that which avoids the risk of reversibility to which every power relation remains vulnerable insofar it is a relation of power and not a relation of violence…Immunity, we might even say, is *an exemption from the reversibility that is the mark of any real act of resistance* (2007: 193-4).

Viewed through the lens of immunity, privileges limited the general validity of norms, depriving the *ius commune* of its universal reach (Steinberg 2013: 90-2).[25] Privilege, however, does not mark a complete absolution from community, but merely an escape from its immediate limiting conditions. Privilege remains bound to community, not through the normal reciprocities of individuals, but as an obligation to the community as a whole. "The guarantee of a privilege's validity," Steinberg explains, "depended on its containing an explicit or implicit 'just cause' in line with the fundamental principles of the system or a "common benefit" (*utilitas communis*) for the community" (93). Should a recipient of privilege not act in

[25] Justin Steinberg, *Dante and the Limits of Law* (Chicago: University of Chicago Press, 2013), 90-92.

the common benefit, he would be the 'ingratus,' one who enjoys the benefits of the communis either without giving or receiving (Benveniste 1973a: 79).

From the beginning of its rule in India, Britain was fraught with anxieties of legitimacy. In the absence of sympathetic affection, it was not possible to ground rule in common interest (Conniff 1994: 159). So, any relationship of trusteeship was always liable to degenerate into the relation of paternalistic metropole and dependent colony. This structure of trusteeship would not be accountable to the population of the ruled, but instead was "tragically perverted by a racialism that was not essential to it, together with a messianic element that was imported into it. There was a mandate towards the natives as well as a mandate of responsibility to the civilized world" (Iyer 1983: 35). The dual mandate of empire to natives but also civilized Europe displaced the common interest. This displacement, Nasser Hussain has shown, is intrinsic to the logic of empire, which remains fixated on substantial difference and, thus, caught in anticipation of its own delays and failures (2003).

The displacement of common interest is in essence an immunization of possible consubstantiation of rule and ruled, metropole and colony. With the removal of substance from the relation of rule, empire relocates itself time and again outside of the commonality it produces and polices on the basis of that substance. At the same time, empire finds it must preserve substance to maintain the very possibility of rule in the name and by the standards of the common. Substance is a privilege it may consume, but will not share; that it is obliged to preserve, but bound to diminish.

The recourse to discretionary authority or privilege was a strategic feature of the Malabar Conservancy, as we have seen (Chapter 2). Based on a peculiar reading of Tipu Sultan's revenue statements, the Malabar Commissioners had contrived a sovereign privilege to timber and forests. The legitimacy of the colonial state, in the figure of the conservator, to command resources drew on this contrivance of privilege, to contravene not only native customs, but even colonial courts (Chapter 3). In the name of the public interest, the new Forest Department would re-occupy this privilege. But it

prompted an uncanny confrontation between the custom of conquest and the customary practices of Indians. This meeting of customs produced a *mise en abyme*, such that the Department's ability to exercise privilege necessitated the distribution of privileges to forest dwellers. How these privileges were invented, distributed, and reconciled is the topic of the next section.

Vis Inertiae

When Sir Henry Maine introduced the 1865 Indian Forest Bill to the Imperial Council, he began with assurances that the Bill in no way would affect or abridge the customary rights of the Indian people to the produce or soil of forests. These were inviolable "prescriptive rights" of the people, which, having been enjoyed since time immemorial, were of the essence of Indian society. The Bill would be so defined by custom, and only establish a limited government over specific forests with minimal intrusion into the lives of individuals, villages or wandering tribes (Imperial Legislative Council 1879: 119; Rangarajan 1996). Maine's speech was one with his influential theory of the organic stability of traditional Indian society. With his insistence on the inviolability of native customs, Maine sought to protect that stability from the disruptions of modernizing law-makers and conservationist foresters, alike.

The Bill's original authors, Dietrich Brandis and Hugh Cleghorn, were incensed by Maine's assertion of "prescriptive right". He had left the question of rights so elastic as to allow even those customs that were ill-defined and unproven. Moreover, while preserving the vague rights of Indian subjects, Maine had omitted the unquestionable right of Britain's sovereignty. What remained was a crippled institution with a meaningless object that was scarcely able to fulfill the public interest. From the moment the Bill was passed into law Brandis and Cleghorn, along with B.H. Baden-Powell (a jurist-turned-conservator) and C.F. Amery (a forester-turned-legalist), contrived how to rid the forests of the burden of prescriptive rights and restore the preeminence of the state's right.

The challenge posed by prescriptive rights was their under-defined character. Extending from time immemorial and granted legitimacy and protections by Victoria's proclamation, they were very often not rights *per se*, and so could not be legally rescinded. In the absence of clear definition, Brandis interpreted prescriptive rights as analogous to shares in a common: "[I]t must be borne in mind that forest rights are necessarily vague and undefined," Brandis explained. "They are the result of long established custom under the old state of things, when forests were to a certain extent regarded as the common property of everybody, and when the people in the vicinity of the forest were in the habit, under varying restrictions and taxes imposed by the former rulers, of resorting to it for wood, timber, grass, and pasture for their cattle, and for a variety of other forest produce" (Quoted in Pathak 2002: 103). With the assertion of forests as "common property," Brandis was able to claim that these habits were not rights at all, but *privileges* that were allowed at the pleasure and discretion of the former rulers. Baden-Powell agreed, remarking: "Every native ruler closed, when he chose, whole areas of forests to preserve the game, and as in the well known instances of the forests of the Amirs of Sindh, and in other parts, punished with utmost cruelty the slightest trespass within forest limits. Whenever this was not the case, people were *in the habit of doing* what they pleased, no one caring to stop them" (1874: 4). The interpretation of forests in terms of English Commons made Indian 'wastes' into public things, and so bound to the ultimate authority.

It was with such authority that Britain was entrusted—this was their distinct privilege. The obligation of government was to ensure the security of the Indian people even in defiance of the native's own customs. Though seemingly contradicting Victoria's guarantee of non-interference, to abrogate such duty was to forsake the most ancient terms of rule and the common good: "In the Native States, as in British districts, in the mountain, as in the plain, the right of the British Government to interfere for the protection and improvement of property held by the State for the benefit of the community, is founded on that law of the Twelve Tables, *Salus populi suprema lex*. Against this right no

private claim or prescription can be set up. There can be no prescriptive right to do mischief or to injure the common weal"(Baden-Powell 1888: 191). More than individual security and rights the first duty of government is to protect the community: The supreme law is the well-being of the population.

What prevented or subverted the well-being of population was the construction of custom as a quasi-right. Arising from time immemorial and mired in perpetuity, native customs were, as one administrator put it "a vis inertiae hostile to all change" (Adam and Buxton 1840: 49). What alone was worse than native customs, Baden-Powell would write, was the unwillingness of Government to curtail such customs out of fear of native displeasure, even when customs plainly went against the native's own interests. "How should we act in a matter in which we *do* earnestly and practically believe?—*e.g.,* in the case of suppression of "satti" or in preventing cholera or small-pox? We do not there think of giving up the point; we say that the evil must be suppressed, come what may, and cast about to find the right way of doing it. This is exactly what I urge for forests. *There never was political danger in doing what is right and for the real benefit of the people, be they never so ignorant of the advantage*" (1877: 285).

To secure the common interest of the people, customs had to be properly defined so as to be translatable with rights—or so it was assumed. The four men would undertake a broad program of legal research, trading term for term, in search of very specific relationship between state and subject. What was necessary, first of all, was to clarify the singularity and wholeness of the government's rights in the forest. In other words, its *dominium* gained by the custom of conquest: "The British Government legally, *i.e.*, by the usual principle of civilized international law, succeeded to the *de facto* rights of all conquered or ceded States—as they existed in the end of the last century and the in the beginning of this,--because they were public rights, established (however arbitrarily) by the unquestioned power of the local Rulers" (Baden-Powell 1893: 212). Second, by the Forest Act it had assumed *imperium,* the authority to legislate on behalf of and in the interest of the public interest and common good. Finally, there was the question of the rights of the user in whose interest the forest ought to be conserved. Brandis' and

Baden-Powell's representation of forests as commons allowed the introduction of the related notion of privileges as the underlying truth of so-called prescriptive rights. The concept of privileges was then taken up and developed by A.F. Amery, who defined privileges as "voluntary concession on the part of the owners of any portion of their rights for an indefinite period and without specified consideration" (1874: 125). In this formulation, the state was the clear owner of rights, while the cattle grazers, foragers, hunters, and itinerant tribes were the theoretical beneficiaries of a privilege.

What privilege granted was a privation of some part of an owner's property, with due attention not to interfere with or otherwise diminish the substance of the owner's property. The *de facto* owner was, of course, the Indian people, but the *de jure* owner was the British Crown, who held India as a trustee. By this strange construction, the Forest Department and the Indian People were co-owners of the forests, each granting privileges to the other. By the construction of trusteeship, the Indian people granted the privilege of authority, conceding to be guided and protected by the Government, which legislated and acted on their behalf. The Forest Department, in turn, would permit only those practices that met the criteria of the public interest: forest regeneration, rationalized exploitation, and (as we will see in the next chapter) labor. The guiding principle was in each case that of *usufruct* or 'enjoyment of use' or 'fruits' of the owner's property. While the Crown enjoyed some fruits of her Indian subjects, she was bound to keep the substance safe and whole (*salva rerum substantia*). So, too, must people act in accordance with the necessities of securing the forest estate:

> a right of user not being a proprietary right, it *can only be exercised or exist to an extent which is compatible with the safe existence of the estate itself.* For the right to destroy a thing (*abusus*) is a part of the proprietary right, and it is a contradiction in terms to suppose a person who has not the ownership should have the right to destroy the thing owned (Baden-Powell 1882: 40).

Privilege neither granted a right nor was sequestered in the bounds of law. Rather, legitimated by climatic health and the precautionary prerogatives required by public interest, it operated as a norm. What makes this norm peculiar is that, rather than being derived from average behaviors of the population, it issues from a certain "normal" condition of forests, as determined by scientific

observation. The coordination of privilege with norm and norm with forest was mediated throughout by the administrative authority and scientific expertise of the Forest Department.

Privilege, I suggest, allowed the displacement of law as the necessary foundation of rule, by shifting authority to 'nature' itself. Nature would be deciphered by forest expertise to deliver norms of correct practice and behavior. In the process, however, a certain vision of 'nature' would be preferred, attuned to the desires and expectations of those experts. Though the model of science might change, government would retain its privilege intact. Privilege, as held by forest-reliant peoples, was a much more fragile thing. First, science could be requisitioned to render certain practices illegal. The custom of shifting cultivation, for instance, would be blamed for "regressive succession" that simplified forests, pauperizing diversity and derogating fertility (Troup 1921: liii). Second, since the legitimacy of customs rested on their perpetuation from time immemorial, the privileges granted to customs could be withdrawn should they be interrupted for any reason. The anthropological discourse of progress here crossed paths with the scientific doctrine of truth. This would be the formative biopolitical horizon against which future natures—human and otherwise—would be recognized, fostered, or dismissed.

Part II

Chapter Five

Forest Village

In this chapter, I examine the "forest village," a concept that provides the form for Kurumba villages. What defines a forest village is not primarily its spatial location (i.e. in a "forest"). Nor are they consistent with village communities. Rather, forest villages are defined by bonded labor, providing a regular supply of bodies for forest department projects and works. The creation of forest villages forced the settlement of the nomadic Kurumba and signaled a profound recasting of their senses of self and world. My aim in the following is to elicit and interpret the events that attended the act of settlement. I will show that as settlement interrupted prior practices, it also rearranged sensibilities of forest, village, and self. Settlement also marked the interruption of a constitutive aspect of former living: the capacity to escape, which was a way of being, but also of surviving. Settlement not only sedentarized nomadic bodies, it also interned them.

K. Sivaramakrishnan notes, "[t]ribal people were associated with tribal places, and the production of these places had as much to do with the history of these people as it had to do with the geography of their lands. When landscapes were partitioned through colonial survey and policy, their inhabitants were also compartmentalized" (1999: 80). Forest villages enacted a deliberate correlation of people and places, corresponding to what Donald Moore has called an "ethnic spatial fix." Forest villages shaped the category of "hillmen," a subset of 'tribal' identity that likewise "as notion and political technology, fused cultural custom, ethnic identity, and administrative territory." The spatialized attachment of ethnicity and territory, Moore emphasizes, was a colonial "*project*." What Moore seeks to show is that such affixings of identity and territory were a contingent and ongoing process, and not a "secure attachment" (2005: 14).

Along with this sense of project I suggest that we include another. Projects should be understood as projections: a technology of rule that labors on reality. Forest villages do not so much

discipline bodies as in servitude, as they introduce and circulate new sensibilities to form what Nicholas Rose has called "governable space":

> Governable spaces are not fabricated counter to experience; they make new kinds of experience possible, produce new modes of perception, invest percepts with affects, with dangers and opportunities, with saliences and attractions. Through certain technical means, an [sic] new way of seeing is constructed which will 'raise lived perceptions to the percept and lived affections to the affect'. They are modalities in which a real and material governable world is composed, terraformed and populated (1999: 32).

Governable spaces do not work through representation, overlaying one reality with another. Rather, by introducing new elements and forces, they redistribute sensibilities in particular ways, so that perception and affective attachments are invested with new intensities, reoriented by new relations, and enlivened through new directives. The settlement in villages, the regulation of cultivation, and the formation of identity together accomplish the redistribution required to govern through forest villages.

In what follows, I attempt to go against the grain of such redistribution of sensibilities. I rely on memories and records of the event of sedentarization. I begin by tracing the Kurumba arrival in Attappady. I then turn to the arrival of the Forest Department to analyze the logic that animated settlement: the forest village. I interpret the changes introduced by the forest village in light of Kurumba memories of nomadic settlments and forest cultivation. What I aim to show are the novel relations to place and possibilities that the forest village introduced by way of those that it denied and prevented. Finally, in conclusion, I discuss the demise of the village forest as an institution.

The right to escape

The Kurumba arrived in Attappady as escapees.[26] Elder Kurumba recall that they had taken

[26] The Attappady Kurumba are recorded in censuses as 'Palu-Kurumba', a sub-group of a complex of tribes known as "Kurumba" throughout south India. A number of nineteenth century colonial sources attest that the Kurumbra sub-groups are the dispersed remnants of the Kurumbranad kingdom, conquered in the eighth or ninth century by the expansive Chola state and taking flight to multiple locales within the Nilgiri mountain range (Thurston 1898; Bird-David 1988; Kapp and Hockings 1989).

flight from the Nilgiri valley to free themselves of Badaga persecution. In the 16th Century the Badaga had come to the Nilgiris as refugees from Mysore and soon established popular dominance over the valley and the Todas, Kotas, and Kurumba who lived there.[27] They carved out their place in the Nilgiris, taking up shifting cultivation like the Todas and Kotas. In addition to subsistence, the Badaga took up Toda and Kota manners of dress and ornament as camouflage from Muslim pursuers (Hockings 2012). As agreed on their arrival, the Badaga entered into contracts of exchange and relations of ritual with each of the tribes. Within this set of relations, the Kota and Todas provided the Badagas primary goods (metal, timber, cane, dairy, etc.) as well as services (thatching, carpentry, basket-weaving) in exchange for a portion of Badaga harvests and symbolic cloth (Hockings 1980). The Kurumba, hunter-gatherers in the hinterlands and feared sorcerers, provided the Badaga with security. Badagas would seek out the most powerful sorcerers among the Kurumba to stand as guardians against magical attacks (*odivekkal*). Each village appointed a Kurumba sorcerer to a lifetime hereditary position in exchange for upkeep and subsistence by the village. What these guardians protected against was magical attacks from other Kurumba.

As Hockings notes, the Badaga fear the Kurumba as the most effective of all South Indian sorcerers: "he can kill people at a distance with a spell, can secretly remove internal organs from the living, can rape women without their knowledge, can enter a locked door and can change into an insect or any sort of mammal." This fear of Kurumba sorcery emerged as a structuring principle for Badaga society: "Formal charges of witchcraft, handled by Badaga commune councils, used to unite the Badaga community against an external threat of (or target for) aggression; and the massacres which sometimes followed such charges were clearly a tension-reducing activity for the Badagas" (1980: 123). Though poor harvests, infertility, sickness, and death could be ascribed to natural causes (*nāṭu noi*), Badagas

[27] The Badaga had themselves been chased to the Nilgiris from Mysore in the 16th Century by then upstart Wodeyars, who would dominate much of south India as the Kingdom of Mysore until Tipu Sultan's defeat.

tended to trace responsibility to Kurumba malevolence (*odi noi*) or evil spirits (*kāṭu noi*) that Kurumba had failed to route. As recounted in the monographs of Edgar Thurston, such massacres were a frequent occurrence throughout the 19th Century with entire families and villages being murdered should a Badaga child fall sick, and the Kurumba fail to cure. Kapp and Hockings recount that the destruction of Kurumbas was not only vengeful, but also magico-religious, since an epidemic or other catastrophe would be halted by the massacre "only if a Toda, himself considered ta sorcerer, were to strike the first blow against the unfortunate Kurumbas" (1989: 240-1). The Revered J. F. Metz of the Basel Mission Society similarly recalls: "I was repeatedly asked to rid them of the Kurumbas, that is, to get them hunted down like wild beasts and exterminated, and they would remember my name with gratitude forever. The Todas and Badagas say that the Kurumbas are the enemies of the peace, and that they cannot live without killing them" (1864: 123).

Fleeing this scene of murderous relations, some Kurumba trekked to Attappady around the 17th century. In leaving the 'Pālu-Kurumba' split off from their affines (the 'Ālu-Kurumba'), settled the high valleys and established relations with the Muduga, considered cousins. Kapp includes the Muduga among the numerous Kurumba sub-groups, but closely related to the Ālu- and Pālu- Kurumba (1978: 512). Their alliance would be secured and maintained through intermarriage.[28]

The forests of Attappady had long been a refuge. The Muduga had also taken flight to Attappady to settle the southeastern foothills in the 15th century. The Muduga had inhabited present-day Coimbatore district of Tamil Nadu of Attappady. Led by the legendary Kovan Moopan (from whom Coimbatore received its original name, *kovanpudur* or 'new town of Kovan'), they had lived a life of ease and plenty. As the tale is told, the Calicut Zamorin was envious of the Kovai's wealth and engaged the Muduga in constant conflict. The Zamorin finally murdered Kovan, compelling the Muduga to flee to the

[28] Owing to the patrilinearity of both Kurumbas and Mudugas, a women is absorbed into her husband's agnatic group on marriage and childbirth, while a man, though he may relocate, may never lose his link to his agnatic group and natal place.

Attappady forests to escape his persecution (Devassy 1961: 1-112).

Attappady Valley at that time was under the nominal control of the Zamorin of Kozhikode. The Kurumba and Muduga would be joined by a third tribe, the Irula, in the 18th Century, who settled well outside the domain of the Kurumba and Muduga and maintained little contact with them. They were all itinerant cultivators, who kept to themselves, roaming the forest, working a patch of land for a season, then moving on, leaving fallows to regenerate in their wake. Their shifting cultivation of millets, pulses, and cereals[29] was supplemented with hunting, trapping, fishing, gathering of forest produce and honey. These tribes had by all accounts never owned the land, but only paid a nominal tax to the Zamorin and his *Jenmis* and tributes of items such as honey, game, timbers and woods, elephants for ceremonies, and medicinal herbs and healing services. To establish communications and ensure the collection of tax and tribute, in every village an administrative structure was established consisting of a Mooppan (chieftain), Kuruthala (assistant to the chieftain) and Bhandari (treasurer). This system prevailed with little conflict. Until the arrival of the plainsmen in the twentieth century, there was no need to flee. But by then, there would be nowhere to go.

To escape, to begin (again)

Hannah Arendt introduced the term "natality" to name the human capacity to begin, and begin again. The word natality references the fact of birth, as birth is the character of action as beginning, a setting forth of something new.

> To act, in the most general sense, means to take initiative, to begin (as the Greek word *archien,* "to begin," "to lead," and eventually "to rule," indicates), to set something into motion…It is in the nature of beginning that something new is started which cannot be expected from whatever may have happened before. This character of startling unexpectedness is inherent in all beginnings and in all origins… The fact that man is capable of action means that the unexpected can be expected from him, that he is able to perform what is infinitely improbable (1958: 177).

Action, when it takes place on the grounds of natality, is the capacity to begin again. But not all action

[29] Main crops are *ragi* (finger millet, *Eleusine corocana*), *same* (little millet, *Panicum miliaceum*), *thuvara* (red gram, *Cajanus indica*), amara (field beans, *Dolichos lablab*), and *cheera* (amaranth, *Amaranth hypochondriacs*).

begins. There are also those actions that sustain "whatever may have happened before." These "expected" actions must be left behind in an "unexpected" act, an act that sets in motion something new that may take the place of the expected. This leaving-behind to go forth is "to act" but also "to lead", in the sense of absolving prior rules by taking up new ones. From whence do these new rules arise? In Arendt's thinking, natality is fundamentally political, a way of orienting and conditioning action as freedom. This is not just freedom of the one, but of the many, since the condition of natality is the recognition of the natality of others, their capacity to act as a beginning (again). In contrast to the 'boundlessness' of unconditioned freedom, action that is conditioned by natality "acts upon beings who are capable of their own actions, reaction, apart from being a response, is always a new action that strikes out and affects others" (190). Action on the grounds of natality "provide[s] and preserve[s] a world for, to foresee and reckon with, the constant influx of newcomers…" (9).

For the Kurumba, no less than the Muduga and the Badaga, the ability to escape is one with the capacity to begin again. What is left behind are constraints that incapacitate or destitute. Flight is towards a horizon of possibility, but where one arrives is not absolute freedom. Rather, escape is towards other constraints that, the escapee hopes, will be less constraining than the last. Dieter Kapp, an ethnolinguist who worked in the late 20th century among the Attappady tribes confirms the spur for the Muduga flight to Attappady:

> [The Muduga] may well be considered as the modern representatives of ancient warrior tribes who once inhabited the plains of South India. After encountering calamitous defeats, the survivors fled and dispersed seeking shelter in the jungly areas of the Nilgiri Hills. While settling there, they were forced to completely change their former mode of living and adapt themselves to their new surroundings and so on, in the course of time, experienced a gradual re-development into tribes of food gatherers, hunters and – later on – shifting cultivators (1985: 518).

By what force did the Muduga cast aside their former plains-bound agricultural ways to take up new practices in the Attappady forests? Such a chronicle defies developmental narratives of the linear and stadial variety. It forces us to question assumptions of primitivity as prior-ness and to reconceive of

economy "as a category of culture rather than behavior," as Marshall Sahlins recommends we do (1972: xii). But more than an en-cultured adaption to circumstance, what I find striking about Kapp's account is that the Muduga, on settling in Attappady, adapted to this new place by re-developing, adopting a different 'worldliness' (Arendt), that is, a 'being-in-the-world' (Heidegger) appropriate to a place like Attappady. This worldliness includes not only economy and livelihood, but also identity and sense. We find such adaptation in the story of the Badaga as well, who took up not only the shifting cultivation of the Toda and Kota, but also their dress and ornaments.

The worldliness that provokes departures and that which meets arrivals may be good or bad, better or worse. Natality as escape is constrained by re-immersion in the world. This permanency of constraint is redoubled in the case of nomadic hill people, as interpreted by James C. Scott in his *Art of Not Being Governed:*

> In a world crowded with other actors, most of whom, like modern states are more powerful than they, their freedom of invention is severely constricted. They craft identities, but not of their own choosing, to paraphrase Marx. The positioning in question is above all vis-à-vis the lowland state and other hill people.

On the one hand, hill people are caught in a political agon with the lowland states, where the tension is between statelessness and incorporation. The great fear of incorporation is not assimilation—similitude is not possible—but servitude. This tension is resolved by a refusal of lowland worldliness and a preference for "illegible" practices including shifting cultivation, illiteracy, and ahistoricity. On the other hand, they face a contest between hill tribes: "ethnic identities in the hills are politically crafted and designed to position a group vis-à-vis others in competition for power and resources" (2009: 244).

In the scenario of hilly south India, the political tension between hill people and lowlanders takes shape in a field of symbols and sentiments represented by the dialectic of kāṭu (forest) and nāṭu (village). Anand Pandian, in his ethnography of the Kallar caste, draws attention to 'savagery's debt to a much older conception of "agrarian civility" in south India" (2009: 34). Pandian explains how the articulation of agrarian civility pivots on the imputation of savagery and unworked landscapes to the

Kallars. When the Kallars are described as savage, what it expresses is:

> *kāṭṭu taṉam*…literally *kāṭu*-ness: being like the space of *kāṭu*. Like the English word "nature," *kāṭu* is arguably one of the most complicated and important entities in the Tamil language. *Kāṭu* is a word for many different peripheral places: thick forests, scrub jungle, barren desert, cemetery or burning ground, fallow open ground, dry upland field. Binary expressions oppose *kāṭu* most often to the cultivated country named as *nāṭu*, and the inhabited home named as *vīṭu.* As an adjective, *kāṭṭu* names the savage, rustic, primitive, brutal, wild, rough, rude, or uncultivated condition of people, plants, animals, and places alike (40).

In Pandian's analysis, this distinction of civilized and savages carries a moral and normative burden, producing determinations of good and bad places and people. But it also is a site, imagined and real, of a civilizing project that impresses itself on Kallar practices and selves.

The relation *kāṭu- nāṭu*, whether embodied in persons or sunk into place, may form a symbolic binary of abiding normativity, but it is, at the same time, a fluid transactional space. Forests are burdened with settlements, just as villages are attached to forests. As villages grow, the defining line between cultivated and uncultivated shifts to incorporate more waste into the "agrarian civility" of village subsistence (Bandopaghyay 2001: 144-7). In addition, forest dwellers have been in frequent relations of trade and exchange with villagers, even while maintaining their basic independence and protecting their habitations from incursion (Morris 1982). Between *kāṭu* and *nāṭu* we can find what Chetan Singh calls an "intermediate space" that lingers "between cultivation and forests; between land upon which man made a deliberate effort to raise crops and the area that appeared to have very little to do with settled agricultural life" (1998: 92). How and where this "intermediate space" is located, I suggest, traces the line between containment and escape, servitude and freedom. The relationship of *kāṭu* and *nāṭu* is antagonistic, fraught with undesired reversibility, stirring wishes for absolution, exteriority, and non-relation.

What meaning accrues to the difference of forest-dweller and plainsperson, wandering hunter-gatherer and the cultivator, is more than economic, as in the underdeveloped and developed. At the same time, "savage" and "civilized" are much more than structuring symbols. To understand the

effectiveness of these symbols, I suggest we consider the "dialectic of sentiments," that Michael Taussig offers in his reading of Casement's Putomayo report of the Amazon rubber boom. This dialectic, "enshrouded in magic and composed of both fear and contempt," operates on the basis of imputation and projection that necessitates paranoia and cruelty. It turns on the polysemic term *aucas,* which includes (as explained by the English traveler Alfred Simson) the senses of "infidel, traitor, barbarian, and is often applied in a malignant sense… to designate those who rebelled against their king." Additionally, *aucas* is a term that characterizes those so-described as "animal-like…partake[ing] of the occult and spiritual." In Taussig's analysis, the projection of *aucas* onto some people "is inseparable from the imputation of their resistance to sacred imperial authority and the further imputation of magical power possessed by lowland forest dwellers as a class…" The projection of *auca*, Taussig explains, is an ambivalent one that impels excessive and terrible persecution, but also empowers such that persecutors may seek out *auca* power in hard times (1984: 485-8).

This dialectic of imputation that gives in order to take, operating under the sign savage/civilized, animates and legitimates an order of actions that intersect and interrupt beginnings. Natality, the ability to escape and begin again, is blocked, diverted, and chased by the hunt. The will to escape is also what stirs the will to hunt; there is no predator without some prey. We here catch sight of a caesura within natality and biopolitics insofar as it is a form of natality (Vatter 2014: 129-55). The hunt materializes what Grégoire Chamayou calls "cynegetic power," which he describes as the underside of what Foucault has analyzed as "pastoral power": where the latter describes a paternalistic care for flock, each individually and all together, as it wanders free, the former is predatory, accumulative, and territorial. Cynegetic power names a tyrannical state -making and -maintaining power that extends itself over space to capture, constrain, and enslave to the order of the state. It is, Chamayou writes, "[a] murderous policy which, through legal exclusion, ensures the paradoxical inclusion of these new dispossessed by law into relationships of exploitation at the same time that it makes them vulnerable through active

policies of tracking them and making them feel insecure" (2012: 151).

Forest-Village

Speaking before the British Association for the Advancement of Science in 1921, Edward Percy Stebbing, a former forester in India and Africa, recounted the development of forestry in India and its transplantation throughout the empire. Wherever forest conservancy was set up, Stebbing recalled, a constant obstacle to its success was the inaccessibility of forests. To prevent their ruin by native custom and encourage their improvement, forests had to be penetrated: "communications had to be opened; roads were made, rocky riverbeds were blasted and in some few places export works such as slides, slip-ways, sledge roads and tramways, etc., were built; and, as important, resthouses were constructed in the forests for temporary occupancy by members of staff whilst on inspection duty throughout their large charges." This was work of "considerable magnitude." But the very reason it was required—to make the forest accessible—posed the difficulty of finding and keeping labor. What made these works possible was the invention of the "forest village":

> It was in India that the idea of the forest village was, I think, first developed. Difficulties had been experienced in obtaining the necessary amount of labour to carry out the recurring work in the forests, such as thinning, climber-cutting, clearing fire-lines, fighting fires, roach repairs and so forth. For his chief labour supply the Forest Officer was dependent on the local agriculture population, and he obtained it from neighbouring villages during the slack periods of agriculture. It was found that by concentrating part of his labour in the 'forest village,' to whom a certain area for agriculture and grazing purposes is allotted, the Forest Officer had a first call on the labour which the village could provide and was thus able to depend with certainty on what amounted to a permanent supply of labour at the period when he required it. He is thus to a great extent rendered independent of the great difficulties always experienced in the case of the forest work in connection with imported labour. The institution of the forest village is capable of considerable extension both in India and in other parts of the Empire (1922: 93).

The category of forest villages included new establishments as well as preexisting habitations. In the case of the latter, coolies from places near and far were brought and boarded in temporary and movable camps that shifted along with labor requirements (Breman and Daniel 1992). Should coolies be difficult to find or unwilling to stay, the Department turned, when possible, to the second category. These pre-existing habitations were populated by tribal "hillmen" (as they were called), who lived in and around

the reserve forests. Though their labor was less desirable than the coolies, they were often the only choice where wild animals and malarial conditions prevailed. These were dense and uncharted areas, so hillmen possessed the added benefit of longstanding knowledge of the local environment and were able to locate and gather valued minor forest produce such as honey, cardamom, cane, rattan, and medicinal plants. All of this was to be gained at rates more favorable than that a plainsman.

The origins of the colonial forest village can be traced to Dietrich Brandis' innovative *taungya* system, introduced among the Karens in Burma. Faced with curbing the 'destructive' Karen practice of shifting cultivation (*taungya*), on the one hand, and a shortage of labor for forest work, on the other, Brandis contrived a situation that met both needs. Inspired by *Waldfeldbau,* the German agroforestry system of cultivating agricultural crops in forests on a rotational basis, Brandis pressed the Karens to intersperse their crops with teak seeds (Win and Kumazaki 1998: 19). This system proved to benefit the teak saplings, which thrived, protected by the other plants. As the Karens shifted to a new field, the teak would remain untrammeled in the fallow. The success of the system depended on the cooperation of the Karen, who were offered modest remuneration and permitted to practice shifting cultivation on designated lands. But with the continued success of this technique, that cooperation began to wane. The basic flaw of *taungya*, as first instituted, was that as teak populated the fallow lands, it progressively expanded the space of state control. The Karens were left with less and less space to move, leading to conflict with the Forest Department (Bryant 1996). When the *taungya* system was rediscovered in the 1920s, it would be combined with a strict rotational schema, and the system would be circulated throughout India, Asia, and Africa.

The irony of *taungya* is that Brandis, its ostensible inventor and the eventual Inspector-General of Forests, was a staunch enemy of customary practice (as I discussed in chapter four). Shifting cultivation along with fire were the great enemies of the Forest Department. But with the re-discovery of *taungya*, these very two things would be reconsidered and combined to form the standard system of

teak regeneration.[30] Before planting, fire would be applied to a plot of some considerable forest growth to create a fertile bed for the teak sprouts, as well as the cultivator's traditional grains and pulses. As they grew, the teak saplings would be secured, protected and nourished by agricultural crops. The cultivator would, as custom and the system dictated, move on after a year or two to another field. However, the *taungya* system normalized these movements in the pattern of a rotation. The cultivator was granted a number of blocks that formed a circle; he would shift block to block, returning to a plot after several years' time. Through this rotation, the teak plantation was regularly fertilized and a workable stand of teak trees generated that could be monitored, measured, and exploited. This system hinged on the availability of labor to work, for it required constant attention and upkeep. In exchange for regular labor, the coolie was granted a modest wage and upkeep, as well as the crops he raised. The hill-man, too, would be allowed to keep not only the crops he raised, but also permitted to remain in his forest habitation. This arrangement was not a cooperation and the exchange not as equitable as it was claimed to be. What *taungya* introduced was a "political ecology of exploitation inherent as an essential property of the system where the much projected vocabulary of cooperation has been transformed into a mechanism of usurpation" (Jha 2012: 113).

The Attappady Settlement

In 1900 Mr. Mullins, the Special Forest Settlement Officer recounts his arrival in Attappady valley:

> I found on my visit to the valley that these sites are not, by any means, permanent. A village is simply one hut divided into compartments to accommodate the families engaged on ponam cultivation. The fact that the villages are in the localities on which they are shown this year is a sufficient reason for their not being there when the notification is published. The village cannot, therefore, be said to have any claims to easement or proprietary rights over the sites they have selected for temporary residence. No claims of compensation for, or to proprietary right in, the area cultivated have been advanced by the inhabitants. By this procedure no hardship will be inflicted on the jungle people now resident within the Government areas in the valley. They will be permitted by the Forest Department to continue their cultivation under the Department, in the interest of the Department, which requires that the valley shall be inhabited by men who can

[30] The recuperation of fire through *taungya* was not without its opponents (Sivaramakrishnan 1996; Karlsson 2000)

> collect the minor produce, and who, if looked after and prevented from destroying sholai growth, are useful in many ways (Quoted in Chand Basha n.d.: 1).

Consistent with the legal distinction outlined by Baden-Powell, occupation was not a right, but a privilege that the tribes enjoyed at the Forest Department's discretion.[31] The terms offered by Mullins were that ten settlements, to be home to 134 Kurumba men and women, would be permitted to remain within the reserved forest. Their village sites were made permanent with the stipulation that they were "tenants-at-will of the Forest Department" (Ayyar 1935: 8).

In the schema of the Working Plan the Attappady valley was divided into six blocks. Of the six, only two were proven as the property of the *jenmis*, and so were acquired under the Land Acquisition Act by payment of recompense. The remaining four blocks were determined to be unencumbered by rights and so were recognized as the State's dominium. On assuming the Attappady forests in 1915, the focus of the Government was a limited one: the protection of the forests surrounding the catchments of the Bhavani River. In 1917, the Department assigned the tribes definite areas of land for their settlements and their shifting cultivation. To each settlement a surveyed and demarcated plot was granted, reflecting the population of the village: two acres per family plus an additional six acres for the *Mooppan* ('headman'). This plot was subdivided into three blocks with the understanding that each block would be cultivated for two years before moving on to the next. The terms of the lease set down were that the lands of the settlement and the kumri cultivation[32] field would be leased to them free from assessment, with the Mooppans executing agreements in return for their supplying men whenever required at reasonable market rates. This agreement would be renewed on an annual basis.

Additional operations including timber plantations and the collection of non-timber forest produce (bamboo, rattan, fuel wood, etc.) would only begin in 1932, after the range was first brought

[31] See chapter 4, "Privilege."

[32] *Kumri* is synonymous with *Taungya* and here names the teak regeneration system, rather than the historic pre-settlement 'shifting cultivation' practices of the Kurumba called *panjakadu*, which will be discussed below.

under a working plan. These operations demanded a constant and ready labor force. T.V. Venkateswara Ayyar, the author of the first Working Plan, notes: "Since the Attapadi Valley is very malarious, it is difficult to get labour from the plains to camp in the forest for any length of time." He therefore impressed that "[i]t is important the hillmen should continue to live within the reserves, in order to provide labour for departmental works especially now that teak plantations have been proposed to be raised in Attappadi Blocks I to V, along with 'kumri'." Faced with the difficulty of importing labor from the plains and the risk of the "hillmen" taking flight, leaving the demarcated reserve forests for lands yet unclaimed, Ayyar reminds his reader, "[t]he necessity for keeping the hill tribes reasonably satisfied, needs little emphasis." The previously prescribed *kumri* plots of 10 acres and rotations of four years would not supply the amount of growth sufficient for a properly fertilizing ashes (1935: 41, 170).

At Ayyar's insistence, the rotation was extended to 10 years. Each settlement was allotted a plot subdivided into six sections, each of which would be put under *kumri* for two years before shifting to the next. While tending to his own crops, the "kumridar" was responsible for the life-cycle of the teak tree: dibbling the sprouts, ensuring the growth of the sapling, weeding as necessary, and cutting when ordered by the Department. But, above all, he must ensure a "good, not too intense burn, as even as possible over the whole area." In addition to *kumri*, the Kurumba were leased the right to minor forest produce in demand by the surrounding towns and villages including honey, wax, cardamom, canes and rattans, and medicinal plants.

Recollections of place

When I asked them about their memories of settlement, only Mudda Moopan and a few other elder Kurumba could recall at all and what they could offer were fragments. What was known is not passed on, as the young want no shares in it. Settlement not only re-formed identities and places, but through the ongoing policing of boundaries, it labors on, perfecting a certain "distribution of the

sensible" (Ranciere 2013 [2004]). To recount another time is to recollect another sense of things alongside attention to the common one. It is the challenge of the heterodox, where reflection on the embedded ordinary must show through a mirror darkly. Those fragments formed a patchy narrative that, when run against the grain of their settled lives and those of the Muduga, became plotted. This section traces that narrative, following behind and trying to keep up.

Mudda Moopan has until recently been the Moopan of Anavoyi ooru (Anavoyi, 'where the elephant emerged'; ooru, 'village'). He is, perhaps, 126 years old. Older Kurumba do not keep track of their age and he struggles to calculate by recounting his 24 wives. The anthropologist P.R.G. Mathur, who has studied the Kurumba since the 1970s, estimates his age at 110. There are few among the Kurumba that are as old as Mudda Moopan and none who are as knowledgeable, respected, and feared. It is for these reasons that I turned to him to understand the transformations in Attappady.[33] I ask him if he recalls when the Forest Department settled the Kurumba into their present *ooru*.

> *You come to me for help, because I know things that you don't. So, the white people [*vellikaara*] came to my father…. When they came, it was by foot. There were not even a horse path then…I was 18 at that time, before I had gotten first married….. They came and said that Attappady was no longer with the Samoothri, and now was with them…. The* vellikaara *asked my father*, *Bhoja, to show them all the adivasi territories [*sēmai*]] and dwellings [*salai*], as he was a popular moopan.*

The arrival of this agent would set in motion a number of transformations that would change the lives of the Kurumba. In this section, I will limit my focus to two elements that would be attuned and normalized by the overall purpose of forest conservation: the adaptation of their cultivation practices to the program of *kumri* and the settlement of the nomadic Kurumba into *ooru*. The adaptation of practices and the settlement of mobilities were complementary procedures that together constituted the forest village.

[33] As can be expected, recollection of such distant times is a difficult task for the interviewee—and a questionable one for the interviewer. To avoid over-taxing my respondent and to substantiate my findings I interviewed Mudda Mooppan six times. Early interviews were conducted with the generous cooperation of Dr. P.R.G. Mathur, who assisted me in establishing contact and repore with Mudda Moopan.

Jinda

It is important to keep in mind that the introduction of the *kumri* system did not only mark the capture of shifting cultivation practices, but the normalization of those practices. The model of *kumri* introduced to Attappady consisted in the application of fire to clear land and the circular shifting of cultivation through blocks. This reflects the basic model of shifting cultivation (also known as slash-and-burn), which is a general term for a variety often divergent practices. The common feature is temporary clearance and cropping, and leaving lands fallow for periods longer than they are cropped. The use of fire in shifting cultivation is not only to clear the land for planting, but to transform the land itself. The slow medium burn penetrates the earth, changing the soil from acidic to neutral, as well as making latent nutrients elements available, while the burnt-up growth top-side provides nutrition to the crops (Ramakrishnan 2005: 955-8).

What was practiced by the Kurumba prior to settlement differed from this model in a number of ways. The Kurumba call their practice *panjakadu* (*panja*, 'claw, scratch' + *kadu,* 'forest') or *kothukadu* (*kothu*, 'hoe').[34] Velli, the Mannukkaran or 'soil expert' of Anavoyi, explains that introduction of fire in clearing the field or *karikadu krishi* ('burnt-field cultivation'), as it's known, was a novelty for the Kurumba. Velli recalls what his father, who was Mannukaran before him, told him of Kurumba *krishi* ('agriculture'). Prior to settlement, the people of Anavoyi kept fields much deeper in the forests than their present dry allotments. The ground was moist, since cultivation took place early the rainy season. They would begin by clearing the undergrowth from the ground. The clearings would not be burned to fertilize, since the soil itself was already very rich. Instead, they were used for cooking in the *salai* ('huts') where they all lived. The cleared fields that involved furrowing the soil, digging and scratching

[34] *Panjakadu* is the more common term. I was not able to verify, though it seems likely, that the term '*kothukadu*' was carried over from their Nilgiri residence, where the terms is also found still in use among the tribes there. Baden-Powell mentions the term as specifying a system of management consisting of a rate or tax per *kothu* or hoe (1892: 186-7).

with a wooden stick called *kunthali*. Into the furrows they dibbled seeds, then covered them up with soil.

What Velli Mannukkaran describes resembles a similar technique that was practiced in the 17th Century by peasants in Congo, as recorded by a Roman priest and recounted by Braudel: "Their manner of cultivating land demands little work because of the great fertility of the soil; they do not plough or dig, but scratch the earth a little with a hoe to cover the seed. In return for this slight effort, they reap abundant harvest, provided the rainfall is not deficient." Braudel comments that, when compared to tilling or paddy in terms of time and effort, the 'scratching' technique was probably more productive. But it was not conducive to concentrated population growth. Because human settlements were kept few and far between, this technique suited the vast fallow (rather than a specific soil or climate), as well as "types of society which made up a network of habits that were hard to break..." (1992 [1981]: 175-6).

But these habits were broken. I ask Mudda Mooppan if they resisted the settlement. I am surprised when he says no. "They put the boundary stones [*jinda*] and told us we should only do our cultivation there. Before then we could do as we pleased [*iṣṭaṁ cēśu*]. We were angry, but we did not violate the limits that they put. They told us the *jinda* was good for the forest and for others, so we agreed." However, Mudda Mooppan's memories contravene his avowal of reasoned consent. When discussing his father, Mudda Mooppan recalls a time when the people of Anavoyi cultivated outside the *jinda* and were arrested, hands bound, and marched to the Kacheri in Palakkad. Why did they do it? "We thought the Forest Department had left this place." The Mappilla rebellion of 1921 was a violent upheaval of the Malabar taluks of Eranad and Valluvanad (where Attappady is located). Hindu *jenmis* were murdered, the Forest Officers took refuge in Palakkad, and it seemed that the forests were overtaken by the rebels. When the Forest Department returned to find the Kurumba had reverted to their own designs, cultivating in the reserve forest, they were arrested as criminals. Mudda Mooppan recalls with pride following his father to Palakkad and arguing passionately and successfully in his

defense. With somewhat less delight he recounts another occasion when his father was arrested. The fire they had been applying at the Department's behest had gotten out of hand, streaming beyond the clearing and into the forest. Out of fear of rebuke, they had run away and hidden, while the fire burned. When they were finally found, they were again arrested, but the charges were dropped, since it was an accident and no harm intended.

Ooru

The settlement of Kurumba into stable and immobilized *ooru* was a necessary complement to the institution of *kumri*. Sites for *ooru* were determined on the basis of the Working Plan and the suitable locations for *kumri* teak plantations. The *ooru* is situated at the center of the shifting cultivation blocks to minimize traffic through the reserve forest. The *ooru* is in this way contained and constrained by the land available. Families who dwell in the *ooru* share equally in the fields, but as population grows, they are able to work on less and less.

Each o*oru* is associated with a particular patrilinear descent group (*koottam*), on the one hand, and a larger natal territory [*sēmai*]. Agnatic substance (LiPuma 1988) inheres in bodies, but also place, and may only transfer via blood [*chora*]. The *koottam* is bound to its territory as its natal land. Though individuals may settle in different *ooru* and *sēmai*, they nevertheless maintain their metonymic connection to their native place, from whence their agnatic substance issues and, on death, where it returns. The native place is where ancestors dwell. While still nomadic, the *koottam* along with affines and agnates would range the natal *sēmai*. With every shift of locale, the *ooru* name was re-asserted by the *koottam*.

While the *koottam* is bent on its conservation, it is always possible that conflict can lead to disaggregation and the formation of a new *ooru*. A schism in 1990 between Velli Mannukkaran and Mudda Mooppan split Anavoyi *ooru* into two: Mele or 'upper' Anavoyi and Thazhe or 'lower' Anavoyi. Velli Mannukkaran resides in the new settlement, Mele Anavoyi, which is twice the size of the old. He

explains that the schism was over authority. Mele Anavoyi allies with the Communist Party and challenged the Mooppan system. This was also, I believe, an attempt by Velli Mannukkaran to usurp some authority from Mudda Moopan. He has many young men on his side, who are critical of the centralization of authority in a single figure and heritable position. Though rare, new *ooru* could also emerge should the wellbeing of a population became untenable within the *sēmai*. For instance, Mudda Moopan, on appointing his son Kakki as Moopan of Anavoy in 2001, established a new ooru, Palappada, to remove himself from the political conflict between the two Anavoyis. It is also possible for *ooru* to disappear, should the group dwindle whether through death or defection.

The Kurumba *ooru*, like the Tamil *ūr* as interpreted by Daniel, may be defined as "a named territory that is (1) inhabited by human beings who are believed to share a substance of the soil of that territory, and (2) a territory to which [one] cognitively orients himself at any given time" (1987: 63). However, with the staunch territorial and natal connotations of *sēmai*, the mobility of *ooru* is at a certain register limited. Kurumba, when asked, will include their village, but also Attappady, the Nilgiri Hills, Kerala or Tamil Nadu, and India as the *ooru*. Yet, they will also defiantly state that an adjacent territory, on the other side of a river or hill range, is not their *ooru*. This was very much the case when inhabitants of Anavoyi described their relation with Thondiki Ooru, for instance. This relation of exclusion and opposition is a condition to be accepted and consequence to bear for the general possibility of escape.

When Mullins surveyed the Attappady valley in 1900, he described tribal forest dwellings as a single hut, subdivided into partitions to accommodate several families under the same roof, as they undertook shifting cultivation. Should you go to Attappady today, you would find a row of attached houses made of earth and bamboo. One family lives in each home, though they share the common *kalam* in front of their homes, where they dry and thresh. Forest hut or village house, Mudda Moopan calls them both *salai*. This term is used interchangeably to denote the temporary huts erected at the

site of shifting cultivation as well as their permanent houses in *ooru*.[35] The Muduga, likewise, use a cognate term *sala,* but only when speaking of temporary huts, like the *kava-sala* ('forest hut') erected by fields to keep watch for elephants. By way of contrast, *ooru*-bound Muduga homes are not called *salai*, but *kūrai*. George Tharakan, in his study of Muduga kinship, notes that *kūrai* possesses multiple meanings, depending on context. At the most fundamental level, *kūrai* refers to the cooking hearth. As the center of domestication and consumption, it may refer to family or household, but also to dwelling or hut. In the most simple and typical cases, Muduga live as nuclear families: one family, one hut. But it is possible for a *kūrai* to extend beyond the nuclear family or the physical home. Extended family members, such as a married son and his wife, who continue to live with their parents are part of a single *kūrai.* If two families in two huts side-by-side share a common cooking hearth, they would also be a single *kūrai* (Tharakan 1998).

The Kurumba *salai* and the Muduga *kūrai* are isomorphic, I suggest, on the basis of agnatic substance. The crucial difference between the two is that the Kurumba *salai* retains its trace of pre-settlement hut, where a single group of agnates would dwell. The Muduga *kūrai*, meanwhile, represents the nucleation of agnatic substance in and through the hearth. The hearth stands as the definition of agnatic identity within a village that is home to several agnatic groups. Kurumba *ooru* like Anavoyi are no less multi-agnatic places. With settlement, the population of Kurumbas grew, but the territory has remained much the same. Tensions that arise must resolve themselves within the bounds of those demarcated settlements. Where disaggregation cannot lead to new places, nucleation and privation are the only way to secure one's independence of oppressive social configurations. This has only gotten worse with the influx of non-tribals into Kurumba villages.

[35] Mathur (1977: 51) mentions that Kurumba also call their homes *alai* (lit. caves).

Forest/Village

The Indian Forest Act of 1927 neither defined nor properly recognized forest villages. Though the Constitution of 1950 prohibited *begar* (forced labor) and made it punishable by law, the arrangement of forest villages would remain legal for the next twenty years. Kept 'off the books' until the come-lately moment of its illegalization, the village forest is a form of clandestiny, a "form assumed by that which cannot officially exist" (Coutin 1999). The escapee, by their affirmation of statelessness, is an outlaw by definition. From the perspective of the law, the right to escape is denied: the stateless has no rights whatsoever and escape is subverted by its criminalization. There is no right to escape, but only the threat of expulsion. The only way to stay is under this threat and the status of rightlessness it confers, even as it contains in the suspense of the un-documented.

In 1961, Kerala state promulgated the Kerala Forest Act, which contained provisions to protect both the forest and forest-dwelling tribals. The imperative passage in the act, subsection (A) of section 76, authorized the state government acting through the Forest Department to "make rules…for the protection, advancement, treatment and management of hill tribes." In 1964, the rules were notified ("Kerala Hillmen Rules," 19.8.1964). Tribal villages as settled by the Forest Department were permanently fixed and under the control of the department. Tribal individuals who dwelled in the villages were required to register their names with the Divisional Forest Officer (DFO). It was possible for individuals to leave the settlement for another, but only with the recommendation of the village headman and permission of the DFO. Cultivation was allowed as a concession to the extent of 5/8 acre per person. The concession was strictly to usufruct, subject to the supervision and direction of the

Forest Department. Should any individual be found violating these rules, they were liable to expulsion, on a temporary or permanent basis, as decided by the Forest Department.

In 1969, a case was filed by Eachara Ittiathi of the Malayaraya tribal community, against these rules. Ittiathi was a member of "Vanavarga Mahasabha," a registered society of tribals and non-tribals founded in 1953 for protecting the rights of hill tribes. Ittathi made his case by challenging the state's competency in framing such rules, since the rules pertain to a subject outside the jurisdiction of the state powers or those of the forest department, as contained in the Constitution. Moreover, the subject of tribal protection and advancement was already framed by the Fifth Schedule of the Constitution, which declared the administration and control of scheduled areas and scheduled tribes. The Court agreed with Ittathi's claim that the Fifth Schedule had already vested the jurisdiction of tribal welfare in the President and parliament. On the question of the Forest Department's jurisdiction, the Court commented: 'The question is even after giving the most liberal interpretation to entry 19 "forests", can it be said that the hill tribes, who are living in settlements within the forests, form part of the forests so as to confer power on the State Legislature under the head "forests" to legislate upon?' (1969: 1069). The state's plea was that since the hill tribe settlements were located inside the forest, settlement and tribe were both "part of the forest." As such, they—along with trees, wild animals, birds, rivers, etc.—were subject to the Kerala Forest Act's provisions for "welfare, protection, advancement, treatment, management, etc." of the "forest." However, the court ruled that for this argument to have validity, the Kerala Forest Act would had to have made those specific provisions explicit for forest-dwelling tribes, as

it had done in the case of the 'protection of wild animals and birds'. The Court's ruling upheld the Ittiathi claim that settlements found in forests were not legal forests and invalidated subsection (A) of section 76 of the Forest Act.

The 1969 Hillmen Rules case dissolved the bonds of servitude that underwrote the village forest. Forest-dwelling adivasis were no longer required to provide labor and could come and go as they wished. Land, however, remained the property of the Department. Rights were not granted, but the provision of concession remained. The most decisive change was in the nature of the forest village. In order to free the forest village of is servitude, Ittiathi had to first free the hill-man from their status as part of the forest. With his success, hill-man and village alike were removed from the protective incarceration of the forest, but then both were left open to deprivations from without. Following the decision, nontribals in large numbers infiltrated village forests throughout Kerala, whether through marriage alliance or unlawfully. "Ittiathi attempted to uplift the tribal people from hell to paradise but the attempt misfired landing the tribals in a vacuum" (Leelakrishnan, et al. 1990: 70).

Following the decision of the Kerala Supreme Court, the Central Government advised that all forest villages be made over as revenue villages and individuals be granted rights, fostering the cultivation of wastes, and be subject to land revenue assessment and collection. At a national-level forestry conference, the summary recommendation was that the Forest Department confer tenancy rights to their shifting cultivation lands, as well. To prevent the inevitable dispossession of villages by non-tribals, various state agencies and departments advised that inalienable property rights be

conferred and that forest-based industries be developed in the vicinity of villages to take advantage of raw materials. None of these recommendations were enacted. As the Working Group on Development of Scheduled Tribes (1988) explained, it was impractical to convert forest villages into revenue villages what with their geographic remove and the overarching concerns of forest conservation (Prasad and Jahagirdar 1993: 117-8).

The 1988 National Forest Policy put the overturning of the Hillmen Rules in positive terms: "Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forests management…should be to associate the tribal people closely in protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forests" (§4.7). The 1988 Policy introduced the new directives of biodiversity conservation, formally shifting the mission of forestry from its prior purpose of revenue generation. This shift initiated a redistribution of forestry's own sensibilities. The forest villages of the past, oriented by labor needs, was no more. But according to the purposes of biodiversity conservation, they were no longer needed. What was now required were authentic tribal people who were by nature attuned to those purposes.

The express desire to associate forest management with tribal populations was a wish to re-constitute the relations of the forest village, though without its institutional form. That relation would be vested not in a place, but in authentic 'ecosystem people'. These were people whose survival depended on the forests, so they would protect them from illegal cutting and poaching and could

optimally collect minor forest produce. Development had left them behind, so the tribal people would *naturally* associate with the forests, provide each much needed security and advantage.

Conclusion

In this chapter I have endeavored to show how forest village labored to form a new set of elements and relations from a pre-existing reality. This labor, an ongoing project, worked by displacing and dissimulating that former reality by reorientation rather than sheer imposition. Specifically, forest villages reoriented Kurumba *salai,* their *panjakadu* practices, and their capacity to escape, attuning them to the designs and directives of forest conservation: settled *ooru*, *kumri* cultivation, and captivated labor power. Kurumba memories have allowed me to glimpse those other practices, nascent yet surviving, within the sensible world of the Kurumba. In the next chapter, I will revisit the Kurumba wish to escape, now merged with the privations of capture.

Chapter Six

Bhoomikannan
(or 'the earth-gazers')

The 'ganja mafia' came to Attappady around 2001 from Idukki, another forested tribal block to the south, after being chased out by a Government Task Force. Since then, they have made their way into Silent Valley, Kurumba villages, and their homes. They intoxicate the men with money, watches, arrack, freedom and other things that fascinate. They have married the daughters of *ooru* headmen, bonding them with authority and kin. They also rape Kurumba girls, while their men are away, tending to the distant ganja plantation. The Kurumba, clear-headed, say it is a living hell. But in the same sighed breath they say it's a better choice than the quiescent limbo they otherwise endure.

In 16 months, between October 2003 and February 2005, there would be 41 ganja raids. In spite of reports of the state's demise, we find a leviathan re-invigorated by the call of the *salus populi*. What has to be saved is the forest's biodiversity, but the Kurumba, as well. In government rhetoric the Kurumba is figured as hapless perpetrator and victim, incapable of policing themselves or their environment. In the absence of individual capacities, an otherwise reluctant state is stirred to the task in the name of the public interest. What goes unspoken is the broken trust between the Kurumba and the Forest Department. Beginning with settlement under the 'forest village' system, and continuing with the gradual withdrawal of state-sponsored protections and aid, the Kurumba have been progressively deprived of their livelihoods. At the same time, in a state where adivasi landlessness is the norm, there are no provisions in place or expected for the Kurumba to leave the forest, however unwillingly. This broken trust between Kurumba and the Forest Department has not led to mending, but to the tightening of state controls in the name of conservation.

This chapter is about the coercions and consents that are plied on Kurumba lives, the rules they are willing to live with, and those they disobey. It is also about the violence that rules make possible

and, sometimes necessary; violence not just inflicted from without but also from within: during the broad daylight of the everyday and the exhausted night of deprived being. I begin by discussing the application of doctrines of development in Attappady, culminating in the most recent development intervention, AHADS. Where past development projects were conducted in the idiom of economic modernization, AHADS takes up the ideology of sustainable development to produce an autonomous and self-reliant Attappady capable of taking care of people and forests together. I then discuss ganja cultivation, perceived as an obstacle to the intentions of AHADS. I conclude by turning to the narcotized privations that are the underside of development dreams and ganja mafia designs.

Sustaining Security

Following Independence, *adivasis* and their marginal lands had been by and large left outside the current of India's state-led development projects. It was not until the 1970s that the situation of tribal people would come under the planning process. Several independent committee reports in 1972 had come to a similar conclusion: the programs of economic development of the preceding decade had led to widespread rural indebtedness and land alienation among India's tribal people. The recommendation was to narrow the gap between tribal and non-tribal through the targeted extension of education, electrification, agricultural development, and employment. Through the expansion of these infrastructural elements, tribal populations would be assured their 'basic needs' and so maintain the reproduction of labor and subsistence. At the same time infrastructure would link peripheral tribal areas to the centers of mainstream society, opening paths to their advancement and incorporation.

The initiation of tribal development projects followed a rejection of state-led industrialization, which presumed a planned stadial transition from 'underdeveloped' to 'developed'. In the 1970s development as growth was problematized by overpopulation and environmental degradation. As staged at the Stockholm Conference in 1972, developing countries acknowledged the necessity of protecting the environment. However, they insisted that environmental concerns did not legitimate

limits on necessary growth. The real problem, as Indira Gandhi would point out, was not pollution but poverty. Poverty constrained choice and behavior in ways that tended to desperation and destruction. Only by ensuring the basic needs of people could poverty be alleviated; and only in the absence of poverty would the environment truly be secured.

The Fifth Five-Year Plan (1974-1979) stated India's commitment removing poverty as well as economic self-reliance, while pronouncing its continuing commitment to securing and safeguarding India's environments. The Plan also took cognizance of the deprived state of India's *adivasi* and introduced the "Tribal Sub-plan" for their development. The Sub-plan reconstituted areas where more than 50% of the population was "tribal" into blocks under the Integrated Tribal Development Project (ITDP). Through the constitution of the block, populations of *adivasi* were concentrated and given the legibility necessary for effective planned development. The ITDP brought together the protection against alienation by development and the provision of basic needs.

The ITDP was an innovative instrument of development. Where past planning worked at the national scale and through large numbers, the ITDP concentrated on local units of small numbers. Although it set out from the question of common tribal problems, its second step was to introduce the specificities of the block. Each of these tribal development blocks would have its own sub-plan, reflecting the particular differences of environment and circumstance of that block. This shift in scale and focus allowed the planning process to operate in a manner that was more flexible but also more penetrating. What these projects aimed to do was not just improve the economic indexes of development, but those of livelihoods through the development of basic needs. Attention was directed toward the improvement of means: roads, drinking water, hygiene, health, nourishment, footpaths, etc.

However, the Tribal Sub-Plan and its ITDP model failed. In the case of Attappady, which was selected and constituted as Kerala's first ITDP block in 1975, development was vested in the Attappady Co-operative Farming Society (ATCO Farms). Introduced as an alternative to a welfare scheme, ATCO

Farms organized *adivasi* the cultivation of cash crops including pepper, cardamom, coffee, nutmeg and clove. 420 tribal families were selected from various villages by the ITDP and settled on the farm. They were assisted by 1050 casual workers also drawn from the tribal communities. With little training, people accustomed to shifting cultivation of annual sustenance crops were remade as commercial farmers. The cash crops raised by the Society were subject to the fluctuations of the national and international market. Since the society is forced to accept the price, the investments and dependencies are borne by all the families. In spite of their official capacity as owner-beneficiaries, their practical status was that of wage laborers. Subject to the scrutiny of the non-tribal Board of Directors and a bureaucracy of supervisors, the Society was driven by the bottom lines of financial profit, program success, and their own survival (KIRTADS 1982). Divested of their traditional practices and with their livelihoods subject to a global marketplace, the families devolved rather developed. The doctor attached to the Society reports that the "tribal beneficiaries of ATCOFARMS have been found suffering more from malnutrition than their fellow tribesmen living in their traditional hamlets…. It is due to the sudden change in their food habits in a colonized atmosphere" (Quoted in Mathur 2003: 10).

In 1996, a new project began that would overcome the problems that had plagued ATCO Farms. Established with financial assistance from the Japan Bank for International Cooperation, The Attappady Hills Area Development Society (AHADS) was created to foster the sustainable development of Attappady, including the ecological restoration of its degraded areas and resilience-building among its tribal population. AHADS represents a critique and correction of past forms of governing people and forests. In recognition of *adivasi*s' long-standing relationship with forests, AHADS would train them in eco-restoration and eco-maintenance, providing regular employment to a beleaguered population. Forests, meanwhile, had long been governed according to exclusion and with centralized authority operating at a distance. Aligned with the general participatory strategy of Joint Forest Management, AHADS sought to connect the forest needs of local people with those of the state. If re-oriented by

"sustainability," people's needs, as well as their customary practices and interests, could, in fact, contribute to the overarching and long-term goals of conservation. Joint Forest Management would, in turn, ensure the "[e]mpowerment of the ecosystem people and sustainable utilization of the forest resources" (AHADS 2004). In this way, AHADS promises to harmonize the well-being of people and forests by fostering practices oriented toward continuing mutual benefit.

AHADS promises sustainable development. First enunciated as doctrine in the 1987 Brundtland Report (*Our Common Future*), it gathered momentum in the years to follow to become the standard approach to development. A term of considerable ambiguity (Redclift 1987), sustainable development nevertheless maintains its core axiom that economic development must be subordinated to ecological necessities. The developmental model of economic growth had been questioned as early as Stockholm. Sustainable development represents the institutionalization of those concerns through global consensus in a framework of specific policies and procedures. In the case of AHADS, sustainable development marked a shift from prior models in three ways. First, development is not only decentralized, it is relocated to individuals and communities. *Adivasis* are figured as beneficiaries and are involved in planning and implementation. Second, the measure of success is sustained reproduction of the model and behaviors, even in the absence of the originating institution. Trained and empowered, the *adivasi* would also be autonomous and self-reliant.

AHADS was formulated with two interrelated objectives: the "recovery of the wasteland" and the "formulation of society that sustainably uses natural resources" (Takaki 2011). The first objective was to be met through a variety of activities to terraform the valley: agronomic works for building up and re-afforesting slopes, the contouring of water drainage channels, ground water recharging, and surface water harvesting. The second objective was to be met through the making and empowering of a sustainability-oriented people. Workshops instruct people in the necessity of conservation for on-going well-being, while training programs instill the skills needed to meet that necessity. A campaign of

awareness and literacy includes public presentations and exhibitions, and the message is redolent in the poster boards, flyers, and banners that tag public places. AHADS through these measures sought to formulate a particular kind of "society" capable of performing certain actions, not as directed by an institution, but as the autonomous behavior of the population itself. As outlined by the author of the project plan, Seiji Koyanagi:

> AHADS staff should reiterate painstaking communication with the local people for awareness building on the project, consensus building on participation in the project, active planning in plan formulation, active participation in the implementation of the plan, developing sense of ownership, etc. In this process, *the important thing that AHADS would NOT do is to force them to follow*. The third important thing is capacity development of the local people so that can *take action at appropriate time in an appropriate manner* (Quoted in Sivanandan 2006; emphasis mine).

In contrast to the development programs of the past that sought to fashion subjects on the basis of discipline, AHADS cultivates a rational decision-making individual. Such autonomy is a precondition for the sense of ownership and responsibility, on the one hand, and the internalization of processes and behaviors, on the other hand, that will produce sustainability as a "society." This self-governance not only reduces the burden of the state from the perspective of administration, but also planning. Once internalized, sustainability is self-replicating as habits, but also enfolded into logics of preparedness (Anderson 2010; Collier 2008; Collier and Lakoff 2008; Lakoff 2008) and capacities of anticipatory and innovative action—i.e. to "take action at appropriate time in an appropriate manner."

Formulated in the idiom of sustainable development, AHADS' objectives refer not to economy, but to the 'life support systems' on which society depends (Khagram, et al. 2003: 296-7). Human well-being is understood in its dependencies on the biosphere. Thus, AHADS' objectives entwine the lives of individuals with that of their environments. *Adivasis* are reformed as stewards and instructed in their responsibilities towards their life support systems. To secure the environment is to secure their lives.

To secure is, however, not to fully eliminate uncertainty. So individuals must build their resilience,[36] the capacity to undergo and survive the unanticipated through innovative action *within the bounds of sustainability*. AHADS prepares the people of Attappady to be independent of the welfare state, but also self-reliant and resilient amid neoliberal India's economic upheavals. These development interventions generate opportunities for entrepreneurial self-betterment, including jobs and behaviors that will enable the people of Attappady to be self-reliant. But it also ensures Attappady will be safeguarded for the nation by the *adivasis*, its stewards.

The shift of responsibility from states to people leads Mark Duffield to argue that sustainable development ought to be read as a security technology. Publicized as a path to empowerment, sustainable development is, in fact, a mode of containment. The shifting of security's burden from states to people reflects a neoliberal agenda that seeks to shrink the state while containing and disciplining the poor and uninsured (2007: 67-70). In the case of AHADS, such containment is effected by way of 'life support systems' that encircle and entwine people and place in a relation of interdependence. Not only does it free the state—and the civil society it represents—of obligation, the shifting of responsibility also routes blame back to the autonomous individual of sustainable development. This has the effect of de-politicizing development (Ferguson 1990), taking it off the negotiating table of tribal people and civil society. Sustainable development in this way aspires to solve the perennial problem of 'surplus populations' once and for all. AHADS gives people what they seem to want and need to survive: their life-support systems. Through education and training it fosters autonomy, that is, the capabilities to fulfill their needs on their own, even in a context of economic uncertainty.

Depradation

[36] From the policy perspective, see Folke et al. (2002: 437-40). A critical analysis of resilience as a technology of government is provided by Evans and Reid (2014). A genealogy of the term that traces its transfer from the domain of systems ecology to that of social policy is provided by Adger (2000) and Walker and Cooper (2011).

Cowen and Shenton point to a confusion that attaches to 'development': development as an immanent process is mistaken with development as intended aim. As an immanent process, development refers to the intransitive actions of autonomous agents that unfold over time, animated by an implicit purposiveness. Development as an intended aim, on the other hand, describes a transitivity between some subject and object: someone's development is managed by someone else. Historically, the former signified what Europe understood itself to have. In contrast to Europe, much of the rest of the world was registered in the latter sense, as being in need of development. With the conviction that the former could guide the development of the latter, development was expressed as *trusteeship*, the assumption of another's agency on their behalf. With the assumption of trusteeship, development as purposive intention becomes a purposeful doctrine (Cowen and Shenton 1996). The AHADS objective of cultivating subjects who are sustaining and sustainable, autonomous and resilient is such a doctrine. These objectives are underwritten by and initiated on the presumption that those capabilities are absent in the subjects of development: the tribal people of Attappady. Unlike the projects of the past, the objective is not to further their membership in developed civil society. Rather, the 'deficiency' in the people of Attappady that AHADS seeks to develop is their capacity to endure the immanent developments of civil society.

AHADS seeks to develop a new disposition or comportment in the people of Attappady by reformulating old habits and circumstances. On the one hand, reformulation involves restoring environments and building resilience. Restoration imagines a fresh start for a new relationship of self-reliance. On the other hand, reformulation targets habits and does so positively and negatively. On the positive side, as discussed previously, it encourages the mentalities and practices that resilience requires: the ability to nurture one's environment to nurture oneself and the capacity for innovative action in the face of crisis. On the negative side, the reformulation of habits involves the censure of the 'traditional' deficiencies of the tribal personality: addiction-prone, lazy, irresponsible, unprepared,

immature, naïve, carefree, etc. Developmental interventions target these negative habits by off-setting (i.e. the replacement of irresponsibility with ownership, naiveté with awareness, etc.) or by blocking (i.e. liquor prohibition and anti-liquor campaigns, nutritional instruction, etc.).

I contend that the reformulation of habits along positive and negative lines pivots on the presumption that prior habits are not immanent, but the result of non-tribal 'bad influences' that dupe and exploit *adivasis*. What is supposed is a sort of illegitimate or 'bad' trusteeship that must be replaced by a proper and moral one. I do not mean to deny that *adivasis* are vicitimized in this way, and disproportionately so. Rather, what I want to draw attention to is the presumption that they are somehow complicit in or allowing of such abuses because of a deficiency of character that allows them to misplace trust. By highlighting the volitions of tribal and non-tribal, this presumption obscures the circumstances of that abuse, namely, the immanent development of Indian civil society. In concrete terms, India's development has occasioned wide-scale and intensive accumulations of long-standing *adivasi* places, while at the same time deferring the application of the rule of law. Development must be read not in relation to the liberal mission of the nation, but rather as a palliative and pacifying technique, rallied to assuage liberal guilt or the possibility of violence.[37]

The prime obstacle to the success of AHADS has not been the people, who in their desperation are eager to participate in anything that will give them employment. Rather, it is the ganja mafia that threatens people and forests alike, and so subverts the very objectives of AHADS. But it is also a question of illegalities that threaten the power of civil society to adjudicate on the permitted and prohibited. Although the ganja mafia had been detected as early as 2001, surveillance and raiding did not begin in earnest until 2003. The delay has been, in part, ascribed to under-table alliances of government agents and ganja mafia interests. It has also been a question of resources. What finally spurred aggressive operations was the inclusion of ganja cultivation within the mandate of the AHADS.

[37] This is an important history that is crucial for my overall argument, but I will not be addressing it in this chapter.

With their urging and with the supply of much needed resources, AHADS together with the Forest and Excise Departments formed a Rapid Action task force to free Attappady of the ganja mafia.

From the perspective of the Forest Department, ganja cultivation threatened, above all, Silent Valley, a core area of the Nilgiri biosphere. Fire, disafforestation, and the disruption of wildlife, were enumerated to me by the Divisional Forest Officer (DFO) as the great dangers that the 'fragile ecosystem' faced. The presence of the mafia in the forest would also encouraged other crimes, including illegal felling, poaching, and brewing of charayam. He shared the concerns of AHADS and says that the ganja mafia threatens development work. The tribal populations—'we have a responsibility to look after them'— were vulnerable in particular, being 'innocent' and 'easily manipulated' by the ganja mafia. The more they were entangled with the ganja mafia, the further away they would move from mainstream culture.

Madan is about 50. He's been a laborer at ATCO Farm Society, but recalls it as a failure. The problem was, he says, that the Directors did not consider *adivasis* as the real owners, but only as *chelas* ('slaves' or 'servants'). He is similarly skeptical about AHADS and doesn't believes it is there to serve the people of Attappady. "No, there is little trust in the *government* among us. For a hundred years and with thousands of crores rupees, they have done *development*. For what? Have we asked for all this from them?" AHADS, he is convinced, is preparing Attappady for eco-tourism. 'Who else can pay the Japan Bank? Not us!' Though he continues his *panjakadu* cultivation, he has taken additional employment with the ganja mafia. He's a gifted honey-gatherer, so he knows the good places in the forest, which he shows them. How is this better than AHADS, I ask. "We don't trust the ganja mafia either. They are also *vanthavasis*, are they not? They are clever and think only of how to stick themselves [*irikku*] in our villages. We know that very well." So why does he submit to work for them? "Now there is isn't any hunger in the Kurumba *ooru.*"

The ganja mafia is but another pathway to financial independence. As Madan assures us, the Kurumba know what they are getting involved in, but to them it is akin to AHADS, not at odds with it. The illegality of working for the ganja mafia, in fact, provides a kind of satisfaction, for it bestows another kind of empowerment: the defiance of the state.[38] Taking up a position as a scout or a watcher, the Kurumba see this job as like any other. But unlike working for the Forest Department, ATCO Farm Society, or AHADS, it constructs the position of a self-governing entrepreneurial individual, capable of navigating the market and fulfilling his financial interests. What development doesn't offer, but the ganja mafia does, is enrollment in the ranks of *homo economicus.* At the same time, that enrollment supplies the illusion that this dangerous domain, recognized as such, can be successfully navigated by assuming distrust, anticipating cheating, and calculating the duplicities of the other.

The illegal

In *Politics of the Governed,* Partha Chatterjee discusses the situation of people in postcolonial settings who "transgress the strict lines of legality in struggling to live and work." These are people who "may live in illegal squatter settlements, make illegal use of water or electricity, travel without tickets in public transport" (2004: 40-1). These illegalities are often necessities for the population that comprises what he calls 'political society'. It is the unmarked segment of the nation that has been left behind or overlooked by the marked segment, 'civil society'. Civil society is the space of Western-derived modernity, populated by elites and the growing middle-class. Political society, on the other hand, is populated by the urban and rural poor. Civil society is heir to indigenous elites and nation-builders. It is

[38] The enthusiasm for state defiance became particularly clear to me when the notorious bandit Veerappan was, after a career of thirty years, finally killed by a sniper during my fieldwork. This was at the beginning of my time among the Kurumba and I recall the passionate memorials, as well as the conspiracy theories that attended his death. The general sensibility was that Veerappan was somehow a kindred spirit by virtue of his defiance, but especially for his skills at camouflage and subterfuge. The contention that he did some good for *adivasis* was marshalled to support the main claim. Likewise, when posed with his questionable acts of kidnapping and murder, that main claim excited doubts and dismissals.

composed of individuals who are recognized by the state – and each other – as citizens. They enjoy the fullness of personal liberties, including the freedom to abstain from politics. "Those in political society," meanwhile, "make their claims on government, and in turn are governed, not within the framework of stable constitutionally defined rights and laws, but rather through temporary, contextual and unstable arrangements arrived at through direct political negotiations" (2008: 57). These arrangements often include the aforementioned illegalites. Squatting, stealing, hustling, the illegal practices are well known by governing agencies, but with negotiations are tolerated as provisional exceptions and entitlements—and never accrue as rights. These negotiations are underwritten by the electoral influence that political society yet wields.

To the dyad of civil-political and its negotiations, Chatterjee adds a quasi-category: 'the underside of political society': groups even marginal to the peasants of political society, like tribal people and non-agricultural *dalits*. Chatterjee distinguishes the groups that make up the 'underside' from political society because they lacks the electoral leverages that define the latter as 'political'. Beyond this point the quasi-category of the 'underside' remains under-theorized in Chatterjee's schema. For this population, no less than that of political society (or civil society, for that matter), the illegal may be a necessary or desirable domain of action. But with no grounds for negotiation, why should they be tolerated? So long as Chatterjee views illegalities as unfortunate remedies to real need, the answer is the welfare function of the state, guided as it is by the governing class: civil society. This welfare function is the "major instrumental form" of the developmental state, by which "populations, within the territorial jurisdiction of the state [are]… both looked after and controlled by various government agencies" (2005: 83). As I have argued above and have been illustrating in this chapter, this welfare function does not develop, so much as contain. Chatterjee includes this possibility of containment, when he states that civil society in its more cynical moments institutes a variant of the colonial strategy of indirect rule: 'walling in the protected zones of bourgeois civil society and dispensing the

governmental functions of law and order and welfare through the "natural leaders" of the governed populations' (95). These "natural leaders" are in Chatterjee's framework the levers of electoral politics. Such leaders are also present among the populations of the underside, but in the absence of political influence they are conspicuously not recognized by civil society. Instead, what we can see is that governmental functions and dispensations are handed off by the state to NGOs.

From the perspective of civil society, which is the perspective from which Chatterjee interprets "popular politics in most of the world," acceptable illegalities are those that seek to meet needs, read as strivings towards the ideal of democratic modernity of self-reliant individual citizens. In focusing on civil society's capacity to pity and, so, to tolerate illegalities, Chatterjee sidelines (intentionally, I believe) the historic propensity to criminalize the poor as miscreant and malcontent. With such emphasis, however, what is lost is the possibility that illegalities at the same time mark a 'making ends meet' *as well as* a striving for being otherwise than civil society. What must be stressed is the possible failures of the nation not just to provide needs, but to allow alternatives to the homogenizing trajectory of the dominant.

Civil society's 'walling in' is supported not only by the technologies of indirect rule (be they 'natural leaders' or NGOs), but also a revivified reprogrammed sovereign state capable of 'walling out'. Facing economic uncertainty, 'natural leaders' guide populations through it while NGOs build resilience to it, but these alone cannot guarantee containment of the disproportionate disorder that deregulation brings to poor lives. As in the penalization of urban poverty analyzed by Loïc Wacquant, the illegalities perpetrated in the Silent Valley serve as "a vehicle for the *ritual assertion of the sovereignty of the state* in the narrow, theatricalized domain of law enforcement that it has prioritized *for that very purpose*, just when the same state is conceding its incapacity to control flows of capital, bodies, and signs across its borders" (2009: 299). Wacquant's argument is that such penalization is not so much a response to criminal insecurity, but to social insecurity—of civil society. The expression of state sovereignty through

the police thus serves not merely to secure a specific governable space, but by its performance reconsolidates the broader domain of the state itself, legitimating the place of politicians by securing civil society.

The ganja raid

What hits me first is the smell. Musk and treacle intermingling with fresh sawdust. An hour later in Anavoyi, billows of smoke would climb skyward from hidden valleys. Two hours and the khaki-clad officers would ramble in from the path that stretches beyond. A peon would carry in one hand a leafy bush like a flagon and in the other a rusted machete. Meanwhile, outside a homestead, the Kurumba women stand with hands locked in front of their sons, husbands, and brothers, cursing poisonous to banish the foresters. Chelli sits restless under a tree, while her husband Kakki, the Mooppan of Anavoyi, squats alongside other men, listless and watching. I ask her what has happened and what they hoped to accomplish with their defiance.

> What else can we do? We stood before the forest rangers and would not let them take our men.
>
> *The Forest Department says that they don't believe you are to blame, they are only after the ganja mafia.*
>
> That may be, I don't know, but our men should not speak to the forest guards.
>
> *Why is that?*
>
> If it is the ganja mafia or the forest guards, we will pay some price if we say anything to them. If we tell the forest guards where they can find the ganja fields, the mafia give beatings to our men…. In other hamlets, they have also killed men for speaking…. If the forest guards arrest us, we are afraid of the ganja mafia, so we stay silent. Then *they* give beatings to make us speak.

Chelli articulates well the impasse that captivates the Kurumba. They can neither speak to the forest guards, nor can they find protection through them. These two forces, ostensibly opposed in the drama of crime and punishment, are for the Kurumba one and the same in matters of practical security. What I would like to understand is the question of silence. As Daniel explains, silence is "the unwillingness or inability to partake in anthroposemsiosis of any kind could signify several things

> For one, such semeiosic abstinence might conceal a knowledge of its significance. It could be motivated by the desire to bring about a breach between sign and object, words and their customary referents and interpretants, thereby forcing, even shocking, the "world" to take

> notice. But it could also, more ominously, indicate the withdrawal from all anthroposemeiosis, as much refusing to be fully human as rejecting other's humanity. Being human is being part of the process of the reception, transformation, and production of meanings, shared and shareable by an indefinitely open community. Silence could spell the cessation of that process. And that would be truly tragic (1996: 122-3).

Midst the ganja raid, the silence of the Kurumba is clearly of the first order, a concealment. However, what necessitates that concealment is silence of the third order. The decision to participate with the ganja mafia, while not a pure choice (the ganja mafia is owed some agency here), it is nevertheless interpreted by the Kurumba as a rejection of dialogue with the Forest Department, Government, and the Civil Society they serve. The decision to participate in the illicit ganja cultivation, reinforced by the silence of interrogation withers their relations with the Forest Department, as the Kurumba for fear of their lives and further entrench themselves with the ganja mafia. Silence, then, partakes increasingly in the fourth order, "the withdrawal from all anthroposemeiosis, as much refusing to be fully human as rejecting other's humanity." 'Chanda' did not speak. He was interrogated by the Forest Department, but he said nothing. The ganja mafia did not trust him and beat him, as well, just in case and as a warning. Now, he does not say much at all to anyone. He stays in his home during the day and intoxicates himself come nightfall.

There is another side to silence: that of civil society. As I argued above, the ascription of *adivasi* ills to their own incapacities obfuscates the overwhelming source of insecurity and uncertainty: the immanent development of civil society. What alone brings them to awareness and some semblance of contact with the 'underside' are the few lines that dedicated journalists can squeeze into daily papers. Through these articles civil society is brought some apprehension of what is taking place in Attappady and similar elsewhere, but there is little comprehension. In Kant's aesthetics, apprehension is an operation that catches only pieces and parts of the way things are and so can go on *ad inifinitum*. Comprehension would mean slowly and carefully gathering up all these fragments and synthesizing them into a significant whole. The ganja raids, as 'ritual assertions of the state, explicate the violence of

the Attappady forests into tidy comprehensions of crime and punishment, as if the whole of it may be distilled in the symbol/trophy of the ganja plant. This is, in fact, merely an apprehension. But what it allows is the unworried sleep of the secure, knowing good and capable men have it well in hand. And so, civil society also withdraws from anthroposemiosis. It is truly tragic.

Anaesthesia: an impression

The presence of the Ganja Mafia is but a figure—crucial, to be sure—in a general economy of uncertainty that makes up the everyday of Kurumba living. It is the condition of not knowing who may come, when, and for what. Uncertainty is apprehended in sensations of endangerment and insecurity, such that trust is not presumed, suspicion and intrigue manifest unexpectedly, and violence simmers at the brink. Yet, the drift towards privation can also turn tide, and these comportments may muster a sense of community characterized as collusion and conspiracy.

Anna Tsing, in her ethnography of the Kalimantan forests, offers the symbol of the "frontier" to characterize this mixture of uncertainty and fortune (Tsing 2011). The frontier as figure is meant to evoke every sense of its Wild West referent: a place of heroic becomings and of defeated demise, where bold masculinity is the way not just to succeed, but to survive—as if the frontier is sexed, as if fortune is a woman.

The rumored isolation of the forest does not dampen the flows of people—laborers, contractors, scientists, poachers, anthropologists, dealers, vagrants, etc.—or things—timber, arrack, skins, cash, medicinal herbs, tusks, honey, ganja, etc. Instead, these flows move through the forest with intensity and verve, chastened by dangers, but goaded on by opportunity.

Watching the ganja field nets a man about Rs. 50 per day plus meals. It's easier work and better pay than collecting minor forest produce for the Forest Department. Older men save the money, but the younger ones exchange it for country liquor, also known as charayam or arrack. Intoxication is an epidemic among the Kurumba. A 50 ml packet of charayam, an average night's needs, is only Rs. 30.

Charayam is brewed in the forests and brought to hamlets by vanthavasis peddlers, as well as the jeep drivers who taxi people to and fro. They generously grant the Kurumba credit should they be empty-handed, but extort repayment violently when it suits them.

The liquor ban in 1995 was followed the next year by a statewide prohibition on charayam, toddy, and other home-made distillates. What the ban accomplished was the proliferation of an illegal bootleg trade in liquor production and distribution. The illicit liquor trade not only delivered traditional country liquors, but also spurred wide circulation of 'hooch', a modified arrack that is generally more potent and dangerous. A bad batch of hooch has been known to blind and even kill.

Charayam are adorned with appellations that promise a spectrum of becomings. *Manavatti* ("bride") is pushed onto 'virgins' for its gentle and coy 'kick' that leaves you excitable and giddy. The intermediate might seek out *Pulluparikkan* ("grass grabber"), which claims to a kick that will send the world spinning—"like a football"—and the intoxicated clawing for firmament. The invigorating *Aanaviratti* ('elephant chaser') is named for a thorny flowering plant found in the Nilgiris, which injects a potent pain-inducing toxin in passing animals. Should you need something anodyne, *Aanamayakki* ('elephant sedative') is strong enough to take down an elephant. But if obliteration is the goal, one can do no better than *Uyirthezhunnelppu* ('resurrection'), also known as *Jesus* or *Easter,* which portends a return to the living only after three days.

The names of charayam are discussed with impish play, but the *kick* is taken very seriously. Kick, like 'high' is the signature of the charayam, its particular effect on the body. The distinctive kick is a chemist's craft but also owes to the ingredients that are brought to the brew. To the fruits and toddy that form the base, distillers will often add methyl alcohol or chloral hydrate, a sedative and hallucinogen, to achieve a fast-acting, potent and long-lasting kick. Formulas that stop here are common and traditional among country-brewers, but the charayam peddled by the dealers is another concoction altogether. Authorities differentiate traditional arrack from these illicit concoctions with the

term “hooch”. Possessing an uncommonly powerful and distinctive kick, hooch avers quasi-magical properties assembled in an abject menagerie of substances, known and unknown by the customer: frequently battery cells, fertilizer, paint, and lizards, but also footwear, cockroaches, frogs, rats, chicken innards, cowdung, chicken droppings, and rotting refuse. James Manor in his ethnography of hooch poisoning in Bangalore notes that “[c]onsumers of hooch consistently stated that it made them feel more merry than arrack did, and that it was more effective in helping them to sleep soundly…Even when illicit hooch is not really stronger than legal arrack – as is often, or perhaps usually the case – it can appear to be so because additives give it an exotic taste.”[39] My ethnographic work bears this point out with the added sense that these additional ingredients were considered distinctly powerful and necessary for the desired kick.

As night falls on the Kurumba hamlets and, indeed, throughout Attappady, so begins *Moolavetti*—‘cut the corner,’ the opening-up of plastic charayam-filled bags that will litter village commons and forest paths the next morning. As the kick finds its place, songs, dance, provocation and arguments vie for earshot. On a verandah, the group of young men I am sitting with will switch seamlessly back and forth between Tamil cinema and adivasi politics, as I try to keep up. The ganja man who married Kakki Moopan’s daughter will peer at us from behind a post and then disappear. In the next row of houses there will be a disagreement and someone will walk off zig-zagging into the darkness. Others are claimed, growing silent and listless as the charayam overtakes the body. The body in its usual squatting posture—feet flat, legs bent, spine upright, and arms crooked—collapses, heaped into itself. The form sways and I watch the man as he topples onto the earth. He will stay there, I am told, unless someone helps him home. As I leave, I notice he is now slumped on a set of stairs, swaying in fits and gazing at the earth, maybe searching for steadiness.

[39] James Manor, *Power, Poverty and Poison: Disaster and Response in an Indian City* (New Delhi: Sage Publications, 1993), 49.

“Leave us alone”

Arriving at Attappady, I check in at the forest department office at Mukkali, as usual. The typically sleepy office is bustling, overrun with forest guards attending to a rare visit of the Divisional Forest Officer (DFO). ‘The chief minister is coming,’ the secretary explains. ‘Must you do your work *today*?’ The DFO is unhappy to see me, but I leave with reluctant permission to work in Anavoyi—‘only Anavoyi’. Boarding the jeep, Sivan and I squeeze next to Nanchan, who has been waiting for us. ‘It’s very busy at the forest office today,’ he says, ‘what’s going on?’ Ganja raid, I whisper. ‘Oh.’ As the wheezing jeep trundles along the winding way, it stops at Thadikundu ooru and again near Murigalai to let board awaiting walkers loaded with bundles of lowland wants. Each time, as they climb in and settle down, Nanchan whispers to them with nervous urgency and a mischievous glint, ‘Ganja raid, Ganja raid.’ The jeep pulses with edgy quiet. ‘It’s because the Chief Minister is coming,’ I offer. ‘Yeah,’ Nanchan snorts, ‘they want to make sure he’s happy…. He’ll make a good show and ask us what he can do for us.’ So, what will you say? I ask. Nanchan thinks for a moment. ‘Leave us alone!’ Laughter filled the jeep.

Nanchan has completed his ninth level exams and has matriculated to the tenth standard. His schooling and tribal background persuaded AHADS to seek him out for an informal administrative position. He wears jeans and is fastidious about ironing his button-down shirts before going to work. In the evening he is keen on watching Tamil films on the bleary common TV in Mele Thudikki. He is an enthusiastic member of the CPI(M) and is eager to bring change to Kurumba lives. By most accounts he is a model beneficiary of tribal development programs. And yet, he would prefer to be left alone.

I was incredulous when he said it, and took it as a joke. But as that day wore on and the Rapid Task Force moved in, I began to recognize an unmistakable seriousness in Nanchan’s comment, for it

alone could provoke such shared laughter.[40] What makes Nanchan's statement a joke is the absence of the second person, the unspoken 'you', who would be the Chief Minister – '[you] leave us alone'. In the absence of the second person, the joke is overheard by the third person, the spectators in the jeep. They are the 'us' and it is on them that the success of the joke depends. Making a funny joke—one that provokes laughter—requires the joker's practical know-how of what a community of spectators expects as normal public opinion or *doxa*. The joker must also know how far he can go in stripping *doxa* of its inhibitions. Without skillful knowledge of *doxa*, the joker could miss his mark. Going too far, he rouses outrage or embarrassment, as his listeners recoil. Not far enough, his joke will flounder as naïve or callow. If a joke hits its mark, it is 'funny'.

What makes a joke 'funny' is its appeal to shared dispositions. Speaking the unspoken, jokes intervene between the way things seem to be and the way that they actually are—or would be in the absence of those beliefs. Jokes provoke a shared laughter that will undermine and contradict those beliefs—if only for a riotous moment. When the joke ruptures the *doxa*, it pushes to the fore the difference of national being-with and the jeep's being-with. The former is mediated by the spectacle of the Chief Minister. The joke lays bare the emptiness of this being-with by calling attention to the hollowness of the Chief Minister's 'what do you want?' Rather than 'playing along' with the Chief Minister, Nanchan puts the question into play. The jeep's being-with, is mediated by the spectacle of the joke. The joke challenges this hollowness by withholding the assent of a serious answer. Instead, it questions whether the Chief Minister's question is serious to begin with. It is a joke that is answered only by another joke.

What does it mean to be left alone? 'Being alone' presupposes a relation of being-with before it negates it. In the scope of the joke, the 'being-with' is the relation between first person, Nanchan the

[40] My interpretation of jokes benefits from Paolo Virno's Wittgenstein analysis of the relationship between jokes and innovative action (2008: 67-168).

joker, and the second person, the 'you' of the Chief Minister. The objective content of the joke wishes the negation of being-with, but only as an expression, as a joke, it accomplishes it. Spoken in the absence of the Chief Minister and at his expense, the joke divests the relation of being-with of its substantive bonds. But what is divested from the relation of first and second persons is nevertheless enjoyed. The joke steals away the substance of that relation only to redistribute and share it as laughter. The joke nourishes the differential being-with of the joker and the jeep, first and third person, at the expense of the Chief Minister.

The moment of the joke is brief. As laughter fades, the *doxa* surges back to take back its prior place. Because this is the way things are, the joke is just a joke. Yet it strengthens the sense of a being-otherwise that provides another sort of resilience than the one offered by AHADS. Being-with is a coping in the face of doubt and uncertainty that is able to restore a comprehensible sense of the world form amid the apprehended fragments of the everyday. This is not a world of beautiful wholeness, but one that is irreducibly sublime, for the possibilities ingrained in being-with exceed the moment's actuality.

Conclusion

My aim in this dissertation has been to understand how the contemporary Indian nation reconciles its desire for economic growth with its need for environmental security. I have argued that this reconciliation of economy and environment, growth and security, is accomplished only by benefitting some and by endangering others. To make my argument, I have followed Foucault's genealogical method through archival research to illuminate the present from the past. This genealogy was combined with ethnographic fieldwork in Kerala, among the tribal *adivasis* of Attappady, foresters, scientists, activists, and NGO administrators. With this combination I have analyzed the Nilgiri forests in Kerala, south India, and the legacy of forest securitization, from the early colonial period to the postcolonial era. My guiding concern has been the Kurumba of Attappady valley, who, in contemporary, late liberal, India, are obliged and imperiled by the securitizing techniques of the nation that protect biodiversity in the name of common futures. I have interpreted this tragic predicament as the 'rule of sanctuary.' In this concluding section, I will clarify this theme in the context of the preceding chapters. In doing so, I situate my concerns within the discourses that I have drawn upon, while marking lines for future development. To explain what is meant by the 'rule of sanctuary' I will approach it through its component parts.

Sanctuary directs us, first of all, to consider the techniques of security. Security, as its etymology testifies, is to be without worries, cares, or toubles (*sine curas*) (Dillon 1996: 113-128; Hamilton 2013). It promises a state that is carefree, untroubled, unconcerned. Security, thus, offers a freedom and tranquility in the midst of an otherwise uncertain and burdening world. How is one secured? Security marks a refusal of and a release from the obligations and duties of caring. *Cura*, the cares of the world, include those vulnerabilities that leave us exposed and in danger, but also open to the fragile intercessions of others to share and shield (Butler 2006: 19-49). As the negation of *cura*,

security introduces a new contractual ordering in the place of care's obligations. In contrast to the communal obligations of *cura,* security is im-munitary, a negation or suspension of the shared *munus* (Esposito 2011). Where *cura* works on and through common vulnerabilities, the immunitary ordering of security is centered on the vicissitudes of danger. These dangers are determined by a supposition of an aggregated public interest or public good. Security is majoritarian and purposeful, deriving from an objectified expectation of some future that will be shared in common. When security is called forth, it works to expunge and protect against what is deemed dangerous to the public, now and in light of its expected future. Security, thus, has contrived Schmittian binaries of friend/enemy, as in its Cold War, 'Clash of Civilizations', and post-9/11 renditions (Schmitt 1996). But during our contemporary era of late liberalism, it manifests as a diffusive multiplier, explicating to apply itself to the entire milieu of human living.[41] Securitization has become a watchword of the times, and a central way of knowing and fostering the lives of people in their environments.

How does security secure? Historically, security materializes controlling divisions of included/excluded, upheld by the force of law, courts and police. In their geopolitical iteration, these divisions determined national territories. As a juridical matter, security safeguards by separations of public and private property. But it also includes the state's responsibility for popular well-being, as in the distribution along lines of permitted/prohibited of foods, medicines, industries, labors, etc. It is here that we locate the securing of environments.[42] On the one hand, we can see such divisions at play in the efforts of American preservationists, who sought to protect landscapes through the binary of

[41] As Dillon notes: "security impresses itself upon as a kind of floating and radically inter-textual signifier which, by constant reference to all other signs of the times, transgresses disciplinary, political, corporeal and geographical boundaries as it courses throughout the defining technologically inspired discourses of Modernity: state security; national security; political security; global security; regional security; territorial security; economic security; financial security; individual security; collective security; personal security; physical security; psychological security; sexual security; social security; environmental security; food security…." (1996: 16).

[42] The securing of environments also includes protections against pollution, industrial waste, etc. These, however, fall within the broader category of well-being derived from individual right to life. When I speak of environmental security in the idiom of included/excluded I am intentionally limiting it to the 'natural world' (forests, rivers, wildlife, etc.) as regulated up to the 1990s.

wilderness/civilization (Cronon 1996; Kosek 1996). On the other hand, as I have shown in this dissertation, colonial conservation invoked the principal of trusteeship to exclude native practices from the domain of forests with the exception of laborers, who were provisionally entitled to carry on the labors of forestry (Brockington 2002; Carruthers 1995; West, et al. 2006).

Anthropology may be considered a child of security. From the "ethnographic state" of colonialism (Dirks 2001; Stoler 2002) to Cold War regional studies (Price 1998) to Human Terrain Systems (Forte 2011; González 2007), the social sciences have been a vital apparatus in the state-sponsored deployment of empowered knowledge to separate and secure subject-object complexes. Though not articulated as such, questions of security were first raised in the 1980s and enframed by concerns over the state, its violence, and social suffering (Das 1985; Martin 1990; Taussig 1989). These studies, in general, sought to critique the dialectical play of popular fear and deferred violence that vivified the authoritarian Hobbesian state and its decisions on included/excluded. Consequently, they sought to elicit and destabilize "distinctions between public and private, visible and invisible, legitimate and illegitimate forms of violence in times that can best be described as neither war nor peacetime in so many parts of the world" (Scheper-Hughes and Bourgois 2004: 3).

Over the past twenty-five years, as security has expanded its ambit, it has also intensified its control. Shifting its referent from states to populations, security derives its legitimacy from the category of life. Security in its present manifestation is inseparable from what Michel Foucault has called 'governmentality' and, in particular, its 'biopolitical' determinations. In his lectures at the Collège de France, Foucault traced the governmentality that characterizes our present to the securitizing techniques that developed alongside political economy in the nineteenth century (2007). These techniques took as their object the flow of things. Foucault gives the example of grain and disease, which threatened the lives of the population, taken as a whole. This focus on the population as object of security marked a shift from security's previous preoccupation with the figure of the sovereign. The

shift from sovereign to population corresponds to a shift in the logic of security. Where the sovereign's right was to 'take life or let live' in the name of security, governmentality seeks to 'make live and let die' (2003: 241-3). With this new logic, security begins focusing on man-as-species, composed of multiple elements and relations, circulating and unfolding. To ensure life, the population is read through its vital indices of birth rates, but also morbidity. Death becomes crucial to knowing the life of population, for it is "something permanent, something that slips into life, perpetually gnawing at it, diminishes it and weakens it" (244). Letting die is crucial for the success of government, for it directs attention to the places where life is threatened, sites that require more security for a population's thriving.

The prior security logic of inclusion/exclusion spurred concerns of balancing liberty and security (Neocleous 2008). Its present biopolitical inflection rouses a new set of concerns. The calculus of life and death that underwrites contemporary securitizations leads anthropologists Stephen Collier and Andrew Lakoff to ask not whether there is 'too much' or 'too little' security, but "what *type* of security is being discussed[?] What is being secured? Through what interventions? And with what implications?" (2008: 25) as well as "which forms of collective security are in question, what kinds of expertise are being mobilized to provide security, and how the politics of security are changing?" (Collier and Lakoff 2007: 12). Collier and Lakoff pose these questions in the context of their theorization of "vital systems security," which refers to "the protection of systems that are critical to the maintaining of economic and political order… [which are] concerned with threats that may be difficult or impossible to prevent, such as natural disasters, terrorist attacks, or pandemic disease… [the aim of which] is to reduce the vulnerability to critical systems to these events, and to increase the capacity to respond to and recover from them"(1).

The shift in thinking from statist binaries to an expanded field of plural securitizations signals a shift in the target of security (from sovereignty to population), but also in the politics of security. With the emphasis on positive systems that 'make live', it is no longer necessary to question security on

grounds of its negative 'taking life'. For the majority, the underside of security's mandate, 'let die', is never apprehended. Instead, security proliferates as a collaborator in the public interest. This re-invention of security has been central to the expansion of environmental security as a "vital system" to popular well-being, granting secure resources for ongoing growth as well as protecting biodiversity as a critical bank against future dangers. This shift in sensibility is captured well by Jeffrey McNeely, Chief Scientist of the IUCN. On the one hand, in their historic, statist, position, "[p]rotected areas are the first line of defense between people and the natural resources many of them (especially the rural poor) want to use. But if we mobilize many other defenses to supplement, reinforce, and strengthen conservation efforts, then protected areas can remain the most effective armament we have in the forthcoming conservation battles." But this positioning is in the long run of limited effectiveness:

> But wait a minute. What if part of our problem is to consider conservation as a "war"? What if the "war metaphor" is itself part of our problem? Arguably, the greatest conflict being faced by protected areas is one that is caused by its own ideology that people are the enemy rather than potential partisans. In that case, changing the way we think about protected areas may become an important dimension of 21st century conservation. And indeed, the Convention on Biological Diversity explicitly includes many other ways of conserving biodiversity, ranging from research to benefit-sharing. All of these need to be mobilized if biodiversity is to survive, and protected areas are to be able to prosper (2008-5).

Conservation, once re-articulated in the idiom of sustainable development, seeks legitimacy through enfranchisement and enrollment of those who would in the statist paradigm be excluded. This re-articulation is accomplished by merging the interventions of conservation with those of development. Describing the old statist paradigm, Walter Reid comments that "the very name 'protected area' is a throw-back to early conservation philosophy that viewed conservation as an alternative to development, not a component of development… The term conveys the message that barriers exist between the resource and society" (1996: 446).

The new paradigm, on the other hand, merges development with conservation to form what Paige West calls "conservation-as-development." As West shows in her ethnography of Crater Mountain in Papua New Guinea, this new paradigm is animated by the penetration of neoliberal

sensibilities and valuations into the conservation agenda, linking participant stakeholders with the aim of biodiversity protection and cultivation through payoffs. Through this arrangement, in theory, participants such as the Gimi are promised economic development in exchange for conservation of Crater Mountain as it has been. But, as West shows, this results in a contradiction: "In order to achieve conservation as conservation practitioners see it, one cannot have development as Gimi see it; the two imaginaries of the future are completely different. One is about keeping an imaginary past and one is about striving for an imaginary future, and they both determine how people experience what is actually accessible to them: the present" (2006: 217).

I have provided a complementary analysis of the AHADS project in Attappady (chapter 6). Where it differs from West's analysis hinges on the type of development being promised. Instead of development as growth, what I find is a late liberal inflection of development as trusteeship, "a way of redeeming and making safe surplus population… a potentially dangerous life in need of constant rescue and reintegration as a necessary part of constituting liberal political order itself" (Duffield 2007: 216). Through eco-restoration works that assert the interdependence of tribal lives with the forest, AHADS seeks to cultivate self-reliance and resilience in an uncertain environment. The model of AHADS follows the liberalization of the Indian economy and the withering of social welfare supports, including tribal development programs. The aim of AHADS is not furtherance of tribal people, but rather their containment. While society writ large participates in neoliberal economic development, its underside is equipped to bear the turbulence of those processes. While ensuring the well-being of the environment for their own immediate survival, they also secure it for the future well-being of the nation.

I have so far addressed security in terms of its positivity, as a technology that fosters life by reducing or otherwise ameliorating the dangerous. Security also involves that which exceeds or falls short of it. This uninsured population is deemed disposable, not merely as an afterthought (though that may be the case), but also as a crucial factor in identifying those techniques that most efficiently serve

life. This approach to death, as something permitted even necessary, is a thanatopolitics or necropolitics (Agamben 1998; Mbembe 2003). It is, for Foucault, a puzzling conjuncture: "The coexistence in our political structures of large destructive mechanisms and institutions oriented towards the care of individual life is…one of the central antinomies of our political reason . . . Life insurance is connected with a death command" (2000: 405). It is in response to this "death command" that security may also be located in those tactics of escape that the excluded and uninsured take up in the midst of insecurity.

Flight has been at least a possible action for the adivasis of the Nilgiris. In chapter 5, I presented the history of the Kurumba from their departure from the Nilgiri valley to their arrival in Attappady in terms of escape. I analyzed this history in terms of what Hannah Arendt calls 'natality', "the capacity of beginning something anew, that is, of acting" (1958: 9). Natality is the capacity to act otherwise than the prescriptions of the surrounding world, including taking leave of that world to participate in another one. As I noted in my prior discussion, natality does not intend an absolute freedom to be anything or go anywhere. Rather it is always relational, starting with the recognition of others' natality, to convene a distinct being-in-the-world specified by place and people. This capacity to begin, I argued, had been blocked and thwarted by the arrangements of the 'forest village'. Contrived by the colonial Forest Department, the forest village captures the labor of the forest-dweller in the name of securing resources for the empire and its native subjects. It is a security technology that imposes the obligation to labor in exchange for survival. But this arrangement also determines a way of being. The forest village provides the prototype for future iterations of secured forest spaces, including the developmental institutions of the postcolonial period.

Escape has not been completely contained by secure forest spaces. For the Kurumba, it takes shape as illegalities that defy the law or in privations of escape, such as intoxication. As I have argued, these acts should not be read as escape in the sense of natality, but rather in terms of neoliberal

entrepreneurialism. These acts do not create new spaces of being-with, but only accomplish a de-securitization. Though providing a glimpse of freedom, these acts, like ganja cultivation in Silent Valley and intoxication by poisonous charayam, also increase danger for all, but especially the Kurumba. Besides illegalities and intoxication, I have suggested a third possibility for escape: laughter. Through the joke at the expense of security and the convivial being-with that is laughter, being-otherwise is brought forth, if only for a moment. There is only the sound of laughter and the imagination of that sound, another world.

The culture concept, as E. Valentine Daniel instructs us, is a totalizing and dialectical device that subsumes and suppresses contradictions into its wholeness. In its nation-state version, culture manifests a hope of unity. The attachments to that hope and unity permit the willing sacrifice of those excesses and surpluses to authenticated, national and cultural, being-with. Thus, Daniel writes that "[n]ationalism is a horripilation of culture in insecurity and fright; it is as much the realization of the power in culture as the lack thereof. In either case, culture is not power-neutral" (1996: 202). We must bear in mind, then, that while culture retains its "recuperative and appeasing capabilities" (202), these capabilities are bivalent: they can make live or let die. As the nation slips into violence, albeit a passive violence, to secure and protect its hopeful yearnings and self-image of unity, it pushes life beyond the limits of culture. There, on the other side, is "culture's counterpoint…a counterpoint of hope and human emancipation" (210). There is, I suggest, another counterpoint to culture, insofar as culture manifests in the dialectical nation-state. I have illustrated that counterpoint in Nanchan's joke, which I have discussed above. Instead of the violence of the nation, I suggest the delightful upheaval of laughter. Behind this laughter is the cultural possibility of not sharing in a culture, at least insofar as that culture denies natality, the capacity in others to begin again, to be otherwise than the nation-state's cultural being. I will return to this possibility below in my discussion of 'rule'.

Finally, 'Sanctuary' also intends its source term, a place limned by the sacred, that ineffable and contradictory power that makes and unmakes communities. In its Roman and medieval Christian usage (Helmholz 2001; Thornley 1969), sanctuary signified a refuge and reprieve for criminals from their obligations to the profane world and accountability before the common law. Sanctuary is beholden to another community and another law. Sanctuary is an *immunity*, much like security. Both turn on the *munus*: a gift and the obligation contracted by accepting it. Acceptance of the *munus* indebts one to the *communis*, literally "one who shares in the *munia* or *munera*" (Benveniste 1973b: 276). This debt is paid by equal service to the *communis* by all who accept a share in it, as well as sumptuous expenditure as in feasts, spectacles, and sacrifices. Sanctuary is an *im-munis*, a reprieve from the obligation to return the gift, which for the criminal is the recompense by punishment or death. The immunity of sanctuary is not a complete severance from the community, however, only its profane form. The one who seeks sanctuary, like the sanctuary itself, remains bound to another obligation: to the sacred *munus* that intersects and maintains the profane social order. This contrasts the immunity of security. The *communis* of security is paid in the gift of liberty that is exchanged for a more secure, if limited, liberty.[43] But it also involves a severing—an immunization—of the *communis* of social living, a shared debt to one another and the vulnerabilities that debt maintains. Instead, gift and debt are mediated by the securitizing sovereign or state, as well as, the diffuse technologies of governmentality. So, where sanctuary obliges the community to protect the refugee on the basis of the general participation in the sacred, security exempts individuals from community altogether, sacred or profane, to instead contract a relation mediated by a sense of endangerment.

Security is in this sense a form of 'rule'. In a general sense, 'rule' refers to the power of command, the exercise of authority, and the administration of control. As Patchen Markell explains, rule is much more than a question of *who* rules, for this question by taking rule for granted leaves it as

[43] This is clearly represented in the Hobbesian social contract.

something unassailable and inscrutable. Following Wittgenstein and Arendt, Markell asks us to "refuse the opposition between rules as sources of determination and freedom as the power to exceed or transform rule, thereby letting us see the fundamental similarity (though not identity) of breaking or subverting a rule; modifying a rule; and going on as before" (Markell 2006: 2). Rule, therefore, includes legal pronouncements and normative articulations of what is allowed and denied, fostered and deterred. But rule also denotes the limits of what can be lived with and, indeed, the life as limit itself—survival.

I have approached the question of rule, first of all, through three colonial formations: *imperium, jurisdiction,* and *privilege*. These formations were produced to assuage the anxieties that surround colonial legitimacy, even as they drew on illiberal sources to guarantee liberal rule. To assert their right to absolute rule of the state space or *dominium* of forests, the Company assumed a European sense of *imperium.* This assumption of absolute rule was legitimated through a particular interpretation of the prior rule of the conquered despot, Tipu Sultan. With this *imperium,* the Company projected the "character and destiny" of Malabar, "what a given place was (could be, might become)" (Said 1993: 78). The subjunctive dreams of the Company gained its imperative form in the first conservator of forests. Through the conservator, foreign-born imperium was made up as a 'radical title', extending and intensifying imperium's reach through his creative interpretation of what his powers might include. The law, the ostensible guarantor of liberal rule, was thus displaced by the conservator's practical and shifting jurisdiction. Working at the level of the case, the colonial courts extended the range of the conservator's jurisdiction by judging the ostensible effects of his actions on individuals. Though the conservator's establishment was annulled and voided, imperium's jurisdiction over forests would remain. When Britain returned to the forests, it was as a trustee in the name of the public interest. The foresters discerned in Indian customs the possibility of the people's self-destruction by dessication and drought. But by Victoria's Proclamation, vague customs were put down as prescriptive rights. The

foresters laid claim to the supposed public interest and, thinking customs aberrant to it, labored to diminish their solidity as rights and so return custom to legal uncertainty. Ambiguity before the law would deliver *privilege*, a reprieve from the writ of law to use discretion to provide the public good. Discretionary power permitted the foresters to conjecture the public good without the assent of the people. At the same time, it allowed them to dissimulate customs into categories of the permitted and prohibited. The standard for deciding on customs was whether or not they would endanger the forest and, by extension, the public good. More precisely, the standard was derived from the normality of the forest and deciphered through the expertise of the foresters.

What I have endeavored to show through these colonial-era forms, forms that would be re-occupied by the postcolonial nation, is that rule of the forests did not operate through law, but in its variable relation to native customs, took shape through the norm. In contrast to juridical law, which rules according to the universal, the norm works at the level of judging the case.[44] This marks a fundamental recasting of rule itself, shifting it away from the sovereign and embedding it amid social relations. Francois Ewald explains that the norm "means judging the value of an action or a practice in its relationship to social normality, in terms of the customs and habits which at a certain moment are those of a given group" (1988: 68). This judgment is not simply evaluative, but as an accumulation of cases so judged, the norm is prescriptive. As Canguilhem explains:

> A norm, or rule, is what can be used to right, to square, to straighten. To set a norm (*normer*), to normalize, is to impose a requirement on an existence, a given whose variety, disparity, with regard to the requirement present themselves as a hostile, even more than an unknown, indeterminant. It is, in effect, a polemical concept which negatively qualifies the sector of the given which does not enter into its extension while it depends on its comprehension (1989: 239).

[44] The juridical and the legal are not synonymous. The juridical is tied to the pre-modern sovereign, who determines and sets down according to permitted and prohibited. As Foucault puts it, the juridical is limited to "simple and endlessly reproduced mechanisms of law, taboo, and censorship" (1980: 84). The legal, meanwhile, simply refers to the institution of courts, precedents, evidence, and judgments that introduces knowledge from outside the sphere of the juridical, including especially the scientific.

The norm rearticulates the binary of permitted/prohibited not according to a static standard decided from without but according to the vital and variable of a given: a particular culture and its customs. With this understanding, the working-out of norms is not limited to legal institutions, but is omnipresent: "judges of normality are present everywhere. We are in the society of the teacher-judge, the doctor-judge, the educator-judge, the social worker-judge; it is on them that the universal reign of the normative is based" (Foucault 1977: 304).

In addition, and crucially, as the norm penetrates the law to supplant the juridical, rule is directed more and more by humans in their biological element. This nature, as it nurtures human being, becomes decisive for scientific determinations of norms:

> Nature is something that runs under, through and in the exercise of governmentality. It is, if you like, its indispensable hypodermis. It is the other face of something whose visible face, visible for the governors, is their own action. Their action has an underside, or rather, it has another face, and this other face of governmentality, its specific necessity, is precisely what political economy studies. It is not background, but a permanent correlative (2008: 16).

This nature enters into knowledge through statistics in their temporal and spatial dimensions, allowing for comparisons but also indicating vital, adaptive capacities. But, we find an additional sense of nature as norm: life as the biosphere. With this expanded sense of life, the government of humans is routed through and co-implicated with nature writ large. The "indispesible hypodermis" includes not only birth rates, morbidity, migrations, market movements and disease, but also carbon counts, ocean levels, temperatures, erosions, etc. With this expansion of norms beyond humans to their environment, norms as a type of rule become a transcendent thing, but also an object readied for its subsumption in economic calculations. Here, the expert emerges alongside the judge to determine the acceptable range of present and future becomings. In my final chapter, I have illustrated this shift through the institution of AHADS in Attappady, and the recasting of development in the idiom of sustainable development. I have emphasized how the resilience of human-environment complexes determine the norm of behaviors. But this norm does not emerge from the people of Attappady. Rather, it arrives

through the calculations of banks, NGOs, and foresters who determine right conduct from the perspective of the nation (and beyond), before inscribing it as a norm of self-regulation.

Recalling Daniel, culture in its nation-state version unfolds through dialectical and unifying processual work. This work takes place, at least in part, I suggest, through the norm. As it labors on the given of the national territory and population to make its hopes real, culture as normative includes and excludes those practices that accord and harmonize with its hopes. In this manner, culture is "polemical" and "imposes a requirement on an existence," as Canguilhem put it. In relation to that requirement, some elements will present themselves as "hostile" and is as a consequence "negatively qualife[d']." This hostility arises since culture is already *on its way*. Driven by its hopes and assuming all that is given toward that purposeful imperative, it disallows the subjunctive, the possibility of being-otherwise. Against the vortex of the imperative, we may recollect that the "essential humanity of human kind, a humanity that is not merely biological but *C*ultural… a species of habits that includes habit-change" (Daniel 1996: 199). It is this possibility that I have attempted to emphasize in my discussions of colonial misrecognitions, which productively assume innovative ways of ruling on the very basis of the customs they prohibit. Possibility also underwrote my discussions of Kurumba histories of escape and memories of being otherwise in Attappady. Finally, my interpretation of Kurumba illegalities with their ambivalent outcomes, indicates at least a wish to go against rule in order to gain a composure denied by the normativities of the nation-state.

As in the 'rule of law,' the genitive preposition 'of' conjoins 'rule' and 'sanctuary' as both source and possessor. The reversibility in 'of' generates a perpetual undecidable circularity of switching positions: sanctuary's rule or rule's sanctuary. While sanctuary specifies the orders of security, but also escape, then its rule is predatory. In turn, if rule means sovereign command, but also a social normativity, then sanctuary is the nation-state. But at the limits of each, we must recollect that, on the one hand, sanctuary may also be a beginning, a chance to start over, and do things differently. And rule

includes the possibility of breaking rules, to found other habits, customs, and, ultimately, cultures. But our worldliness is now inextricable from the environment, ours as well as those of others. This fact begs our acknowledgment and concern as we determine the rules we would live by and the sanctuary that compels our striving.

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